

DRAFT
LEWISVILLE ZONING BOARD OF ADJUSTMENT MEETING MINUTES
1st FLOOR COUNCIL CHAMBERS - LEWISVILLE TOWN HALL
6510 SHALLOWFORD ROAD
TUESDAY, May 28, 2024 - 6:00 P.M.

NOTE: ALL cases on the Zoning Board of Adjustment agenda are quasi-judicial in nature; as a result, NO communications should take place between yourself and the Zoning Board of Adjustments members prior to the public hearing.

I. Call to Order

A. Chair Ken Wernick called the meeting to order at 6:00 p.m. Board members present were Ken Wernick, Annemarie Stanford, Brian Gravely, David Hunt, and Kirk Rieger. Also present were Project Planner Rory Howard, Planner Adam Barr, Town Manager Stacy Tolbert, Town Clerk Dora Moore and Attorney Elliot Fus.

II. Oath of Office

A. Alternate Board member Brian Gravely was sworn in by Town Clerk Dora Moore.

III. Approval of Minutes

A. Annemarie Stanford moved to approve the March 26, 2024 minutes. The motion was seconded by David Hunt and approved unanimously.

IV. Withdrawals

A. None.

V. Continuance Requests

A. None.

VI. Hearing and Determination of Cases

A. Special Use Permit

1. Rory Howard read the required findings into the record:

a. The Board of Adjustment shall approve a special use permit only when the Board of Adjustment makes an affirmative finding as follows:

- (1) That the use will not materially endanger the public health or safety if located where proposed and developed according to the application and plans submitted and approved;
- (2) That the use of the property otherwise meets all required conditions and specifications;
- (3) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and
- (4) That the location and character of the use, if developed according to the application submitted and approved, will otherwise be in harmony with the area in which it is to be

DRAFT
LEWISVILLE ZONING BOARD OF ADJUSTMENT MEETING MINUTES
1st FLOOR COUNCIL CHAMBERS - LEWISVILLE TOWN HALL
6510 SHALLOWFORD ROAD
TUESDAY, May 28, 2024 - 6:00 P.M.

located and in general conformity with Legacy and the
Lewisville Comprehensive Plan.

Board member Vance Horner arrived at 6:08, replacing alternate Board member Brian Gravely.

2. **Case # Z2400264** Andrew Kirkcaldy requests permission to place an oversized accessory structure on a 0.46-acre tract of land located at 1055 Lewisville-Clemmons Road approximately 3000 feet north of Styers Ferry Road. Property is zoned RS9. Tax Block 4433a, Tax Lot 029.
 - a. The public hearing was opened.
 - (1) Andrew Kirkcaldy, the applicant, spoke to proposal. He wanted to build a garage as a space to hold his tools and vehicles.
 - (2) Town Manager Stacy Tolbert spoke to a correction needed in the staff report regarding the size requirements for an accessory structure. The UDO allows for five percent of the size of the zoning lot or the zoning whichever is smaller, not larger. The maximum permitted size by ordinance would therefore be 576 square feet as opposed to the 1,001.88 sq. ft. in the report. The proposed 1,200 sq. ft. structure exceeds this amount by 624 sq. ft.
 - (3) Gerald Bryant, of 7082 Damon Dr, came to learn more about the proposal. Does not believe the proposal would not have any impacts and has no conflict with it.
 - b. The public hearing was closed.
 - c. With an affirmative finding, David Hunt moved to grant the special use permit, contingent on the approval of the required variance. The motion was seconded by Annemarie Sanford. Board members Wernick, Stanford, Horner, and Hunt voted in favor. Board member Rieger voted against. The motion pass 4-1.

B. Variance

1. Rory Howard read the required findings into the record:
 - a. The Board of Adjustment shall approve a variance only when the Board of Adjustment makes an affirmative finding as follows:
 - (1) Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that in absence of the variance, no reasonable use can be made of the property;
 - (2) The hardship results from conditions that are peculiar to the

DRAFT
LEWISVILLE ZONING BOARD OF ADJUSTMENT MEETING MINUTES
1st FLOOR COUNCIL CHAMBERS - LEWISVILLE TOWN HALL
6510 SHALLOWFORD ROAD
TUESDAY, May 28, 2024 - 6:00 P.M.

property, such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or general public, may not be basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Fair Federal Housing Act for a person with a disability;

- (3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of the variance is not a self-created hardship.; and
- (4) The requested variance is consistent with the spirit, purpose and intent of the UDO, such that public safety is secured, and substantial justice is achieved.

2. **Case # Z2400135** Andrew Kirkcaldy requests a variance for a portion of the rear yard setbacks on a 0.46-acre tract of land located at 1055 Lewisville-Clemmons Road approximately 3000 feet north of Styers Ferry Road. Property is zoned RS9. Tax Block 4433a, Tax Lot 029.

- a. The public hearing was opened.
 - (1) Andrew Kirkcaldy, the applicant, spoke to the spacing and setbacks on the lot.
- b. The public hearing was closed.
- c. With an affirmative finding, David Hunt moved to grant the variance. The motion was seconded by Annemarie Sanford. Board members Wernick, Sanford, Horner, and Hunt voted in favor. Board member Rieger voted against. The motion pass 4-1.

VII. Unfinished Business

- A. None.

VIII. New Business

- A. None.

IX. Election of Officers

- A. Vance Horner made the motion to appoint Ken Wernick as Chair of the Zoning Board of Adjustment. The motion was second by David Hunt and approved unanimously.
- B. Vance Horner made the motion to appoint Annemarie Stanford as Vice-Chair of the Zoning Board of Adjustment. The motion was seconded by Kirk Rieger and

DRAFT
LEWISVILLE ZONING BOARD OF ADJUSTMENT MEETING MINUTES
1st FLOOR COUNCIL CHAMBERS - LEWISVILLE TOWN HALL
6510 SHALLOWFORD ROAD
TUESDAY, May 28, 2024 - 6:00 P.M.

approved unanimously.

X. Adjournment

- A. Having no other business to discuss, David Hunt moved to adjourn the meeting at 7:07 p.m. The motion was seconded by Annemarie Sanford and approved unanimously.

Ken Wernick, Chair

ATTEST:

Adam Barr, Planner