

1 Minutes of the Centerville **Board of Adjustments** meeting held Monday, January 13, 2025, at
2 5:30 p.m. with participants present at Centerville City Hall, 250 North Main Street.

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4 **MEMBERS PRESENT**

5 Brian Hulse, Chair
6 David Hirschi
7 Paula Tew
8 Scott Sappenfield
9 Daniel Ditto

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11 **STAFF PRESENT**

12 Mike Eggett, Community Development Director
13 Lisa Romney, City Attorney
14 Sydney DeWees, Planner
15 Jennifer Robison, City Recorder

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17 **VISITORS**

18 Kirk Fowers
19 Spencer Packer
20 Russell Wilson

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22 **RECONSIDERATION OF APPEAL OF ADMINISTRATIVE ZONING DECISION AND**
23 **PROPERTY VARIANCE REQUEST – 2144 NORTH 400 WEST – STREET SIDE YARD**
24 **ACCESSORY BUILDING PLACEMENT AND CONSTRUCTION IN RESIDENTIAL-LOW (R-L)**
25 **ZONE**

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27 Chair Hulse **moved** to reconsider the Fower’s variance request. Board member Ditto
28 seconded the motion, which passed by a unanimous vote (5-0).

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30 The Board of Adjustment reconsidered the Fowers' variance request for a shed in their
31 side yard. Planner Sydney DeWees summarized the staff report, stating that no new information
32 would be presented by staff. Community Development Director Mike Eggett explained that the
33 applicant had expressed interest in reconsidering the previous denial and had brought new
34 evidence to discuss.

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36 The applicant, Kirk Fowers presented new information about his property, explaining that
37 it was formed from three pieces, with the initial piece being 0.18 acres. He noted that the backyard
38 area was previously school property with multiple springs, including one that flowed year-round
39 at 1-4 gallons per minute, and drains were installed by the school to address water issues specific
40 to the property. Historically, the area was a pond with 5 feet of unstable peat soil that compresses
41 or swells based on water content. He emphasized that placing a shed in the backyard would
42 require extensive excavation without guaranteeing stability, whereas the side yard, formerly part
43 of the Bamberger Railroad, had more stable ground. Mr. Fowers argued that these unique
44 conditions set his property apart from others in Centerville.

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46 The Board asked questions about the drains, the depth of the peat, and the visibility of the
47 proposed shed from the road. They also discussed the hardship criteria for granting a variance.

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49 Board member Tew **moved** to approve the request for a variance to allow the placement
50 of an accessory structure in the street side yard area for the property located at 2144 North 400
51 West within the Residential-Low (R-L) Zone, with the following conditions (conditions) and
52 reasons for action (findings) and any others that may be added or amended. Board member Ditto
53 seconded the motion, which passed by a unanimous vote (5-0).

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Conditions of approval:

- 1. The variance granted shall be conditioned upon the property owner maintaining a minimum 15' street side yard setback from the shed to the property line at Summerhill Lane and a minimum 30' front yard setback from the shed to the front yard property line with 400 West.

Reasons for Action (Findings):

- a. The Board of Adjustment finds that the current Residential-Low (R-L) Zone requires accessory buildings to be located in the rear yard at a minimum distance of six feet (6') from other buildings and three feet (3') from any property line in the rear yard if the accessory buildings are smaller than 400 square feet.
- b. The Board of Adjustment finds that there is a clear showing of evidence that the conditions justifying the variance request have been substantially met by the applicant in accordance with CZC 12.21.130.
- c. The Board of Adjustment finds that the applicant has a street side yard area with sufficient dimensional size for placement of an accessory building within the street side yard area of the applicant's property.
- d. The Board of Adjustment finds that, in this specific case, the reasons identified for placement of the accessory building in the street side yard of the applicant's property does create an unreasonable hardship for the subject property necessary to carry out the general purpose of the Zoning Code.
- e. The Board of Adjustment finds that the unreasonable hardship is not self-imposed or merely economic.
- f. The Board of Adjustment finds that the subject property does not have comparative substantial property rights, specifically as it relates to the placement of accessory buildings on the applicant's property, that other properties in the same zone enjoy.
- g. The Board of Adjustment finds that the subject property is currently deprived of certain privileges granted to other properties in the same zoning district and as established by standards found within the Zoning Code.
- h. The Board of Adjustment finds there are special circumstances associated with the property due to an historic pond on the property and the current subdrains on the property that do not generally apply to other properties in the same zoning district.

DETERMINATION OF THE EXISTENCE OF ONE NONCONFORMING LOT – APPROXIMATELY 2140 NORTH 225 WEST – SPENCER PACKER AND SYMPHONY HOMES

Mr. Eggett presented the request for an evidentiary determination of a nonconforming lot's existence for parcel 07-072-0031. He explained that staff recommended supporting the recognition of the lot as nonconforming based on the evidence provided by the applicant.

The Board reviewed the standards for determining nonconforming status and the staff's findings.

Chair Hulse **moved** to approve the determination for existence of nonconforming parcels as follows. Board member Ditto seconded the motion, which passed by a unanimous vote (5-0):

- The Board of Adjustment has determined that Parcel 07-072-0031, if purely only a merger of two historical deeds, is hereby recognized as an existing "Nonconforming Lot," in accordance with CZC 12.12 Definitions - Lot, Nonconforming, with the understanding and

1 identification that this lot is currently deficient in meeting the required "Lot Frontage"
2 minimums for compliance with current A-L Zone standards.

- 3 • The establishment of the Existence of Nonconforming Determination for Parcel 07-072-
4 0031 is subject to the following:

- 5
6 a. A licensed land surveyor shall review and compare the historical deeds to verify
7 that 1972 and 2015 Warranty Deeds are indeed limited to the merger of the
8 historical deeds of 1908 and 1912.
9 b. Any subsequent boundary adjustments and/or further development of the parcel
10 shall be subject to all other applicable land use ordinances, codes, and/or
11 development related regulations adopted by the City and any other applicable
12 municipal land use authorities.

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14 Reasons for Action (Findings):

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16 a. According to "CZC 12.21.150(b) Authority", the Board of Adjustment is authorized to make
17 determinations regarding the existence, expansion or modification of a nonconforming
18 use, structure, lot, or other nonconformity."
19 b. In following "CZC 12.21.150(d) Procedure", the Board of Adjustment has followed the
20 procedural steps necessary to determine the nonconforming status of this lot/parcel.
21 c. As required by "CZC 12.21.150(e) Standard for Decision", the Board of Adjustment has
22 followed the applicable provisions of CZC 12.22 in coming to a decision in this matter.
23 d. According to "CZC 12.22.040 Change in Nonconforming Status", the lot/parcel 07-072-
24 0031 has not previously been designated as nonconforming and, therefore, the Board of
25 Adjustment decision is in compliance with the requirements for the determination of
26 existence for the nonconforming status of this lot/parcel.
27 e. According to "CZC 12.22.110 Determination Of Nonconforming Status", in all cases, the
28 property owner shall have the burden of establishing that a nonconforming lot, structure,
29 use, or other nonconformity lawfully exists under this Title.
30 f. In accordance with "CZC 12.22.120 Nonconformities Detrimental to Health and Safety",
31 the Board of Adjustment has determined that the establishment of Parcel 07-072-0031 as
32 a legally recognized nonconforming lot is not detrimental to the overall health and safety
33 of the community.
34 g. According to the evidence provided, Parcel 07-072-0031, with the conditions imposed,
35 was a 1972 merger of the historical deeds of 1908 and 1912.
36 h. The Board of Adjustment finds that Parcel 07-072-0031, with the conditions imposed,
37 legally existed prior to the County Zoning Regulations enacted on May 14, 1953.
38 i. The Board of Adjustment finds that Parcel 07-072-0031, with the conditions imposed,
39 legally existed prior to 1980 annexation of the tract into the City and became subject to
40 the City's Zoning Ordinance at the time of its annexation.

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42 **DETERMINTATION OF THE MODIFICATION/EXPANSION OF ONE**
43 **NONCONFORMING LOT CONNECTING TO NEIGHBORING PROPERTY –**
44 **APPROXIMATELY 212 WEST SUMMERHILL LANE (2125 NORTH) – SPENCER PACKER**
45 **AND SYMPHONY HOMES**

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47 Mr. Eggett presented the request for determination of the modification and expansion of
48 the nonconforming lot (parcel 07-072-0031) to join with a portion of the Summerhill Lane
49 Subdivision. He explained that this would provide road access to the nonconforming lot.
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51 The staff findings indicated that the expansion would not be detrimental to public health
52 or safety and would comply with relevant zoning codes. Mr. Eggett noted that the applicant would
53 need to pursue a rezoning process and a subdivision amendment if approved.

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2 Board member Ditto **moved** for the Board of Adjustment to approve the determination of
3 the modification and expansion of Nonconforming Parcel 07-072-0031 to be connected to Parcel
4 A, as found on Exhibit G, with the following conditions and findings. Chair Hulse seconded the
5 motion, which passed by a unanimous vote (5-0).
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- 7 • The Board of Adjustment has determined that Parcel 07-072-0031 is approved to be
8 modified and expanded to include and connect to Parcel A, as found on Exhibit G,
9 thereafter, established a new nonconforming lot/parcel area configuration and sizing
10 reflecting the connection of Parcel A to Parcel 07-072-0031. This is approved in
11 compliance with applicable codes and standards as found in CZC 12.21.150 and CZC
12 12.22 and outlined in this report.
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- 14 • The approval of the modification and expansion of Nonconforming Determination for
15 Parcel 07-072-0031 to include Parcel A is subject to the following:
 - 16 a. The applicant is responsible for applying for and pursuing the alteration of
17 zoning for Parcel A from R-L Zoning with a PDO Overlay to A-L Zoning in order
18 to match Parcel 07-072-0031 so the entirety of the modified lot configuration is
19 zoned with A-L Zoning.
 - 20 b. The applicant is responsible for applying for the amendment to the existing
21 Summerhill Lane PDO Subdivision to remove Parcel A from the Subdivision
22 and connect it to Parcel 07-072-0031.
 - 23 c. Should the applicant receive rezoning approval and subdivision amendment
24 approval, the applicant is responsible for working with Centerville City staff to
25 complete all steps necessary to record the amended plat with the Davis County
26 Recorder’s Office.
 - 27 d. Any subsequent boundary adjustments and/or further development of the
28 parcel shall be subject to all other applicable land use ordinances, codes,
29 and/or development related regulations adopted by the City and any other
30 applicable municipal land use authorities.
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33 Reasons for Action (Findings):
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- 35 a. According to “CZC 12.21.150(b) Authority”, the Board of Adjustment is authorized to make
36 determinations regarding the existence, expansion or modification of a nonconforming
37 use, structure, lot, or other nonconformity.”
- 38 b. In following “CZC 12.21.150(d) Procedure”, the Board of Adjustment has followed the
39 procedural steps necessary to determine the nonconforming status and
40 modification/expansion of this lot/parcel.
- 41 c. As required by “CZC 12.21.150(e) Standard for Decision”, the Board of Adjustment has
42 followed the applicable provisions of CZC 12.22 in coming to a decision in this matter.
- 43 d. According to “CZC 12.22.040 Change in Nonconforming Status”, the lot/parcel 07-072-
44 0031 has previously been designated as nonconforming and, therefore, the Board of
45 Adjustment decision to approve the modification and expansion of the nonconforming lot
46 is in compliance with the requirements regarding the nonconforming status of this
47 lot/parcel in that the nonconforming status of this parcel is not being altered by this
48 decision.
- 49 e. According to “CZC 12.22.110 Determination Of Nonconforming Status”, in all cases, the
50 property owner shall have the burden of establishing that a nonconforming lot, structure,
51 use, or other nonconformity lawfully exists under this Title. Further, the applicant group
52 has worked with Symphony Homes to determine a plan of action to link Parcel 07-072-

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1 0031 to Parcel A and thereafter establish a new configuration and sizing for Parcel 07-
2 072-0031.

3 f. In accordance with "CZC 12.22.120 Nonconformities Detrimental to Health and Safety",
4 the Board of Adjustment has determined that the modification and expansion of Parcel 07-
5 072-0031 to connect with Parcel A (shown in Exhibit G) is not detrimental to the overall
6 health and safety of the community.

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8 **ADJOURNMENT**

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10 At 6:40 pm, Board member Hirschi **moved** to adjourn the meeting. Board member
11 Sappenfield seconded the motion, which passed by unanimous vote (5-0).

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15 Jennifer Robison
16 Jennifer Robison, City Recorder

2/5/2025 | 11:49 AM MST
Date Approved

