

# MEETING MINUTES



## Board of Zoning Appeals

City Hall • 3800 Municipal Way • Hilliard, Ohio 43026  
and Live-Streaming on YouTube

Thursday, April 21, 2022 | 7:00 pm

### CALL TO ORDER

President Piper called the Regular Meeting of Board of Zoning Appeals to order at 7:00 PM.

### PLEDGE OF ALLEGIANCE TO THE FLAG

Vice President Aaron Epling led the Board and attendees in the Pledge of Allegiance.

### ROLL CALL

Attendee Name:	Title:	Status:
President Matthew Piper	President	Present
Vice President Aaron Epling	Vice President	Absent
Steve Donato	Member	Present
James Martin	Member	Present
Greg St. Clair	Member	Present
Arthur Steele	Member	Present
Bobby Stepp	Member	Present

**Staff Members Present:** City Council Representative Peggy Hale, Planning Director John Talentino and Planning Manager/Acting Clerk Carson Combs.

**Others Present:** Michael White representing Case #BZA-21-32

### APPROVAL OF MEETING MINUTES – MARCH 17, 2022

President Piper made a motion to approve the March 17, 2022, meeting minutes. A Voice Vote approved the motion.

<b>Status:</b>	Accepted by voice vote (7-0)
<b>Ayes:</b>	

### CHANGES TO THE AGENDA (requests for postponements, withdrawals, or change in order of cases)

Mr. Combs indicated that Case #1 has been formally withdrawn by the applicant and has been removed from the agenda.

#### CASE 1: BZA-21-31 – Administrative Appeal – 5340 Franklin Street

**PARCEL NUMBER:** 050-000142

**APPLICANT:** Thomas Herlihy, 5340 Franklin Street, Hilliard, OH 43026, c/o Jeffrey Lucas, 1717 Bethel Road, Columbus, OH 43220.

**REQUEST:** Review & approval of an administrative appeal from a code violation letter issued by the City Code Enforcement Officer concerning Hilliard Code Section 917 Weeds.

### OATH TO TELL THE TRUTH

President Piper administered the Oath to Tell the Truth.

## NEW CASES:

### **CASE 2: BZA-22-4 – L & A Auto Group - 4896 Scioto Darby Road**

**PARCEL NUMBER:** 050-002579

**APPLICANT:** Rashid Salah, 4128 Hoffman Farms Drive, Hilliard, OH 43026; c/o Kamal Chinary, 2719 West Case Road, Columbus, OH 43235.

**REQUEST:** Review & approval of a variance from Hilliard Code Section 1125.05(b) to reduce the minimum vehicular use area perimeter landscaping, Section 1125.05(c) to reduce the minimum vehicular use area interior landscaping for a vehicle repair and vehicle sales business on 0.93 acre.

[Mr. Talentino gave the staff report.]

### **BACKGROUND:**

The site is 0.93 acre located on the northeast side of Scioto Darby Road opposite Scioto Farms Drive. It consists of a 2,800-square-foot building which was most recently used for automotive repair. On April 14, 2016, the Commission approved a variance for additional wall signage. On March 12, 2020, the Commission approved a conditional use to permit a tire and brake shop and repair facility. On April 14, 2022, the Planning and Zoning Commission reviewed the application for conditional uses and a Level “B” site plan. The conditional use requests will now be forwarded to City Council for final disposition. This is a request to the Board for variances necessary to implement the proposed Level “B” site plan.

### **CONSIDERATIONS:**

The site and adjacent properties to the northwest and southeast are zoned B-2, Community Business District. To the southwest, across Scioto Darby Road, are single-family residences zoned R-3, Moderate Density Residential District. To the northwest is a vehicle repair business. To the southeast is a single-family residence. To the northeast is retired railroad corridor property.

- Section 1106.04(a)(1) sets forth the following standards for variance requests:
  - A. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
  - B. Whether the variance is substantial;
  - C. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
  - D. Whether the variance would adversely affect the delivery of governmental services such as water distribution, sanitary sewer collection, electric distribution, stormwater collection, or refuse collection;
  - E. Whether the property owner purchased the property with knowledge of the zoning restriction;
  - F. Whether the property owner's predicament feasibly can be obviated through some method other than a variance;
  - G. Whether the existing conditions from which a variance is being sought were self-created; and
  - H. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.
- The site currently has approximately 58 feet of asphalt at the Scioto Darby Road right-of-way line as a driveway entrance. The proposed plan shows that 20 feet of existing asphalt will be removed along the Scioto Darby Road frontage resulting in a 25-foot-wide driveway entrance and a minimum 20-foot pavement setback from the right-of-way line. The proposed plan shows an approximately 10,000-square-foot parking lot expansion on the southeast and northeast sides of the building to the rear.

- The building has one vehicle bay. Hilliard Code Section 1127.03 states that the required parking for a vehicle repair facility is 2 parking spaces per vehicle bay and 1 per employee. The number of employees has not been specified. The proposed plan shows 7 vehicle display parking spaces and two customer parking spaces in front of the building, and 14 parking spaces behind the building. Staff recommends that the hours of operation for this building be limited to between 8:00 a.m. and 8:00 p.m. The outdoor storage of vehicle parts is prohibited.
- Storm water management for the site improvements must conform to the provision of the Hilliard Storm Water Design Manual.
- The current site does not meet the landscaping requirements for perimeter landscaping for vehicular use area. The proposed plan shows two trees along the site's Scioto Darby Road frontage and shrubs along the sides of the front parking area. **[Staff recommends that the landscape plan be revised to show the following:**
  - 1) For the vehicular use area behind the building, a minimum 10-foot pavement setback from the side property lines be specified, plus 2 trees and 30 shrubs per 100 linear feet be provided along the perimeter consistent with the provisions of Hilliard Code Section 1125.05.**
  - 2) For the vehicular use area in front of the building, a minimum 20-foot pavement setback from the Scioto Darby Road right-of-way line, plus 2 trees and 30 shrubs per 100 linear feet along the Scioto Darby Road frontage.**
  - 3) For the vehicular use area in front of the building, 30 shrubs per 100 linear feet along the side property lines.]**
- On November 10, 2021, a notice of violation was sent regarding the following violations, and follow-up meetings were held on November 24 and January 13 to address corrections:
  - A. No zoning certificate on file to operate legally;
  - B. Fencing in an improper location and without permits;
  - C. Inoperable vehicles and vehicles not parked on an improved surface;
  - D. Dumpster area not screened per Code; and
  - E. Signage without a permit.
- On January 31, 2022, a Final Violation Notice was sent ordering that operations be discontinued as of February 28, 2022. On February 23, 2022, fees for necessary site plan approval, conditional use requests and variances were paid to process applications.

#### **STAFF RECOMMENDATION:**

Staff finds that the existing conditions make it practically difficult to provide vehicular use area perimeter landscaping along the side property lines and vehicular use area interior landscaping per Code without a variance. Staff finds that the proposed variance is not substantial. Staff finds that the essential character of the neighborhood would not be substantially altered as a result of the proposed variance. Staff finds that the variance would not adversely affect the delivery of governmental services. Staff finds that the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. Based on these findings, consistent with the provisions of Hilliard Code Section 1106.04, staff recommends approval of the proposed variance with the following 6 conditions:

- 1) That all conditions of Planning and Zoning Commission approval on April 14, 2002, are met;
- 2) That the width of the vehicular use area perimeter landscaping along the sides as it exists in front of the building be approved as proposed;
- 3) That the plans are revised to show the vehicular use area in front of the building will have two trees along the Scioto Darby Road frontage and 30 shrubs per 100 linear feet along the entire perimeter;
- 4) That the vehicular use area interior landscaping in front of the building be approved as proposed;
- 5) That the vehicular use area behind the building is not less than 10 feet from the side property lines and is landscaped with 2 trees and 30 shrubs per 100 linear feet consistent with the provisions of Hilliard Code Section 1125.05; and

- 6) That the plans are revised to show the proposed vehicular use area behind the building will conform to the perimeter and interior landscaping requirements specified in Hilliard Code Section 1125.05.

[END OF REPORT | BZA-22-4]

Mr. Stepp asked about the former use of the site, and Mr. Talentino indicated that the site was a tire shop and did minor vehicle repair. He confirmed that the property abuts the abandoned rail corridor.

Mr. Martin questioned the impact of lighting and vehicular activity on the adjacent residents; Mr. Talentino explained that Code requirements will limit the level of lighting values at the property line to avoid conflict. Mr. Talentino noted that staff expects the applicant to plant trees that are required in the back parking lot.

Mr. St. Clair said that the images of the property necessitate a privacy fence along the border because everything will be visible in the winter; Mr. Talentino noted that they had installed a privacy fence in a location that was not approved. He explained that the applicant wants to do new uses (vehicle sales and major vehicle repair).

Mr. St. Clair had concerns about the screening, and Mr. Talentino explained that the landscaping is what is required for all commercial properties and staff would not support the proposal without the landscape screening. Mr. Talentino noted that the Code is purposeful and allows appropriate signage, but not other novelties that are commonly used for advertising and visibility.

Mr. Stepp asked to see the image from November and the Board asked where the parking would extend in the rear yard. Mr. Talentino noted that the parking would extend half way and that all of the outdoor storage of vehicles or parts in the grass would NOT be allowed. He said that cars are not allowed to be parked on grass or gravel by Code. Mr. Talentino said that there is enough area for stormwater, but the actual methods will dictate what is needed and the parking lot will not be larger than what is shown.

Mr. Piper asked about the limit on privacy fences, and Mr. Talentino confirmed a 6-foot maximum height in business districts. Mr. Talentino confirmed that the fence could extend to the front elevation of the building unless approved by the BZA.

Mr. Steele asked if the chain link would be removed; Mr. Talentino noted it is not clear upon what property the fence is located. He noted that the Board could require a privacy fence and the removal of the chain link as a condition of approval.

Ms. Hale noted the recent Planning and Zoning Commission hearing for this property and that the hours of operation were reduced at the request of the neighborhood. She noted that the Commission also added mounding along the front.

Mr. Stepp asked about the installation size of shrubs, and Mr. Talentino noted that the Board could require larger sizes at planting to expedite screening. He said there need to be limitations on the height for safety and visibility, but larger plant sizes can be required.

The applicant was not present, and there were no testimony from the public.

President Piper, seconded by Mr. Stepp, made a motion to approve a variance from Hilliard Code Section 1125.05(b) to reduce the minimum vehicular use area perimeter landscaping and Section 1125.05(c) to reduce the minimum vehicular use area interior landscaping for a vehicle repair and vehicle sales business on 0.93 acre with the following eight conditions:

- 1) That all conditions of Planning and Zoning Commission approval on April 14, 2002, are met;
- 2) That the width of the vehicular use area perimeter landscaping along the sides as it exists in front of the building be approved as proposed;

- 3) That the plans are revised to show the vehicular use area in front of the building will have two trees along the Scioto Darby Road frontage and 30 shrubs per 100 linear feet along the entire perimeter;
- 4) That the vehicular use area interior landscaping in front of the building be approved as proposed;
- 5) That the vehicular use area behind the building is not less than 10 feet from the side property lines and is landscaped with 2 trees and 30 shrubs per 100 linear feet consistent with the provisions of Hilliard Code Section 1125.05;
- 6) That the plans are revised to show the proposed vehicular use area behind the building will conform to the perimeter and interior landscaping requirements specified in Hilliard Code Section 1125.05;
- 7) That a 6-foot privacy fence on the residential side of the building be provided from the front build line of the building and removing the chain link fence if it is located on the business property; and
- 8) That shrubs be planted at the height of 3 feet at the time of planting.

<b>Status:</b>	Approved with 8 Conditions (6-0).
<b>Mover:</b>	President Matthew Piper
<b>Second:</b>	Mr. Bobby Stepp
<b>Ayes:</b>	President Matthew Piper, Mr. Steve Donato, Mr. James Martin, Mr. Greg St. Clair, Mr. Arthur Steele, Mr. Bobby Stepp

**CASE 3: BZA-22-10 – Green Residence – 4200 Dublin Road #6**

**PARCEL NUMBER:** 050-006662

**APPLICANT:** Troy & Emily Green, 4200 Dublin Road, #6, Hilliard, Ohio 43026.

**REQUEST:** Review & approval of a variance from Hilliard Code Section 1121.02(b)(7) to increase the maximum size of an accessory structure from 900 square feet to 1120 square feet.

[Mr. Combs gave the staff report]

**BACKGROUND:**

The site is 1.64 acre located approximately 750 feet east of the intersection of Dublin Road and Shirtzinger Road. The site and surrounding properties to the north, east, and west are zoned R-1, Low Density Residential. To the south are single family homes zoned PUD. According to Franklin County Auditor records, the site consists of a single-family residence with a total area of 2,250-square-feet. The applicant is requesting approval of a variance from Hilliard Code Section 1121.02(b)(7) to permit an accessory building that exceeds the 900-square foot maximum.

**CONSIDERATIONS:**

- On January 21, 2021, the Board of Zoning Appeals (Case #20-0160AR) granted a variance to Section 1121.02(b)(6) to increase the accessory building height from 14 feet to 18 feet and from Section 1121.02(b)(1) to permit the installation of gravel instead of a paved driveway.
- The accessory building approved by the Board of Zoning Appeals for the north end of the property is proposed to be extended in length by an additional 8 feet. The footprint has been increased from 896-square feet (28'x32') with side porch to 1,120 square feet (28'x40') with side porch. Section 1121.02(b)(7) requires that accessory buildings cannot exceed 50 percent of the principal building floor area or 900 square feet, whichever is less. While the proposed building exceeds the 900-square foot threshold, it does generally conform to the 50 percent requirement. The accessory building would be constructed on a larger R-2 lot that has significant tree cover and screening.
- The garage will be 18-feet in height measured per code; the first story will function as a garage and the second story shall provide storage space as previously approved. Architecture for the garage integrates with the surrounding buildings and features numerous elements to provide variation on each elevation.

- Access to the accessory building is provided via a shared drive with the two residences north of the site. Plans include a gravel connection from the garage to this shared access drive.

**STAFF RECOMMENDATION:**

Staff finds that there could be a beneficial use of the property without the variance, but that the proposed variance to permit a slightly larger structure will not impact the character of the neighborhood and is not substantial given the nature of the property and the proposed location. The proposed variance will not adversely affect services, and the proposal is consistent with the general spirit and intent of the Code. Based on these findings, consistent with the provisions of Hilliard Code Section 1121.02(b)(7), staff recommends approval of the increased accessory building size with four conditions:

- 1) That the proposed garage is limited to 18 feet in height, as measured by Code;
- 2) That the gravel driveway be permitted as previously approved;
- 3) That the existing accessory structure be removed before or at the time of completion of the new accessory structure; and
- 4) That a zoning certificate and required permits be obtained prior to construction.

[END OF REPORT | BZA-22-10]

Mr. Martin inquired as to why the Board granted the gravel driveway in this case. Mr. Talentino explained that the street in this case is private. In the case of a public street, gravel spilling onto the roadway can cause pavement deterioration more quickly. In this case the house is off a long private street and will be situated at the end of a long private drive off the private street.

There were no additional comments from the Board or testimony from the public.

President Piper made a motion, seconded by Mr. Donato, to approve variance from Hilliard Code Section 1121.02(b)(7) to increase the maximum size of an accessory structure from 900 square feet to 1120 square feet with four conditions:

- 1) That the proposed garage is limited to 18 feet in height, as measured by Code;
- 2) That the gravel driveway be permitted as previously approved;
- 3) That the existing accessory structure be removed before or at the time of completion of the new accessory structure; and
- 4) That a zoning certificate and required permits be obtained prior to construction.

<b>Status:</b>	Approved with 4 Conditions (6-0).
<b>Mover:</b>	President Matthew Piper
<b>Seconded:</b>	Mr. Steve Donato
<b>Ayes:</b>	President Matthew Piper, Mr. Steve Donato, Mr. James Martin, Mr. Greg St. Clair, Mr. Arthur Steele, Mr. Bobby Stepp

**CASE #4 BZA-21-32 – White Residence – 4140 Winterringer Street**  
**PARCEL NUMBERS:** 050-000358, 050-000411, 050-000366  
**APPLICANT:** Beth and Michael White, 4140 Winterringer Street, Hilliard, OH 43026  
**REQUEST:** Clarification of a previous variances granted from Hilliard Code Section 1109.03 to reduce the required side yard, required rear yard and required front yard in the R-2, Low/Medium Density Residential Zoning District.

[Mr. Combs gave the staff report]

## BACKGROUND:

The site consists of three odd-shaped parcels totaling 0.34 acres located on the northeast side of Winterringer Street approximately 100 feet northwest of Grant Street. The property and surrounding parcels are zoned R-2, Low/Medium Density Residential, and the site contains a single-story residence with attached double garage. According to Franklin County Auditor records, the dwelling was originally built in 1953 and has a total finished area of 1,260-square-feet.

On October 14, 2021, The Planning and Zoning Commission approved a lot split application to adjust lot lines/modify plats to add a buildable lot to the North Grant Subdivision Plat and to remove a reserve area from the Avery Road Subdivision Plat. This reconfiguration created two buildable lots with a zero-lot line that would divide the existing garages through a common party wall.

On October 21, 2021, the Board of Zoning Appeals heard a request and granted variances to the R-2 standards for proposed lots that do not correspond with the Planning and Zoning Commission approval. At the time, a second lot configuration was under consideration that would create a second residence that would be separate from the existing home and include side yard setbacks between the lots. As approved, the granted variances conflict with the approved lot split and make the approval of a zoning certificate for the construction not possible.

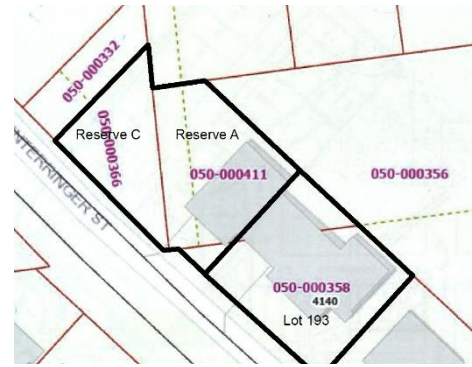
*This request is to reconsider the approved side yard variance to reduce required setbacks in the R-2, Low/Medium Density Residential Zoning District from 2 feet and 8 feet to zero feet for a zero-lot line development.*

## CONSIDERATIONS:

- *Existing Plats.* The site consists of three irregular-shaped parcels that total 0.34-acre. Each parcel is located within a different platted subdivision and are zoned R-2, Low/Medium Density Residential District:
  - 1) Parcel #050-000358 includes half of the existing home and lies within the Grant Wayne Co. Subdivision (Lot #193).
  - 2) Parcel #050-000411 includes half of the existing home and is located in the North Grant Addition Subdivision (Reserve A).
  - 3) Parcel #050-000366 is a triangular-shaped parcel located to the northwest in the Avery Road Subdivision (Reserve C).
- *Analysis of Parcels.* The existing home and garage have been built across parcel lines between Lot 193 and Reserve A. Neither reserve area is defined on the recorded plats as a buildable lot, nor are designated for required open space.
- *R-2 Zoning Requirements.* Required setbacks for the R-2 District include a minimum 25-foot front building setback, a minimum 10-foot side yard setback and a minimum 35-foot rear yard setback. The existing home does not meet the required front or rear setbacks.
- *P&Z Approval.* As approved by the Commission in 2021, two buildable parcels will be created within the North Grant Addition Subdivision. The proposed southeastern parcel will be a reconfigured Lot 193 and will be approximately 0.15-acre and contain a portion of Reserve A. The proposed northwestern parcel will be approximately 0.19-acre and include portions of Reserve A, Lot 193 and all of Reserve C. The parcel line approved by the Commission divides the existing multi-car garage through a common wall so that both parcels will have a dwelling with a garage. As a result, Reserve C would be removed from the Avery Road Subdivision.
- *BZA Approval.* As approved by the BZA in 2021, two buildable parcels would be created within the North Grant Addition Subdivision. The proposed southeastern parcel will be approximately 0.2-acre and contain Lot 193, a majority of Reserve A and the corner of Reserve C. The proposed northwestern parcel will be approximately 0.14-acre and combine the remaining portions of Reserve A and Reserve C. The parcel line approved by the BZA maintains the existing home and garages on Lot 193 and establishes side yard setbacks with the new parcel. A small, detached home would be constructed that would be unable to accommodate a garage in the new odd-shaped parcel.



Lot layout based upon variances as approved by the Board of Zoning Appeals (2021)



Lot Split/Reconfiguration as approved by the Planning & Zoning Commission (2021)

- **Reconsideration.** This request to the Board of Zoning Appeals is to adjust previously approved variances that would support the lot reconfiguration as approved by the Planning and Zoning Commission so both lots include sufficient buildable area.
- **Lot 193 (with existing home).** Proposed setbacks for the existing house/lot at 4140 Winterringer will be as follows:
  - 1) Front setback: as currently constructed
  - 2) Side setback (northwest): 0 feet with location between garages (the BZA previously approved an 8-foot side yard setback).
  - 3) Side setback (southeast): 5 feet as approved by the BZA on October 21, 2021
  - 4) Rear setback: 7 feet as approved by the BZA
- **Proposed Lot (to include existing garage).** Proposed setbacks for the proposed new home/lot that will include an existing garage:
  - 1) Front setback: 20 feet as approved by the BZA on October 21, 2021
  - 2) Side setback (northwest): 5 feet as approved by the BZA on October 21, 2021
  - 3) Side setback (southeast): 0 feet with location between garages (the BZA previously approved a 2-foot side yard setback).
  - 4) Rear setback: 7 feet as approved by the BZA on October 21, 2021



Setbacks based upon variances as approved by the Board of Zoning Appeals (2021)



Proposed setbacks for zero-lot line development utilizing garage (consistent with P&Z approval in 2021).

### STAFF RECOMMENDATION:

Staff finds that there are many unique circumstances on the site that make it a practical difficulty to develop the property reasonably without variances. Staff finds that the platted lot lines also make typical usage of the site particularly complicated. The proposal is consistent with the adjacent properties and the surrounding neighborhood and is generally



consistent with the intent of the Zoning Code. Based on these findings, staff recommends approval of the proposed variance with the following seven conditions:

- 1) That the minimum required rear yard setback for both parcels be seven (7) feet;
- 2) That there be a minimum required side setback of 0 feet between the two parcels;
- 3) That the minimum required side yard setback from the northwestern most property line be 5 feet;
- 4) That the required front yard on the northwestern proposed parcel be 20 feet;
- 5) That legal descriptions and exhibits for both resulting parcels are approved by the City Engineer, recorded and provided to staff prior to the issuance of a zoning certificate;
- 6) That proposed plans/construction adhere to all applicable Building Code provisions with respect to the common firewall between the garages; and
- 7) That a zoning certificate and all required permits be obtained prior to construction.

[END OF REPORT | BZA-21-32]

Mr. Stepp asked about the previous approval; Mr. Combs noted that the images reviewed by the BZA did not match with the Planning Commission, so a zoning certificate could not be approved.

Mr. Talentino noted that the Board did not make a mistake in the prior deliberation. He explained that there were different layout options at the time the Board reviewed the case. He said staff made an error at the time and so this is a request to clear paperwork so that the applicant can move forward.

The applicant was present and had no additional comment.

President Piper made a motion, seconded by Mr. Steele, to approve a variance from Hilliard Code Section 1109.03 to reduce the required side yard, required rear yard and required front yard in the R-2, Low/Medium Density Residential Zoning District with seven conditions:

- 1) That the minimum required rear yard setback for both parcels be seven (7) feet;
- 2) That there be a minimum required side setback of 0 feet between the two parcels;
- 3) That the minimum required side yard setback from the northwestern most property line be 5 feet;
- 4) That the required front yard on the northwestern proposed parcel be 20 feet;
- 5) That legal descriptions and exhibits for both resulting parcels are approved by the City Engineer, recorded and provided to staff prior to the issuance of a zoning certificate;
- 6) That proposed plans/construction adhere to all applicable Building Code provisions with respect to the common firewall between the garages; and
- 7) That a zoning certificate and all required permits be obtained prior to construction.

<b>Status:</b>	Approved with 7 Conditions (6-0).
<b>Mover:</b>	President Matthew Piper
<b>Seconded:</b>	Mr. Steve Donato
<b>Ayes:</b>	President Matthew Piper, Mr. Steve Donato, Mr. James Martin, Mr. Greg St. Clair, Mr. Arthur Steele, Mr. Bobby Stepp

### PRESIDENT'S COMMUNICATION

Mr. Talentino noted that there are applications for the May meeting.

### ADJOURNMENT – 7:38 PM

President Piper, seconded by Mr. Stepp, motioned to adjourn at 7:38 p.m.

### CERTIFICATION:



Carson Combs, Planning Manager/Acting Clerk

May 20, 2022

[END OF MINUTES | APRIL 21, 2022]