



**AGENDA ITEM EXECUTIVE SUMMARY**

**Agenda Item Number: 4d**

**Title:**

Discussion regarding shifting of Board of Zoning Appeals functions to the Plan Commission

**Presenter:**

Russell Colby

**Meeting:** Planning & Development Committee

**Date:** May 9, 2022

Proposed Cost: \$

Budgeted Amount: \$

Not Budgeted:

Staff is seeking direction from the Committee regarding whether there is interest in shifting the functions of the Board of Zoning Appeals (BZA) to the Plan Commission, to create a new “Planning & Zoning Commission.” The City’s BZA is an independent decision-making body. If the functions were merged into the Plan Commission, the process for zoning variances would follow the current Plan Commission process: Commission public hearing and recommendation, P&D Committee review, and City Council vote to approve or deny.

**Background**

The City has long had an independent, decision making BZA. The Board members are appointed by the Mayor and City Council, but there is no interaction with the City Council regarding matters that are heard by the Board. The City’s independent BZA is one of only a few remaining in the region that review and decide matters independently of the corporate authorities.

Historically, the City limited both the scope and number of zoning variations. Variations can only be requested to a limited list of zoning code provisions. The rigid standards enforced by the Board have kept the number of variances granted to a minimum. (As a result, the City tends to see more frequent requests for PUDs for smaller projects, as that is often the only mechanism to seek zoning relief to certain standards.)

Prior to 2006, the BZA was more active and regularly met multiple times a year. Under the City’s old Zoning codes, property in the older areas of the community could not be easily developed or improved without needing variances. In 2006, the City adopted updated codes that were tailored to old neighborhoods and existing development, which greatly reduced the number of variance requests. With the exception of a spike in activity related to non-conforming sign amortization, over the past few years, the BZA has not met more than 1 or 2 times a year, and this past fiscal year, the Board did not meet at all.

From staff’s standpoint, it can be difficult to train members and foster a cohesive Board of this type without regular business, or an opportunity for newer members to gain experience by participating in meetings. Thus, staff believes it is appropriate to reconsider whether there is a need to maintain a separately appoint Board for the primary purpose of hearing zoning variances.

**Considerations**

- Staff would not propose to initially expand the scope of variances that are permitted- the limitations have been well established over time. But with City Council involvement in the process, there may be more interest to make variances available for other code requirements, and this type of change could be more easily accomplished with an advisory hearing body structure.

- The current variance process is apolitical, other than the member appointments. Involving City Council would change the decision-making process into what is more typical for most development projects- a basis in code standards and findings, with some influence from policy positions or interpretations that are part of being an elected official.
- Given the limited volume of regular business, staff does not see benefit to keeping a separate board or commission for hearing variation requests, even if functioning as an advisory body. Community Development staffs a number of development-related Commissions, which are all more active and have regular agenda business. From a staff standpoint, eliminating BZA would allow us to focus more on support for Plan Commission, Historic Commission and Housing Commission.
- Given limited interest and activity, it has been hard to find and retain members, and there are frequently vacancies on the Board. This impacts the voting, and can make it challenging to reach the 4 “yes” votes required from the 7-member board, when some seats are vacant. Fortunately, we have had the benefit of knowledgeable long-term members to guide the Board through the review and decision procedures, including the Chair Elmer Rullman III (member since 1976) and Vice Chair Scott Buening (member since 2012).

**Attachments** (*please list*):

[Board of Zoning Appeals – City Code 2.18](#)

[Procedures for Variations – City Code 17.04.310](#)

**Recommendation/Suggested Action** (*briefly explain*):

Staff is seeking direction from the Committee on whether to pursue changes to the code to shift BZA functions to Plan Commission. Because the potential code changes involve the Zoning Ordinance (Title 17), an application for General Amendment will need to be filed. Plan Commission would hold a public hearing and provide a recommendation, which would then come before the P&D Committee for consideration.