



BUILDING CODES COMMITTEE MEETING

MONDAY, JULY 6, 2020 | 3rd Meeting

The Committee will meet in the Mauldin City Hall at 5 East Butler Road in the Council Chambers at 6 p.m.

Please note that members of the public may attend this meeting in-person, but are encouraged to participate remotely. The meeting will be available remotely through Webex. Please visit the City's website at <https://cityofmauldin.org/your-government/meeting-minutes-agendas/> to access the meeting via audio and videoconferencing. You may also email comments about specific items on the agenda to City Clerk Cindy Miller at cmiller@mauldincitysc.com. Comments emailed about specific agenda items prior to 5:00 p.m. on Monday, July 6, 2020 will be read during the Public Comment segment of the meeting.



AGENDA

1. Call to Order Diane Kuzniar, Chair

2. Public Comment

3. Reading and Approval of Minutes

a. Building Codes Committee Meeting: June 1, 2020 {Pages 2-6}

4. Reports or Communications from City Officers

a. Department Reports

5. Unfinished Business

Diane Kuzniar, Chair

a. None

6. New Business

Diane Kuzniar, Chair

a. An ordinance to amend Article 10 of the City of Mauldin Zoning Ordinance by establishing special standards and definitions for small box variety stores and like businesses and to establish the zoning districts for which they can locate {Pages 7-14}

b. Building and Zoning Board of Appeals appointments {Pages 15-19}

7. Public Comment

8. Committee Concerns

9. Adjourn

Building Codes Committee Meeting



Minutes Building Codes Committee June 1, 2020 6:00 p.m. 2nd committee meeting

Members present were Chairwoman Diane Kuzniar, Committee members Dale Black and Taft Matney. Business and Development Services Director David Dyrhaug and City Administrator Brandon Madden were also present.

1. Call to Order- Chairwoman Kuzniar
2. Public Comment- None
3. Reading and Approval of Minutes
 - a. Building Codes Committee Meeting: May 4, 2020
Councilman Matney made a motion to approve the minutes with Councilman Black seconding. On page 3, paragraph 7, Mr. Day should be Dey. After that change, the vote for approval was unanimous (3-0).
4. Reports or Communications from City Officers
 - a. Budget Review- The budget is in fantastic shape. Councilman Black said he was glad to see the 650 Professional Services line was reduced.
 - b. Department Reports
 - i. Update on Small Box Variety Store Regulations
In January, staff shared with the Planning Commission remarks from the Institute for Local Self-Reliance about the rapid growth of chain dollar stores, particularly the two dominant chains—Dollar General and Dollar Tree, which also owns Family Dollar. Because these dollar stores typically only offer a limited selection of processed foods and no fresh vegetables, fruits, or meats, the Mauldin City Council has expressed concern that they are opening stores at a density that might crowd out full-service grocery stores and thereby exacerbate the issue of food deserts. In response, the Mauldin City Council adopted a moratorium on new dollar store development on February 17, 2020.

At its January 28, 2020, meeting, the Planning Commission directed staff to further study this issue and to consider appropriate regulations. At the April 28, 2020, Planning Commission meeting, staff presented various dispersal standards, definitions, and other standards applied by communities that regulate discount stores and dollar stores. Members of the Planning Commission provided feedback regarding these items.



We have a draft ordinance. The Planning Commission will have a public hearing on this item at the end of this month and should have something for Council to act on soon.

Councilman Matney said he appreciates the staff's and Planning Commission's work on this. This harkens back to looking at zoning on Main Street, businesses backing up against residential areas, and this was born out of those discussions. This should be looked at from a perspective of overall zoning.

Councilman Black asked if the moratorium was still in effect. Mr. Dyrhaug answered yes, it expires in August. July would be first reading on this draft ordinance. Councilman Black said he does not want the moratorium to expire if we are still working on the ordinance. Mr. Dyrhaug said he would ask Mr. Madden if we would like to bring extension of the ordinance to Council.

5. Unfinished Business

- a. None

6. New Business

- a. Boards and Commissions Appointments

The terms of the Planning Commission members serving in seats #1, 4, and 7 will expire at the end of June. The volunteers currently serving in those seats have each applied for re-appointment. This includes Michael Forman (seat #1), Jonathan Paulsen (seat #4), and Dean Oang (seat #7). Each of these volunteers has provided a breadth of planning and development knowledge to the Planning Commission and has been outstanding in their service to the City. Staff fully supports their re-appointment to their respective seats.

In addition, Mr. Ted Allison (seat #5) has indicated that his schedule no longer allows him to continue to serve on the Planning Commission. Therefore, he has stepped down from his seat on the Planning Commission. The City has a need to fill the remainder of his appointment which expires at the end of June 2022.

The City has received an application from Mr. Michael King to be appointed to the Planning Commission. Staff supports the re-appointment of Michael Forman (seat #1), Jonathan Paulsen (seat #4), Dean Oang (seat #7) and the appointment of Michael King (seat #5).



There are also four open seats on the Zoning Board and staff has received two applications for those from Paul Calabrese and Michael Burns. There will still be two vacant seats on the Zoning Board. Applications are still being accepted.

Councilman Matney made a motion to forward this item to City Council for consideration. Councilman Black seconded the motion and the vote was unanimous (3-0).

- b. Permit and License Software- Last spring the City received notice that its permitting and licensing software at the time, Viewpermit, would be discontinued. At the time, the City elected to stay with the same company that it had been contracting with since 2014, ViewPoint, and transition to their newest product, Viewpoint Cloud. Unfortunately, we have been experiencing some issues and limitations with Viewpoint Cloud.

During February and March of this year, staff researched other products to explore if there may be a better fit for our needs. In May, staff issued a request for proposals. The City received four proposals in response to this RFP.

Citizenserve largely bases their price model on the number of users. They have quoted their price based on 10 staff users. If we can manage to reduce the number of staff users, we may be able to bring down their price a little bit.

Dude Solutions bases their price model on the population of the community. They have quoted their price based on a community population up to 30,000 citizens. We have less ability to influence their pricing. As of 5/28/2020, we have \$83,263 available in this budget line.

In our review of these and other products, Citizenserve has stood out to our staff as a favorite, with Dude Solutions coming in a close second. Staff gives preference to Citizenserve for their more attractive interface, more flexible pricing model, and the glowing reviews from South Carolina communities that use them.

Councilman Black asked if this software would be compatible with our hardware. Mr. Dyrhaug said it would be compatible with our equipment and with our financial software.



Councilman Black made a motion to send this to full Council with Councilman Matney seconding. The vote was unanimous (3-0).

- c. Performance Bonds- In recent weeks, staff has been approached by developers who have requested that the City entertain allowing developers to use performance bonds as a financial security for incomplete infrastructure.

After a preliminary plat has been approved for a new subdivision, the developer is able to begin grading the site and installing infrastructure such as roads, water, sewer, etc. This infrastructure is required to be completed to a certain extent before a final plat is approved. The final plat is the document that allows the developer to record and sell lots. Once a lot is recorded, the developer is able to sell the lot to a home builder who then can receive a permit to build a home on that lot. Homes cannot be built on a lot until a final plat has been approved and recorded.

At the time a final plat is recorded, there is always some remaining work that is still outstanding. This usually includes the installation of sidewalks, the final asphalt surface on the roads, curb repair, etc. Instead of requiring the developer to complete the construction of this infrastructure at the time of final plat (only to see it damaged while the construction of homes is taking place), we allow the developer to provide an acceptable financial security at the time the final plat is recorded. What this financial security does is that it provides a source of funds for the City to use to complete the installation of the infrastructure in case the developer walks away from the development and his responsibilities. It protects homebuyers so that they do not buy a lot or a home only to see the road unfinished or a sidewalk uninstalled.

One type of financial security that neither Greenville County nor the City of Mauldin currently accepts is a performance bond. A performance bond is a surety bond that is issued by a bonding company or bank to guarantee satisfactory completion of a project by the developer. If the developer fails to complete the infrastructure, the surety company will step in and pay the claim. Afterwards, the surety company will seek reimbursement from the developer.

Greenville County used to accept performance bonds as a type of financial security up until a few years ago. The County stopped accepting performance bonds because they were not being honored

Building Codes Committee Meeting



and they experienced a lot of difficulty in getting the funding when a subdivision defaulted. Many times, the funding they did receive was for pennies on the dollar on what it was going to cost to finish the infrastructure. This was a similar issue faced by communities across South Carolina during the last recession.

In addition to not accepting performance bonds for projects in the unincorporated areas of Greenville County, the County does not accept performance bonds for projects in the cities for whom they administer the final plat and financial securities, namely Mauldin, Simpsonville, Fountain Inn and Travelers Rest.

The City of Greenville and the City of Greer each presently accept performance bonds. At this time, staff is seeking direction from the Committee if performance bonds are something the City would like to explore and entertain accepting.

Councilman Matney has concerns that we will have to try to chase someone down to pay for the rest of the development if it does not happen. He would like to receive this as information now and see where things go with the economy.

Councilman Black asked what the pros and cons were. Mr. Dyrhaug said performance bonds are friendly to the developer. This allows more development. The con is there is greater risk if the economy turns bad. Mr. Dyrhaug said the developers say this helps them not have to put out so much money for the project.

No action was taken on this item. More information will be brought to committee. Councilman Matney made a motion to keep this in committee as a recurring business item. Councilman Black seconded the motion. The vote was unanimous (3-0).

7. Public Comment- None

8. Committee Concerns- None

9. Adjourn- Chairwoman Kuzniar adjourned the meeting.

Respectfully Submitted,
Cindy Miller
Municipal Clerk



BUILDING CODES COMMITTEE AGENDA ITEM

MEETING DATE: July 6, 2020

AGENDA ITEM: 6a

TO: Building Codes Committee

FROM: Business & Development Services Director, David C. Dyrhaug

SUBJECT: Regulation of Small Box Variety Stores

BACKGROUND

In January, staff shared with the Planning Commission remarks from the Institute for Local Self-Reliance about the rapid growth of chain dollar stores, particularly the two dominant chains—Dollar General and Dollar Tree, which also owns Family Dollar. Because these dollar stores typically only offer a limited selection of processed foods and no fresh vegetables, fruits, or meats, the Mauldin City Council has expressed concern that they are opening stores at a density that might crowd out full-service grocery stores and thereby exacerbate the issue of food deserts. In response, the Mauldin City Council adopted a moratorium on new dollar store development on February 17, 2020.

At its January 28, 2020, meeting, the Planning Commission directed staff to further study this issue and to consider appropriate regulations.

At the February 25, 2020, Planning Commission meeting, staff presented two approaches to regulating dollar stores that it found in its research: “Formula business restrictions” which entail standards that are placed on all chain retailers and require them to be distinct from that chain’s other outlets; and “dispersal restrictions” which set limits on how close new dollar stores can be to one another. The general comments provided by members of the planning commission indicated a preference to focus on dispersal restrictions.

At the April 28, 2020, Planning Commission meeting, staff presented various dispersal standards, definitions, and other standards applied by communities that regulate discount stores and dollar stores. Members of the Planning Commission provided feedback regarding these items.

ABOUT THE DRAFT ORDINANCE

The attached draft ordinance considers the input provided by the Planning Commission. This ordinance includes a preamble section containing several “whereas” statements to provide context and findings that are the basis for the ordinance.

The ordinance defines a “small box variety store” similarly to other communities including Kansas City and New Orleans. The ordinance uses the term “small box variety store” over terms such as discount store or dollar store because it is more consistent with the definition provided. Although a typical square foot



threshold of 15,000 is included in the definition, there is also a qualifying statement included which indicates that stores exceeding that threshold are not necessarily excluded from the definition.

The ordinance lists “small box variety stores” as a conditional use in the City’s commercial districts including CRD, C-1, and C-2. The main conditional standard that applies is a dispersal requirement that no small box variety store shall be located within one mile of any other small box variety store inside or outside the City limits of Mauldin.

PUBLIC HEARING

At its meeting on June 23, 2020, the Planning Commission conducted a public hearing for this ordinance. At the public hearing, the following individuals provided comments.

- Mr. William Swent, of the Fox Rothschild Law Firm, representing its client Dollar General, spoke in opposition to the ordinance. Mr. Swent explained Dollar General’s business model and highlighted how Dollar General is a positive resource for the community. He expressed concerns about the basis of the ordinance and asserted that the ordinance does not provide equal protection to his client.
- Mr. Scott Westberg, District Manager of Family Video, spoke in opposition to the ordinance. Mr. Westberg commented that Family Video will not be able to continue to operate and that they are fortunate that Dollar General is considering leasing their space and retaining their employees. Mr. Westberg also commented that Dollar General will make the property look great.
- Mr. Jason Kraeling, 234 Devon Drive, spoke in favor of the ordinance. Mr. Kraeling remarked that it is time for the City of Mauldin to examine what type of community it wants to be. Mr. Kraeling also commented that citizen access to dollar stores does not appear to be deficient in Mauldin.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission reviewed the attached ordinance at its meeting on June 23, 2020. By a unanimous vote, 6-0, the Planning Commission has forwarded this ordinance to the City Council with a recommendation of approval.

REQUEST

Staff requests that the Building Codes Committee forward the attached ordinance to the City Council for consideration.

ATTACHMENTS

Draft Ordinance
Map of 1-mile dispersal standard



ORDINANCE # _____

AN ORDINANCE TO AMEND ARTICLE 10 OF THE CITY OF MAULDIN ZONING ORDINANCE BY ESTABLISHING SPECIAL STANDARDS AND DEFINITIONS FOR SMALL BOX VARIETY STORES AND LIKE BUSINESSES AND TO ESTABLISH THE ZONING DISTRICTS FOR WHICH THEY CAN LOCATE.

WHEREAS, there has been a considerable increase in the number of small box variety stores nationwide in the last several years; and

WHEREAS, City of Mauldin residents typically have more access to convenience stores and fast food than to nutritious food; and

WHEREAS, small box variety typically offer mostly inexpensive, energy-dense, low-nutritive foods and beverages rather than fresh, nutritious food; and

WHEREAS, people choose among foods that are readily available and therefore healthy options should be at least as available and accessible as unhealthy ones; and

WHEREAS, recent studies show that small box variety stores have a negative impact upon grocery stores, threaten access to fresh and affordable produce, and harm job growth; and

WHEREAS, many small box variety stores do not include Women, Infants and Children (WIC) Nutrition Program essential items and therefore are not certified to accept WIC coupons; and

WHEREAS, for the purpose of measuring food deserts, researchers consider a “far” distance from a grocery store or supermarket as one mile in urban areas.

WHEREAS, a number of small box variety stores are already in operation in and around the City of Mauldin; and

WHEREAS, some of the small box variety stores are currently in close proximity to one another; and

WHEREAS, the regulation of small box variety stores will promote the efficient use of land and resources in the City of Mauldin and is necessary to protect the health, safety, and welfare of the citizens of the City of Mauldin; and

WHEREAS, pursuant to properly published public notice, the Mauldin Planning Commission considered this matter at a public hearing on _____, 2020.



NOW THEREFORE BE IT ORDAINED by the Mayor and City Council of the City of Mauldin, South Carolina, in council assembled and by the authority thereof that the Mauldin Municipal Code be amended as follows:

Section 1 Amendment. Amend Section 3:3, Definitions, of Article 3, as follows (*language that is ~~struck through~~ is language proposed to be deleted, underlined language is language proposed to be added, language is not ~~struck through~~ or underlined is not to be changed, and *** represents sections of the Zoning Ordinance that have been skipped and remain unchanged*):

ARTICLE 3. – ZONING DISTRICTS, GENERAL STANDARDS, DEFINITIONS

Sec. 3:3 – Definitions

Fresh or Fresh Frozen Foods. Food for human consumption that is unprocessed, or otherwise in its raw state; food that was quickly frozen while still fresh. This includes unprocessed meat and seafood.

Small Box Variety Store. A retail store typically 15,000 square feet or less that sells at retail an assortment of physical goods, products, or merchandise directly to the consumer, including food or beverages for off-premise consumption, household products, personal grooming and health products, and other consumer goods. A store that exceeds 15,000 square feet is not necessarily excluded from this definition if it still coincides with the remaining characteristics described herein and the intent of associated regulations. Small box variety stores do not include small box stores that:

- (1) Contain a prescription pharmacy;
- (2) Sell gasoline or diesel fuel;
- (3) Primary sell specialty food items (e.g. meat, seafood, cheese, or oils and vinegars);
- (4) Dedicate at least 15% of shelf space to fresh or fresh frozen foods; or
- (5) Dedicate less than 5% of shelf space to food sales.

Section 2 Amendment. Amend Article 5, Zoning District Regulations, as follows (*language that is ~~struck through~~ is language proposed to be deleted, underlined language is language proposed to be added, language is not ~~struck through~~ or underlined is not to be changed, and *** represents sections of the Zoning Ordinance that have been skipped and remain unchanged*):



ARTICLE 5. – ZONING DISTRICT REGULATIONS

Sec. 5:6 – CRD, Central Redevelopment District

5:6.1 Uses Permitted

Retail sales, except small box variety stores

5:6.3 Conditional Uses

Small box variety store

Sec. 5:7 – C-1, Commercial District

5:7.1 Uses Permitted

Convenience store (without a carwash and with a maximum size of two thousand five hundred (2,500) square feet, a minimum size of one thousand (1,000) square feet, and limited to one (1) fuel service area that can serve no more than four (4) vehicles at one time), except small box variety stores

5:7.3 Conditional Uses

Adult Care Center
Child Care Center
Multi-family dwellings (in accordance with provisions of Section 8:1 and Section 10:13)
Small box variety store



Sec. 5:8 – C-2, Highway Commercial District

5:8.1 Uses Permitted

Convenience store (with or without a car wash and no size restriction),
except small box variety stores

5:8.3 Conditional Uses

Adult Care Center
Child Care Center
Multi-family dwellings (in accordance with provisions of Section 8:1 and
Section 10:13)
Small box variety store

Section 3 Amendment. Amend Article 10, Conditional Uses, by adding a new section 10:15, Small Box Variety Store, as follows (*language that is ~~struck through~~ is language proposed to be deleted, underlined language is language proposed to be added, language is not ~~struck through~~ or underlined is not to be changed, and *** represents sections of the Zoning Ordinance that have been skipped and remain unchanged*):

ARTICLE 10. – CONDITIONAL USES

Sec. 10:15 – Small Box Variety Store

10:15.1 Applicability and Purpose

A small box variety store may be allowed as a conditional use within the CRD, C-1, and C-2 districts and is subject to the standards contained herein.

The purpose of these standards is to limit over-concentration of small box variety stores and to allow for more diverse retail options and convenient access to fresh meats, fruits and vegetables.



10:15.2 Separation Requirements

No small box variety store shall be located within one (1) mile or 5,280 feet of any other small box variety store inside or outside the City limits of Mauldin. The required separation distance shall be measured in a straight line from the nearest point on the lot line of the property occupied by a small box variety store to the nearest point on the lot line of the subject property.

Section 4. This ordinance shall become effective upon and after its final passage.

Passed on First Reading: _____

Passed on Second Reading _____

CITY OF MAULDIN, SOUTH CAROLINA

BY: _____
Terry Merritt, Mayor

ATTEST:

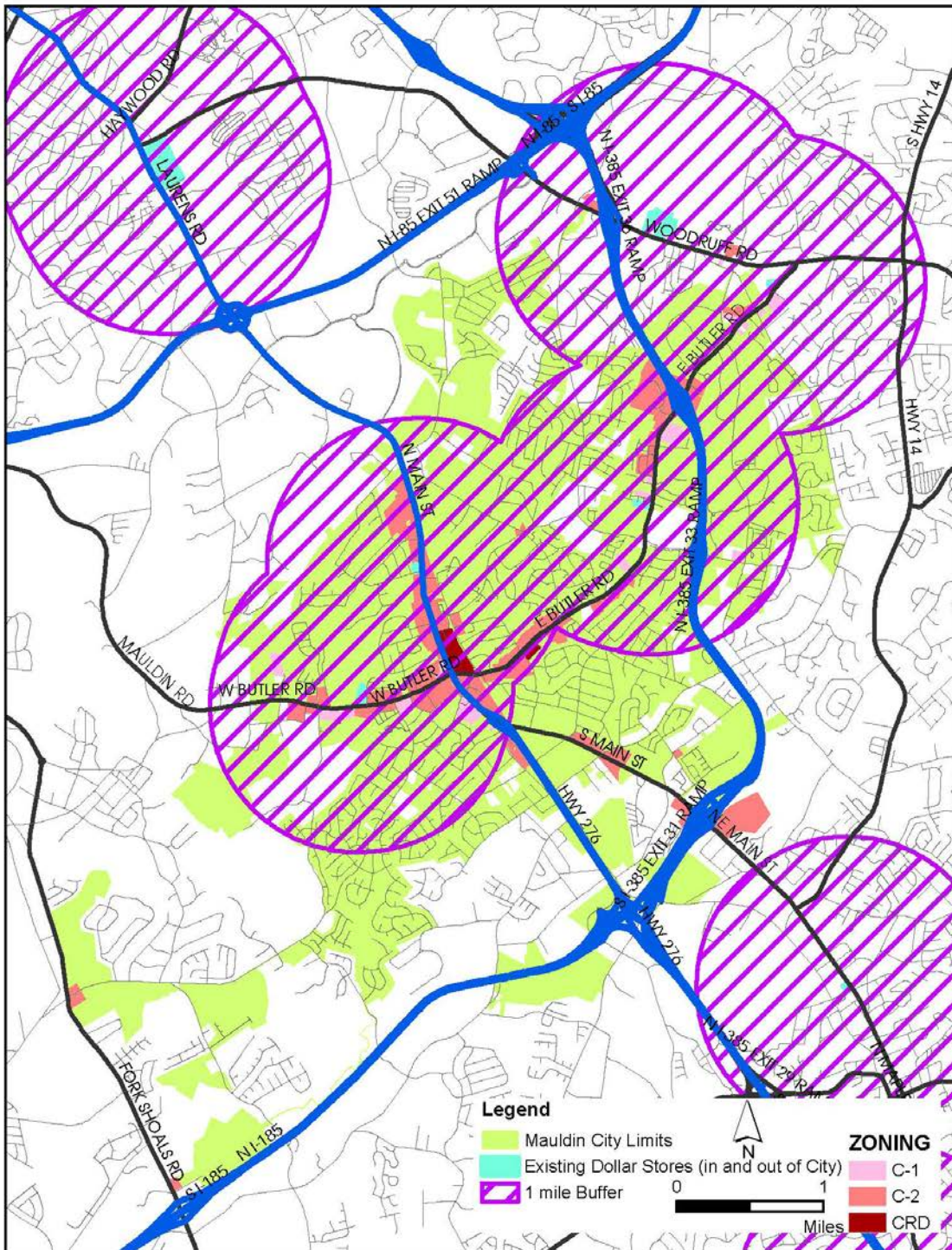
Cindy Miller, Municipal Clerk

APPROVED AS TO FORM:

John Duggan, City Attorney



One-Mile Buffer from ALL Dollar Stores





BUILDING CODES COMMITTEE AGENDA ITEM

MEETING DATE: July 6, 2020

AGENDA ITEM: 6b

TO: Building Codes Committee

FROM: Business & Development Services Director, David C. Dyrhaug

SUBJECT: Vacancies on Zoning Board of Appeals

At its meeting on June 15, 2020, the City Council appointed volunteers to the Planning Commission and the Building and Zoning Board of Appeals. At that time, it was noted that the City had not yet received enough applications for the number of seats available on the Zoning Board of Appeals. As a result, there were still two open seats on the Zoning Board of Appeals after the June 15th City Council meeting.

Since that time, the City has received two new applications from volunteers interested in being appointed to the Building and Zoning Board of Appeals. The applicants include Scott Crosby and Brian Patton.

The Zoning Board meets very infrequently and primarily reviews requests for variances and exceptions from the zoning standards. The infrequency of their meetings may be a contributor to low interest in volunteering to serve on this Board.

Request

This matter is being to the Committee for its consideration to forward these applications to the City Council.

ATTACHMENTS

Volunteer Applications