



Zoning Board of Appeals

Minutes

Commission Meeting Room
Decatur City Hall
509 North McDonough Street

Monday, August 12, 2019
7:30 P.M.

I. Call to Order by Board Chair.

Members in Attendance

Members in Attendance were Erik Pawloski, Chair, Seegar Swanson Vice Chair, Andrew Rutledge, Phillip Wiedower, and KC Boyce.

Staff in Attendance

Staff in attendance were Mark Ethun, Building Official, Design Environment & Construction Division Building Official, and John Maximuk, Director, Design Environment & Construction Division and Jennings Bell, Project Civil Engineer, Design Environment & Construction Division. Angela Threadgill, Planning Director, Community & Economic Development Division.

The meeting was called to order at 7:30PM by Erik Pawloski. Mr. Pawloski initiated introductions of members and staff. It was noted that member Andy Rutledge would be late.

Mr. Pawloski explained that the meeting would be streamed online and for this reason he asked all speakers to stand at the podium and to provide a name/address when speaking to the board.

Mr. Pawloski announced that the agenda is available and the board will follow in order. He also noted that staff reports for each application have been issued and members make a point to visit each location.

Mr. Swanson announced that an agenda change has been requested for items G and H. Mr. Pawloski explained that items G and H would proceed first and then the board would move through the agenda as posted. In order to accommodate staff at the meeting, a motion was made to move items G and H as the first agenda items. The motion was seconded by Mr. Wiedower. The vote was 4-0 in favor. Mr. Rutledge was not in attendance for this vote.

II. Approval of the Minutes.

Approval of the Minutes of the Regular Meeting of May 13, 2019. Mr. Pawloski initiated discussion about the minutes.

On a motion by Mr. Boyce, seconded by Mr. Wiedower, the Zoning Board of Appeals voted to approve the draft minutes of May 13, 2019 as edited on google drive. The vote was 4-0 in favor. Mr. Rutledge was not in attendance for the vote.

On a motion by Mr. Swanson, seconded by Mr. Wiedower, the Zoning Board of Appeals voted to table the approval of the draft minutes of 6.25.19. The vote was 4-0 in favor. Mr. Rutledge was not in attendance for the vote.

III. Applications.

- A. East Lake Drive, LLC (Lawton Jordan), applicant and East Lake Drive, LLC, owner, have applied for a determination of the existence of an illegal non-conforming use under UDO Section 11.3.1 for the property located at 246 and 248 East Lake Drive, Decatur, GA 30030.

The applicant's representative appeared present the application and explain the situation regarding the tree fall in April 2019.

Mr. Pawloski asked the board members for questions.

Ms. Threagill appeared as Planning Director and Zoning Administrator with duties assigned by UDO. She explained that the question of use falls on the Zoning Board of Appeals.

Mr. Pawloski asked about documentation including building permits that would relate to four units. Ms. Threagill stated that records date to 1982 and that each unit was given a certificate of occupancy separately and that staff does not have evidence for a four-plex.

Mr. Pawloski and Ms. Threagill discussed the point.

Mr. Wiedower noted that there was some activity leading to a conversion. A response was made that during this time there was a conversion and we don't have records to show legal conversion.

Public comment was opened. No one spoke for or against the variance. Public comment was closed.

For board discussion, Mr. Swanson stated that his first reaction is that if it is a four plex and that has never been legal it would be difficult to find it legal now.

Mr. Boyce, concurred and noted the one family reference in the certificate of occupancy.

Mr. Wiedower asked if a double shotgun is a single structure?

Mr. Ethun responded that these would have been handled differently when built. It is a two-unit structure on a single parcel.

Mr. Pawloski stated that in order for it to be legal, it appears that the City would need some sort of paper trail to show why it was switched from two to four units. Mr. Wiedower agreed.

Mr. Rutledge asked how long has it been used as a quadraplex.

On a motion by Mr. Swanson, seconded by Boyce, the Board agreed that an illegal non-conforming use exists for the property at 246 and 248 E. Lake Drive. The vote was 5-0 in favor.

- B. East Lake Drive, LLC (Lawton Jordan), applicant and East Lake Drive, LLC, owner, have applied for variances from use restrictions and requirements under the UDO Sections 3.2.2 6.2 to for continued use as a quadruplex housing unit for the property located at 246 and 248 East Lake Drive, Decatur, GA 30030.

Mr. Jordon presented a handout and explained the variance request.

Mr. Pawloski responded about the four mailing addresses. Mr. Jordon responded.

Mr. Pawloski asked how many actual gas and electric meters exist on site. Mr. Morgan, owner 246-248 E Lake, appeared, responded that there are four units, two gas meters and two electric meters but he was not sure how they are divided.

Public comment was opened. No one spoke for or against the variance. Public comment was closed.

Mr. Pawloski stated that he is not sure if he is comfortable with no records existing. He understands that the owner bought it that way, but when one does research, one would have found that it wasn't a legal fourplex. Mr. Boyce concurred.

Mr. Wiedower struggled with this issue because it is a residential property and he is not sure if this issue would have come up at the closing.

Mr. Swanson joined in the discussion.

Mr. Wiedower stated that if the tree had not fallen, the City would not have changed the status of the property. The property has been operated in this way and provides lower rent housing to some residents.

Mr. Boyce joined in the discussion stating that the board needs to look at adverse impacts and currently he does not see adverse impacts.

Mr. Pawloski added that this is not like buying personal home, one is buying an investment property, and a four unit property is rare. Mr. Pawloski suggested that the owner should have looked into why there are four units.

Mr. Rutledge added that if one does not know the difference, one might not notice.

Mr. Wiedower added that the property has been beneficial to the neighborhood since 2004 and question is does the City want quads.

Mr. Swanson stated that he is not sure if this would serve as a precedent if it were to be approved. Mr. Wiedower concurred.

On a motion by Mr. Boyce, seconded by Mr. Wiedower, the Zoning Board of Appeals voted to maintain the multi-family dwelling (four units use) on the condition that the use shall be maintained only and not as to the application of other buildings and fire codes contained within Article 10 of the Unified Development Ordinance. The vote was 4-1 in favor. Mr. Pawloski voted no.

C. WSE Development, applicant, has applied for variances from stream buffer requirements and flood plain requirements for several properties as listed here with associated owners in Decatur, GA 30030:

- 1) 304 Commerce Drive, East Decatur Station LLC
- 2) 255 Freeman Street, FRA Management LLC
- 3) 218 S. Columbia Drive, Commerce and Columbia LLC
- 4) 222 S. Columbia Drive, Commerce and Columbia LLC
- 5) 203 Weekes Street, Seven Smiths Investments, LP
- 6) 206 Weekes Street, Michele Ritan
- 7) 207 Weekes Street, Seaboard Properties, LP
- 8) 210 Weekes Street, Kuhl Heddy
- 9) 211 Weekes Street, Seaboard Properties, LP
- 10) 216 Weekes Street, FRA Management, LLC
- 11) 220 Weekes Street, Seaboard Weekes, LLC
- 12) 223 Weekes Street, FRA Management, LLC
- 13) 224 Weekes Street, Seaboard Weekes, LLC
- 14) 227 Weekes Street, Commerce and Columbia, LLC
- 15) 228 Weekes Street, FRA Management, LLC
- 16) 231 Weekes Street, Commerce and Columbia, LLC

Michael McGwyer, WSE Development appeared to present the application and summarize the hardship. Mr. McGwyer noted that the question is whether the development is at least as protective as what is there now.

Details on mitigation reviewed for the board and others including:

- a) on site work;
- b) treatment of stormwater at Decatur Auto Sales site (collect, clean, store, clean again, release);
- c) other development mitigation through three stage process;

- d) remove buildings with lead based paint leaching; and
- e) stream restoration on both sides of stream bank.

Mr. McGwyer announced his team. Ms. Dunlavy appeared to explain contents of the applicant's packet.

Jennings Bell appeared. Mr. Bell stated that Georgia Environmental Protection Division and Army Corps of Engineers approval would be required for this project as well as the variances.

Mr. Bell said that he has not had a chance to see the documents or items Chris Harrell was trying to show him on the phone while he was sitting in the audience.

Mr. Bell addressed the mitigation generally noting that this is very different from other requests as it is not a single family application. Mr. Bell said that he has not reviewed the given MOU but he needs time to review it.

Mr. Wiedower wanted to confirm that this is one of your last bullets in your staff report

Mr. Bell responded yes and that he is looking at it holistically and he requires more time.

Mr. Boyce wanted to confirm that he is getting closer. Mr. Bell stated yes but that he needs to review the documentation.

Mr. Wiedower asked Jennings Bell if studies had been conducted downstream as a result of this upstream issue?

Mr. Pawloski asked Mr. Bell a question. Mr. Bell responded that the applicant is working with off-site properties as well as providing additional mitigation downstream.

Mr. Pawloski asked if there is a number (square footage) to work with. Mr. Bell stated that stream buffers are difficult to quantify.

Mr. Pawloski stated that the board would give everyone a chance to speak. Mr. Pawloski urged everyone to focus on the specific variances in question.

Public comment was opened.

David Kirk, attorney, Troutman Sanders, reside at 411 Glen Circle, Decatur, GA, appeared to represent Decatur Glass Blowers. Mr. Kirk stated the location of his client, that he is confident that his clients will not have negative impacts, and urged approval.

Pat Murphy, principal, East Decatur Station, Decatur, GA, appeared. Mr. Murphy noted that there are different opinions on urban sustainable development. Mr. Murphy stated he thinks that it will be cleaner when done. Mr. Murphy made other comments including ability to get east side of creek owners to restore and contact with Mr. Bettis. Mr. Murphy provided a handout. Mr. Murphy said that he has been building around metro stations for 25 years, have not seen a more conscious builder and that he can't imagine anyone else would come in at this site.

Michelle Ritan, 206 Weekes Street, Decatur, GA, appeared to provide comments including the need for the board to pay attention to outcomes, the history of efforts to remediate, that there would be no clean up without development, that there is environmental contamination there, the City has required a great deal, that Worthing Properties is a good neighbor, and that she is not sure if there would be another developer soon or one as good as Worthing Properties.

Mr. Pawloski asked if anyone wanted to speak against or had questions.

Lucius Herman, 556 S. Candler Street, Decatur, GA, appeared. Mr. Herman stated that the board should go back to the basics of the variance, Section 11 of the Unified Development Ordinance. Mr. Herman would like the board to focus on his view that applicant solely wants to break the ordinance.

Catherine Fox, 262 Forkner Drive, Decatur, GA, appeared. Ms. Fox noted her professional experience in the environmental field. Ms. Fox noted the stream buffer resource that she provided in the packet, commented that the applicant's proposal does not meet the requirements of the ordinance, and asked the board to focus on the concept of extreme hardship. Ms. Fox also commented that more space is required for stream restoration than is shown by applicant.

Lisa Paris Gordon, 198 E Parkwood Road appeared. Ms. Gordon noted her professional experience in the environmental field and stated that she believes piping is supposed to be an exception and if approved would set a bad precedent.

Mr. Pawloski asked the attendees not to clap for any public comment.

Ms. Gordon expressed preference for daylighting streams and encouraged the developer to work around the streams and therefore set a good example.

Cynthia Osborne, 309 Shadowmoor Drive appeared. Ms. Osborne requested that the applicant not pipe the stream. Ms. Osborne addressed the local area plan and noted that the area was not always meant for high rise development. She addressed the premise that the stream must be piped.

Ms. Osborne stated that the premise that there is a hardship to meet street needs is not true. Ms. Osborne stated that the applicant is claiming the need to meet the street requirements cause the need for the stream buffer variances. Ms. Osborne noted that under the City's ordinances, one cannot create a hardship.

Ms. Osborne noted that the premise that without approval no one else will be able to develop the land is not true. Ms. Osborne cited Mr. Ash Miller's comments.

Ms. Osborne commented that the developer's premise that this plan is the only one that would work however no plans were presented to show development without the need for variances. Ms. Osborne commented that such plans do not exist because the applicant never intended to comply with the ordinance.

Ms. Osborne mentioned the 2002 Livable Centers Initiative Plan.

In the city, environmental protection and sustainability are discussed, it is important to align policy and decision making to support these policies and for her that means denial.

Finally, from Shoal Creek website, Ms. Osborne noted that this proposal is against the vision of ourselves and our vision, high density not on top of existing forested and streambed areas, city needs alternatives to the Weeks street proposal. She urged denial.

David Powers, 432 Avery Street, Decatur, GA, appeared. Mr. Powers requested that the board table the application until the City's Stormwater Master Plan can be completed.

Steve Dockery, 225 Shadowmoor Drive, Decatur, GA, appeared to oppose the project citing the arduous task of rock removal to comply with buffer requirements for his recent remodeling project. Mr. Dockery also stated that the board needs a lot more analysis before voting, that the proposal is way too extreme for what is the norm, and that the site is 1000 yards from his house.

Steve Blackburn, 128 Clarion Avenue, Decatur, GA, appeared. Mr. Blackburn noted that there are three streams there, along with buffer and that these form a wonderful stream that goes by Winnona Park greenspace. He said that he agrees with some others that this is not a hardship.

Mr. Blackburn continued by stating that one thing to consider is the concept of returning the stream back to a more natural flow across the land (streams don't take right hand turns). Mr. Blackburn, citing his recent attendance at Decatur Stormwater Master Plan meetings, stated that he does not think piping streams is a good idea. Maps of Shoal Creek mentioned. Mr. Blackburn commended the applicant for stream water quality and for tackling stream #2.

Ash Miller, 128 W. Benson Street, Decatur, GA, appeared. Mr. Benson noted his letter which was in the board meeting packet. Mr. Miller commented on the level of work done to date as well as the stormwater treatment effort was well done. Mr. Miller stated his concern about other impacts. He stated his anger when people do not complete studies. For example, Mr. Miller noted trees. He stated that he came up with ½ acre of trees in his own informal assessment. Furthermore, he noted that at the last hearing that tree survey was too expensive. Mr. Miller asked if there was a gap in the record of documents made available to the public. Mr. Miller also stated that none of the the alternatives save streams. Mr. Miller stated that the board can't approve the variances tonight. Mr. Miller also asked the board why it is not discussing traffic. The applicant has not done a traffic study. It is an environmental impact. What the board has is an incomplete plan.

Lee Violante, S. Candler Street, Decatur, GA appeared. Ms. Violante noted her professional experience in the subject matter, urged the board to consider alternatives to piping because the board had not yet seen these alternatives. Ms. Violante commented that for the Georgia Environmental Protection Division, one is obligated to specify which criteria an applicant is seeking. Ms. Violante mentioned testing.

A handout was provided by Maria Moore Riggs, Green Street, Decatur, GA. Ms. Riggs presented several issues including:

- two of lots do not have structures and are within the buffer zone;
- that trees are clustered primarily in the stream buffer area;
- that properties in the assemblage and asked for different arrangement wherein they could be part of the open space; and
- that it would be great to see different plans that show a different assemblage and do not encroach into the buffers.

Misty Frederick, 15 Village Walk Drive, Decatur, GA, appeared. Ms. Frederick provided comments about her views of how the applicant should have approached the site. Ms. Frederick noted issues of alternative plans, hardship, and first developer.

Public comment was closed.

Becky Slemmons, 269 Forkner Drive, Decatur, GA, appeared to state that she was against the variances.

Ila Wade, 249 Mt Vernon Drive, Decatur, GA stated that she does not understand how developers who are aware about the land come with such large requests. She commented that if one buys the land, build within the ordinances because that is why there are rules. For example, if a tree survey would be too expensive, homeowners need to carry out tree surveys. She also commented that piping a stream does not seem like stream restoration.

Tricia Appleton 308, 4th Avenue, Decatur, GA, appeared. Ms. Appleton stated that if board members had not visited, if they would be willing to watch a video. The board responded that members had been to the site. Ms. Appleton commented that trees are not in question, but she finds them to be important.

Ms. Appleton provided several comments:

- that the hardship is not there and asked the board, if in support, to state the hardship that the decision is based on;
- concerned about precedent;
- noted bird habitats;
- the City's consultant for the stormwater master plan AECOM has identified piped stormwater infrastructure as a current challenge in city;
- noted that conditions above and below Weekes Street have been serious;
- piping is one of the most extreme acts; and
- concern for trees and faults in the UDO do not protect trees enough.

Mr. Pawloski asked for those will like to comment against the project or would like additional information.

Duranne Dotson, 104 Kirk Crossing, Decatur, GA, appeared. Ms. Dotson stated that there are a lot of questions, studies that have not been conducted. Ms. Dotson stated that the proposed size of the development is a concern as well as the 500

car lot, would appreciate a delay, and would like to see the east side of the stream preserved.

Kathleen Scott, 510 E. Ponce De Leon Avenue, Decatur, GA appeared. Ms. Scott thanked the audience, reminded all to focus on variances, noted the open space on the site, and suggested many more studies could be done.

Sara Zingarelli, 922 Chevelle Lane, Decatur, GA appeared. She thanked the board and citizens. She urged the board to vote no.

Betty Blondeau, 615 Pinetree Lane, Decatur, GA, urged the board not to allow tree removal.

Sherry Kunnih, 2425 N. Decatur Road, Decatur, GA, appeared to state that she found habitat in the proposed building area, a stream buffer there, and lots of buildable land. She asked why the City would vote for this, other plans did not require stream buffers, she supports the need for high density but not for this project and not in this way.

Cynthia Osborne, 309 Shadowmoor Drive, Decatur, GA, stated that there is something related to traffic in the application.

Public comment was closed.

Michael McGwyer appeared and provided several comments:

- thanked the board,
- acknowledged concerns and benefits of the project,
- reminded all that the land was appropriately zoned by the city,
- WSW does not yet own the site and is a contract purchaser,
- worked closely with the city through two Planning Commission meetings and a City Commission meeting and as such the intent of what would be built was widely known,
- have permit for brownfield work in hand;
- have never claimed that these were not streams.
- addressed the hardship related to the developable land on the plan;
- reiterated the mitigation that is being proposed (to collect water and treat it);
- stated that WSE will do tree survey and meet the tree ordinance;
- stated that the maintenance requirements for the stormwater system run with the property.
- Stated with emphasis that the WSE worked with the City for options, assumed WSE would not going to keep buffers because the regulating plan called for the development;
- stated the need to build this size development to provide the benefits to the development overall;
- stated that the parking is not a lot, but a garage as residents will have cars; and

- Mr. McGwyer offered to answer questions.

Mr. Wiedower asked about water going downstream. A response was provided that water will run past the rip rap and bypass the system.

Ms. Dunlavy noted that the Board has been asked to table for a variety of issues, more studies, etc., but WSE is not subject to respond to every potential environmental impact. The Board is not required to answer every question.

Regarding traffic concerns, Ms. Dunlavy stated that WSE submitted a traffic study to demonstrate why the building envelope has been proposed as it is.

Regarding trees and other concerns, Ms. Dunlavy stated that there will be a staff review during permitting. In addition, the Corps of Engineers has reviewed this application as well as the WSE team. Any approval is subject to the process of the Corps of Engineers and the process of the Georgia Environmental Protection Division.

Ms. Dunlavy noted that the Unified Development Ordinance does not require the Board to conduct various studies to address concerns on the site.

Ms. Dunlavy returned to the buffers specifically and through the illustration explained the land use planning break down of each area of the assemblage.

Ms. Dunlavy stated that WSE thinks that it has met the criteria for approval with the information that has already been provided.

Ms. Dunlavy noted that the written agreements submitted by WSE to the Board at the meeting were late. For this reason, Ms. Dunlavy acknowledged that conditional approval – based in part on the written agreements – would be acceptable to WSE.

Mr. Huetter, applicant's team, noted areas of remediation and soil removal.

Mr. Pawloski asked about total submission. Ms. Dunlavy responded that she had not compared what was submitted to what was posted by staff.

Mr. Boyce asked Ms. Dunlavy about the DDA notion of cost sharing for park creation. Ms. Dunlavy and Mr. McGwier referred to the DDA submission and that the applicant is willing to help with 15,000 sf of future open space. Ms. Dunlavy added that this information is new to the team and the commitment has been made.

Mr. Boyce asked about single family development. Mr. Ethun responded.

Mr. Wiedower asked questions of Ms. Threadgill. Ms. Threadgill responded.

Mr. Rutledge asked Mr. McGwyer if he had considered or studied development over stream number two. Mr. McGwyer responded by explaining how the proposal was chosen.

Mr. Wiedower stated that he is interested in Jennings Bell's responses and the review of information submitted today. That's a big thing for me. This is clearly a hot topic for a lot of things.

Mr. Wiedower stated that he tends to accept through understanding that the surveys and studies are required, but don't happen at this point. He stated that he is very pleased that people came back to say yes for mitigation on the other side of stream. He stated that he appreciated the team being responsive. The team addressed a lot of the comments that have come up and his concerns. This is very serious and impactful. Then he added that remediation is part of the project. I don't know what the staff report from Mr. Bell will find. He noted that there is a commitment to do things in the park. We would not ask a single family homeowner to do mitigation on a neighboring property.

Mr. Boyce agreed with Mr. Wiedower about the information provided. Mr. Boyce stated that if the board steps back from the lens that the board normally uses for typical variances, look at any parcels, agree that there are hardships in all these cases, then the board would grant some form of variance. Overall with condition of brownfield work would be an improvement. In addition, the southern portion of the property would be an orphaned property if the board did not grant variances. Mr. Boyce noted that a sticking point is that one can't easily undo a pipe and that he did not want the vote to be a potential precedent.

Mr. Pawloski concurred that the piping is a sticking point. He added that there are 11 listed benefits of stream buffers and placing the pipe underground removes four to five of those benefits. Mr. Pawloski stated that perhaps a portion of the project cannot be built or perhaps there is a bridge or some other alternative. The board has not seen an alternative plan yet; however, we have heard that the applicant wants this much parking for this development.

Mr. Boyce stated that in his opinion a smaller developer means fewer community benefits, but that is not part of the hardship. Mr. Pawloski concurred (being able to provide amenities).

Mr. Wiedower joined the conversation and discussed alternatives.

Mr. Pawloski and Mr. Wiedower discussed the possibility of alternatives. Mr. Pawloski stated that the board has not yet seen alternatives.

Mr. Swanson joined the discussion noting that his single biggest difficulty is that staff cannot yet assure the board that the proposed condition is at least as protective as the existing condition. Mr. Swanson noted that the board cannot condition any approval for this reason. Mr. Swanson stated that he is very pleased that the applicant has been responsive, but would like to see the applicant complete the last 25 feet for assured mitigation. Mr. Swanson continued by stating the proposed piping on the site is acceptable to him because the proposal calls for the water flow to go a little further before it exits with control of rip rap (how water is going already).

Mr. Swanson acknowledged the feedback from the public but noted that perhaps 70% to 80% of it has been outside of the Board's purview.

Mr. Swanson stated that of the handful of people who addressed water quality, no one said water will be worse nor did anyone question the applicant's ability to clean water. For Mr. Swanson, this project will improve water quality.

Mr. Boyce asked Mr. Swanson if he worries about potential projects and precedent.

Mr. Wiedower added that the map of current upstream piping was remarkable, but noted that this could also form the argument about why pipe even more water.

Mr. Pawloski responds that water quality is just one issue and if one looks at the Livable Centers Initiative Plan closely, it addresses the topics of greenspace and the interaction of this high density with greenspace. In this case, Mr. Pawloski commented that the proposed plan does not deliver these concepts with the plan. Mr. Swanson and Mr. Boyce joined in.

Mr. Pawloski presented a hypothetical scenario. If a single family homeowner appeared before the Board with a piping proposal that included a single family structure on top of a stream buffer, the Board would not approve it.

Mr. Wiedower responded no. Mr. Wiedower cited as an example impervious vs pervious and benefits of the rearrangement and the improvement in stream quality. Mr. Wiedower continued to stress this point.

Mr. Pawloski and Mr. Wiedower discussed this point. The topic of Weekes Street abandonment was discussed. Mr. Boyce joined in the discussion.

Mr. Wiedower notes that he agrees with Mr. Swanson and that he understands the applicant's position, but really need Mr. Bell to return with a staff report.

Mr. McGwyer returned to ask if approval could be considered if WSE committed to 15,000 square feet of mitigation.

Mr. Pawloski asked Jennings Bell to return.

Mr. Wiedower asked if Mr. Bell would agree to a number.

Mr. Pawloski recounted Mr. Bell's memo. Mr. Bell noted that there is still the issue of whether the property owner will be part of the solution and to what extent work would go down the stream and that there are too many variables.

Mr. Boyce stated that he would feel more comfortable if the board had a memo from Mr. Bell stating that the proposed condition would be at least as protective as the existing condition. Mr. Swanson concurred.

Ms. Dunlavy requested that the next public hearing could be focused solely on the engineer's findings. The board discussed. The board agreed that there would be a need to hold a public comment period. The board agreed that there could be a separate meeting. Mr. Maximuk added that a neighborhood agreement document should be reviewed as well.

Mr. Pawloski asked Ms. Dunlavy to return. Ms. Dunlavy stated that she understands the need for Mr. Bell to look at material. Ms. Dunlavy requested that the application be tabled until Mr. Bell can review the materials.

On a motion by Mr. Wiedower, seconded by Mr. Swanson, the Zoning Board of Appeals voted to table the application until such time as the applicant chooses to return. The vote was 5-0 in favor.

D. Chris Chattin and Danielle Chattin, applicants and owners, have applied for a variance from the 75 foot stream buffer requirement for the property located at 172 Mead Road, Decatur, GA 30030.

Chris Chatin, 172 Mead Road, Decatur, GA appeared to present the application as revised.

Staff worked with the applicant since the 6.25.19 meeting in order to develop options. A revised plan was provided.

Mr. Chattin expanded on the alternatives, tested alternatives, and reviewed a potential stormwater plan. Chris Holden appeared to explain details, address steepness of site, noted that no retaining wall would be possible, and noted that a parking pad had been proposed. Mr. Holden provided details of the proposed stormwater plan for the site.

Mr. Chattin provided pictures.

Mr. Pawloski asked if board members had questions. There were none and Mr. Bell was asked to appear.

Mr. Bell stated that the applicant had been responsive. Mr. Bell stated that the proposal is consistent with mitigation options that the staff had seen in the past and the proposal would be as protective of the environment if no further development allowed on this site.

Public comment was opened. No one spoke for it.

Erin Murphy appeared due to concerns about tree canopy. Ms. Murphy stated that the white oak seems to have been removed. Ms. Murphy stated that she appreciated that applicant would try to build a structure that is minimally invasive.

Tricia Appleton appeared, 308 4th avenue. Ms. Appleton stated that there is no problem parking in front if it means protecting trees, citing stormwater savings with the tree.

No one else appeared. Public comment was closed.

For board discussion, Mr. Boyce asked about canopy for remaining trees (shown on plan correct). Holden responded yes.

Mr. Wiedower stated that he finds that the variance is a small ask and would be beneficial to all.

Mr. Pawloski commented about parking near the crosswalk.

Mr. Boyce stated his approval.

Mr. Swanson commented that he finds that the proposed mitigation would improve the stormwater situation on site and help protect the trees that are still there.

On a motion by Mr. Boyce, seconded by Mr. Wiedower, the Zoning Board of Appeals voted to approve the variance condition on the 8.7.19 memo of Jennings Bell and conditioned on plans limited to and conditioned by plans substantially similar to those submitted with the application.
The vote was 5-0 in favor.

- E. Michelle Krahe, applicant and Jim White, owner, have applied for a variance from rear yard setback requirements for the property located at 193 Feld Avenue, Decatur, GA 30030.

Michelle Krahe appeared to present the application.

Mr. Pawloski asked if she talked to the neighbors. Ms. Krahe provided support letters.

Mr. Boyce asked about lot coverage. Ms. Krahe responded that it complies with the UDO.

Public comment was opened. No one spoke for or against the variance. Public comment was closed.

Mr. Rutledge commented that he is ok with it and recognizes a hardship.

Mr. Boyce commented.

Mr. Pawloski stated his approval noting that the applicant was trying to gain extra space while being considerate of the UDO.

Mr. Swanson stated his approval.

On a motion by Mr. Wiedower, seconded by Mr. Rutledge, the Zoning Board of Appeals voted to approve the variance conditioned on plans limited to and conditioned by plans substantially similar to those submitted with the application.
The vote was 4-1 in favor. Mr. Boyce voted no.

- F. Michelle Krahe, applicant and Amy Wall, owner, have applied for a variance from side yard setback requirements for the property located at 1018 South Candler Road, Decatur, GA 30030.

Michelle Krahe appeared to present the application

Staff notes correction on report.

Ms. Krahe provided neighbor support.

Public comment was opened. No one spoke for or against the variance. Public comment was closed.

Mr. Pawloski called for board discussion. Mr. Boyce stated his approval.

Mr. Pawloski stated that this is similar to the previous application; it is a small house and a small addition. Mr. Boyce concurred.

On a motion by Mr. Wiedower, seconded by Mr. Boyce, the Zoning Board of Appeals voted to approve the variance conditioned on plans limited to and conditioned by plans substantially similar to those submitted with the application. The vote was 5-0 in favor.

- G. Gretchen and James Cobb, applicants and owners, have applied for variances from side yard setback requirements for the property located at 202 Upland Road, Decatur, GA 30030.

Gretchen and James Cobb appeared with Bonnie Henry to present the purpose and the goal of the architectural design.

Ms. Henry described the north side – 28 feet from neighbor, that the other side is 24 feet, that the south side does not affect the variance at all, and that no trees would be affected by the variance. Ms. Henry stated that the FAR is ok, lot coverage is ok and no variance would be required for the car port.

Public comment was opened. No one spoke for the variance.

Speaking against the variance, Jennifer Hamborsky and Tim Dignam of Upland Road, Decatur GA appeared. They stated that they had lived in Decatur for several years, sent the board letter in the packet, and came to the meeting to ask further questions. The issues raised included the driveway being relocated on their side of the property and the change in space utilized (as explained in letter). Mr. Dignam read part of his letter; noted trees on the site, yet recognized that the Board does not regulate trees; cited concern about drainage after recent waterproofing work; and would like model drainage prior to proposed work. In summary, Mr. Dignam and Ms. Hamborsky stated concerns for drainage, noise and light spill, impact on quality of life (working at home), questions about the fence, and review of overhangs. A handout of questions was provided.

Mr. Pawloski discussed comments with the residents who opposed the variances.

With concern about headlights, the neighbor specifically requested modeling of light. Mr. Pawloski stated that this request is beyond the board's scope.

Mr. Wiedower joined in the discussion to state that the driveway is allowed and that the applicant could build the driveway regardless.

Mr. Wiedower discussed the topic of runoff with Mr. Dignam.

No one else appeared. Public comment was closed.

Mr. Boyce commented. Members discussed generally.

Mark Ethun addressed the car port again because it is attached to the main structure. Mr. Ehtun noted that there is a need for six inches of daylight of separation. The applicant said it would be ok. Bonnie Henry appeared to discuss with Mr. Ethun. Mr. Ethun stated that the plans for the building permit should reflect the separation.

On a motion by Mr. Boyce, seconded by Mr. Wiedower, the Zoning Board of Appeals voted to approve the variance conditioned on plans limited to and conditioned by plans substantially similar to those submitted with the application. The vote was 5-0 in favor.

- H. Amy Judd, applicant and Sycamore Ridge HOA, owner, have applied for variances from the requirement for double frontage lots (UDO Section 2.1.5.) and requirements for walls, fencing, and planting (UDO Section 7.2.1) for the properties located at 506 and 517 Sycamore Ridge Drive, Decatur, GA 30030.

Mark Ethun introduced the application and provided background due to questions about addressing.

Amy Judd appeared to present the application. Ms. Judd explained the intent to replace the existing fence, that the HOA owns the fence but that the other side of the subdivision was in DeKalb County in 1996.

Ms. Judd added that houses not face Winn Way for this reason.

Ms. Judd explained the topography and that the fence is needed for security because there are no neighbors on Winn Way.

Ms. Judd stated that there were 45 letters of support (note: not submitted to staff).

Mr. Pawloski called for questions.

Mr. Rutledge asked if there was a sidewalk there. Ms. Judd responded that there was not a sidewalk.

Public comment was opened.

Tim Cox appeared in support. He explained that the board has been involved, that the fence is not a maintenance issue but safety issue, and that neighbors all in agreement.

Natalie, 620 Sycamore Drive appeared in favor of the variance.

No one spoke against. Public comment was closed.

Mr. Pawloski commented that there is no visual clue that it is a double lot.

Mr. Boyce, Mr. Wiedower, and Mr. Swanson concurred.

On a motion by Mr. Wiedower, seconded by Mr. Boyce, the Zoning Board of Appeals voted to approve the variance conditioned on requirements for double frontage lots, requirements for walls within the Sycamore Ridge Planned Unit Development, and an eight foot height. The vote was 5-0 in favor.

- I. Eric and Haley Stevens, applicants and owners, have applied for a variance from average front yard setback requirements for the property located at 245 Mount Vernon Drive, Decatur, GA 30030.

Eric Stevens, 245 Mt Vernon, Decatur, GA appeared to present the application.

Two letters of support were provided.

Mr. Boyce asked for clarification.

Mr. Pawloski asked other questions.

Public comment was opened. No one spoke for or against the variance. Public comment was closed.

Mr. Pawloski voiced support.

Mr. Wiedower added that this is already 33 feet and massing will not be a factor.

Mr. Swanson stated that this is a modest area in size.

Mr. Boyce voiced concern about massing impacts for neighbors and finds that the proposal will bring massing out front more.

Mr. Swanson stated that this is further away than other locations that the board is concerned about, there are letters of support, and there is no other way to do it really.

On a motion by Mr. Wiedower, seconded by Mr. Swanson, the Zoning Board of Appeals voted to approve the variance conditioned on plans limited to and conditioned by plans substantially similar to those submitted with the application. The vote was 4-1 in favor. Mr. Boyce voted no.

- J. Calvin King, owner and applicant, has applied for a variance from front yard setback requirements for the property.

Calvin King appeared to present the application and explain the situation. Mr. King proposes to make changes to the roof line, but not exceed the front setback line.

Mr. King noted that if the front porch were to be removed, it would require the removal of the existing foundation. If it were removed, it might cause other unintended consequences and cutting the front wall would bring potential problems.

In addition, Mr. King stated that this proposal keeps the spirit of the neighborhood and the architecture, the kids can use the front porch, and his family plans to participate in Porchfest.

Mr. Rutledge asked a clarifying question.

Mr. Boyce asked a clarifying question. Mr. Ethun responded that drawing B (A-0.1) actually shows the porch being cut and that this is not what the applicant wants to do. Mr. King concurred that the drawing shows the alternative that he does not favor.

Mr. Ethun noted the correction to the staff report that the existing and proposed measurements are 28.6 feet. All confirmed.

Public comment was opened. No one was in attendance. Public comment was closed.

Mr. Boyce and Mr. Wiedower stated their approval.

Mr. Rutledge asked a clarifying question for Mark Ethun. Mr. Ethun responded by stating that the Unified Development Ordinance is different now and the applicant must get a variance.

On a motion by Mr. Boyce, seconded by Mr. Wiedower, the Zoning Board of Appeals voted to approve the variance conditioned on plans limited to and conditioned by plans substantially similar to those submitted with the application and on the condition that construction remains within the existing foundation. The vote was 5-0 in favor.

IV. Other

The meeting was adjourned at 12:58AM

