

**CITY OF KNOXVILLE
BOARD OF ZONING APPEALS
MEETING MINUTES
July 21, 2016**

The City of Knoxville **Board of Zoning Appeals** considered the following petitions for variance of requirements of the Knoxville City Code, Appendix B, Zoning Regulations at their **July 21, 2016** meeting at 4:00 pm in the Small Assembly Room, City County Building, 400 Main St, Knoxville, TN.

This meeting and all communications between the Board members is subject to the provisions of the Tennessee Open Meetings Act, Tenn. Code. Ann. § 8-44-101, et seq.

ROLL CALL

Board Chairman Don Horton called the meeting to order at 4:00 pm. Other Board members present were David Dupree, Daniel Odle, Kristin Grove and Charlie Van Beke.

Others in attendance were Peter Ahrens, Director of Building Inspections; Crista Cuccaro, Law Department; Scott Elder, Zoning Chief; Brandon Littlejohn, Zoning Inspector; Boone Hillenbrand and Chris Howley, Engineering; Angelia Rooks, Board Secretary; and Dan Kelly, MPC.

APPROVAL OF MINUTES

Board member David Dupree made a motion to approve the June 16th and July 1st minutes. It was seconded by Board member Kristin Grove. The Board voted 5-0 to **APPROVE** the meeting minutes for June 16, 2016, and July 1, 2016.

OLD BUSINESS

File:	5-A-16-VA	Parcel ID: 120JB00801
Applicant:	Paige Coleman	
Address:	7824 Kingston Pike	
Zoning:	C-4 (Highway and Arterial Commercial) District 2nd Council District	

Variance Request:

Reduce the minimum required front yard setback for a new detached ground sign from 10 ft. from the property line to 0 ft. from the property line per Article 8, Section 7.1.a.

As per submitted plan to permit construction of a new ground sign in a C-4 District.

Paige Coleman, the applicant, was present. She presented additional site photos to the Board, which showed where KUB marked the grass area to indicate the location of utilities. She stated that awareness of her business' services was in the public's interest. KUB easements made the entire front area unusable for signage. The current roof sign was obscured and could not be seen from the street. Her request was the least restrictive means for a variance from the sign ordinance. Denying her variance request would be a substantial injustice to her business; and would deprive the community of information about her business services.

In opposition, Joyce Feld of Scenic Knoxville was present. She reviewed the photos presented by Ms. Coleman. The location of utilities was in the grass area, and not under the asphalt. A sign could be installed in the asphalt area, which was not used for parking, and comply with the sign ordinance. The current roof sign was oversized, but "grandfathered," and perfectly visible from the street. Meeting the setback requirements for a ground sign would not render it ineffective. She asked the Board to deny the request.

Board Chairman Don Horton asked Ms. Coleman to clarify what the KUB marks in the photos indicated. Ms. Coleman referred the Board to the KUB letter showing the electrical and sanitary easements. She stated that the KUB marks in the grass indicated the only place where they could install a sign.

Board member Kristin Grove asked if the ground sign would be in addition to the existing roof sign. Ms. Coleman answered that she was willing to remove the roof sign if the variance were approved. The roof sign was useless. There was a temporary sign installed in the approximate area where they intend to install a ground sign; and was the only location option according to KUB. The permanent sign would look very similar, but larger.

After considering the large size of the existing roof sign and its close proximity to the street, Board member Kristin Grove made a motion to deny the request. It was seconded by Board member Charlie Van Beke. The Board voted 5-0 to **DENY** the request.

File: 6-A-16-VA **Parcel ID:** 093EE035
Applicant: Chris Mershon
Address: 2706 Piedmont Street
Zoning: R-1A (Low Density Residential) District
3rd Council District

Variance Requests:

1. Increase the maximum permitted driveway width from 25 ft. to 100 ft. per Article 5, Section 7.B.3.a.Table.
2. Reduce the minimum required Canna Avenue front yard setback from 25 ft. to 9 ft. per Article 4, Section 2.1.2.D.1.a.
3. Reduce the minimum required rear yard setback for an accessory structure from 5 ft. to 3 ft. per Article 4, Section 2.1.2.D.3.b.

As per submitted plan to permit construction of an accessory building and driveway expansion in an R-1A District.

Barbara Mershon, the property owner, and Chris Mershon were present. The applicant asked to postpone the request.

Board member Kristin Grove made a motion to postpone the request to the August meeting. It was seconded by Board member Charlie Van Beke. The Board voted 5-0 to **POSTPONE** the request to the August 18, 2016 meeting.

File: 6-D-16-VA **Parcel ID:** 120DE009
Applicant: Brett Honeycutt
Address: 100 Lockett Road
Zoning: C-3 (General Commercial) District
2nd Council District

Variance Request:

Reduce the minimum number of required parking spaces from 43 spaces to 0 spaces per Article 5, Section 7.A.3.a.Table.

As per submitted plan to permit a brewery/restaurant in an existing building in a C-3 District.

Arthur Seymour, Jr., representing the applicant, and Jesse Bowers were present. The hardship was that the building would not have any use because there was no parking. All available parking was in the City's right-of-way. They were in the process of obtaining a parking agreement with the church on the adjacent property. He presented an email from the church indicating such.

Mr. Ahrens clarified that the City does not recognize shared parking agreements. Only “non-required” parking spaces could be leased. If the church counted those spaces in their minimum parking requirement, then those spaces could not be leased. The variance would still be a requirement, even with the shared parking agreement in place.

The staff received a voicemail in opposition to the request regarding the use, and that a BZA sign was not posted on the property for the July meeting. No opposition was present.

Board members and staff discussed possible uses for the building that could meet parking requirements in the space available. Mr. Ahrens stated that there were probably no uses that would have adequate parking; it was a question of intensity of use.

Board member Daniel Odle stated that the size of the property was the most relevant factor to consider, and made a motion to approve the request. It was seconded by Board member Kristin Grove. The Board voted 5-0 to **APPROVE** the request.

File: 6-I-16-VA
Applicant: Gary Smith, Southeast Commercial, LLC
Address: 6215 Enterprise Drive
Zoning: I-3 (General Industrial) District
3rd Council District

Parcel ID: 106CC02010

Variance Requests:

1. Reduce the minimum required southeast front yard setback from 35 ft. to 7.5 ft. per Article 4, Section 2.3.2.E.2.
2. Reduce the minimum required southwest front yard setback from 35 ft. to 27.5 ft. per Article 4, Section 2.3.2.E.2.
3. Reduce the minimum required north side rear yard setback from 25 ft. to 5 ft. per Article 4, Section 2.3.2.E.4.

As per submitted plan to permit the replacement of a fire damaged building in an I-3 District.

Gary Smith, the applicant, and Julian Burke were present. The hardship was the triangular shape of the lot. The new building would be close to the same footprint of the previous building, which was also slightly over the setback.

Board member Kristin Grove made a motion to approve the requests. It was seconded by Board member Daniel Odle. The Board voted 5-0 to **APPROVE** the requests.

NEW BUSINESS

File: 7-A-16-VA
Applicant: Strategic Integration Partners, LLC
Address: 6408 Papermill Drive
Zoning: C-4/F-1 (Highway and Arterial Commercial / Floodway) Districts
2nd Council District

Parcel ID: 121AA006

Variance Requests:

1. Reduce the minimum parking space width from 9 ft. to 8 ft. per Article 5, Section 7.A.4.a.2.
2. Reduce the minimum required depth of a parking space to a curb from 15.5 ft. to 14.6 ft. per Article 5, Section 7.A.4.a.2.
3. Reduce the minimum required drive aisle width for 90 degree parking from 26 ft. to 23.3 ft. per Article 5, Section 7.A.4.a.2.

As per submitted plan to permit construction of a new professional office building in C-4/F-1 Districts.

Parker Bartholomew, the developer, was present. A flood zone and a no fill line prohibited meeting the parking requirement. There were 7 parking spaces that were 1 to 4 inches smaller, and 4 drive aisles affected. The variances were required to get their bond released. They have a parking agreement with the hotel on the adjacent property.

Board member Charlie Van Beke made a motion to approve the requests. It was seconded by Board member Daniel Odle. The Board voted 5-0 to **APPROVE** the requests.

File: 7-B-16-VA **Parcel ID:** 079KB029
Applicant: Truman A. Jacques III
Address: 4820 Ridgedale Road
Zoning: R-1 (Low Density Residential) District
2nd Council District

Variance Request:

Increase the maximum permitted size of an accessory structure on a lot less than one acre in size from 1,100 sq. ft. to 1320 sq. ft. per Article 5, Section 4.C.Table.

As per submitted plan to permit construction of an accessory structure in an R-1 District.

Truman Jacques, the property owner, was present. He needed a garage structure large enough to accommodate the equipment required to restore cars.

Board member Charlie Van Beke stated that there was no legal hardship for consideration of a variance.

Board member Daniel Odle made a motion to deny the request. It was seconded by Board member Kristin Grove. The Board voted 5-0 to **DENY** the request.

File: 7-C-16-VA **Parcel ID:** 121BD038 & 039
Applicant: John Browder
Address: 204 Gore Road
Zoning: C-6 (General Commercial Park) District
2nd Council District

Variance Requests:

1. Reduce the minimum required front yard setback on Opal Avenue from 25 ft. to 0 ft. per Article 4, Section 2.2.9.D.2.a.
2. Reduce the minimum required front yard setback on Gore Road from 25 ft. to 10 ft. per Article 4, Section 2.2.9.D.2.a.

As per submitted plan to permit construction of office/warehouse buildings in a C-6 District.

Mark Matlock, representing the applicant was present. A creek and the railroad easement limited the development of the property. Board members agreed that item 1 (Opal Ave) was a reasonable request, but item 2 (Gore Rd) was overdevelopment. They discussed reducing the size of the building to fit the site. Mr. Matlock stated that a re-plat was in review by MPC, which might change the circumstances of the variance request. He suggested postponing the BZA request until after the MPC meeting in September.

Board member Charlie Van Beke made a motion to approve item 1. It was seconded by Board member David Dupree. The Board voted 5-0 to **APPROVE** item 1 (Opal Ave).

Board member David Dupree made a motion to postpone item 2 until the September meeting. It was seconded by Board member Charlie Van Beke. The Board voted 5-0 to **POSTPONE** item 2 (Gore Rd) to the September 15, 2016 meeting.

File: 7-D-16-VA
Applicant: Benchmark Associates
Address: 1004 Craigland Court
Zoning: R-1 (Low Density Residential) District
2nd Council District

Parcel ID: 121JC008

Variance Request:

Reduce the minimum required north side yard setback for a two story dwelling from 12 ft. to 1.5 ft. per Article 4, Section 2.1.1.E.2.a.

As per submitted plan to permit an addition to a detached dwelling in an R-1 District.

Danny Moorman, the applicant, was present. A creek and flood plain limited the development of the property. The floor plan was remodeled to attract potential buyers. The owner of the adjacent property and the neighborhood HOA supported the variance.

Board member Kristin Grove made a motion to approve the request. It was seconded by Board member Daniel Odle. The Board voted 5-0 to **APPROVE** the request.

File: 7-E-16-VA
Applicant: Dave and Renee Hewitt
Address: 822 Deery Street
Zoning: R-1A/H-1 (Low Density Residential / Historic Overlay) Districts
4th Council District

Parcel ID: 094DE015

Variance Request:

Increase the maximum permitted principal and accessory building lot coverage from 30% to 31.6% per Article 4, Section 2.1.2.D.6.a.

As per submitted plan to permit an addition to a detached dwelling in an R-1A/H-1 District.

Renee Hewitt, the applicant, was present. She was adding a "sun porch" to the house. The addition was approved by the Historic Zoning Commission. Board members commented that all of the lots in the neighborhood were small; and the variance of 1.6% was minimal.

Board member Kristin Grove made a motion to approve the request. It was seconded by Board member Daniel Odle. The Board voted 4-1 to **APPROVE** the request. Board member David Dupree voted against the motion due to a lack of a hardship.

File: 7-F-16-VA
Applicant: James Hayes
Address: 733 W. Emerald Avenue
Zoning: R-1A (Low Density Residential) District
6th Council District

Parcel ID: 081NA005

Variance Request:

Reduce the minimum required front yard setback on Elm Street from 25 ft. to 7 ft. per Article 4, Section 2.1.2.D.1.a.

As per submitted plan to permit construction of a detached dwelling in an R-1A District.

Jim Hayes, the applicant, was present. The size of house will be the same as the previous structure.

Board member Kristin Grove made a motion to approve the request. It was seconded by Board member Charlie Van Beke. The Board voted 5-0 to **APPROVE** the request.

File: 7-G-16-VA
Applicant: Will Doyle
Address: 2637 Western Avenue
Zoning: C-3 (General Commercial) District
5th Council District

Parcel ID: 094AA035

Variance Requests:

1. Reduce the minimum required front yard setback from 25 ft. to 3.67 ft. per Article 4, Section 2.2.6.E.1.
2. Reduce the minimum number of required parking spaces from 11 to 0 spaces per Article 5, Section 7.A.3.Table.

As per submitted plan to permit an addition to an existing business in a C-3 District.

Will Doyle, the applicant, was present. The size of the lot limited development of the property. The addition was built without a permit. The original building was also not in compliance with the front yard setback. There was no parking agreement with TDOT, but the adjacent property was used for parking.

Board member Daniel Odle made a motion to approve the requests. It was seconded by Board member Kristin Grove. The Board voted 3-1 to **APPROVE** the requests. Board member Charlie Van Beke voted against the motion. Board member David Dupree abstained.

File: 7-H-16-VA
Applicant: Allan Cottrell
Address: 2332 Wheeler Street
Zoning: I-3 (General Industrial) District
6th Council District

Parcel ID: 082GK009

Variance Requests:

ALLAN COTTRELL (2332 Wheeler Street)

1. Reduce the minimum required front yard setback from 35 ft. to 26.8 ft. per Article 4, Section 2.3.2.E.2
2. Reduce the minimum required west side yard setback from 25 ft. to 5.2 ft. per Article 4, Section 2.3.2.E.3.
3. Reduce the minimum required east side yard setback from 25 ft. to 11.9 ft. per Article 4, Section 2.3.2.E.3.
4. Reduce the minimum required rear yard setback from 25 ft. to 10.4 ft. per Article 4, Section 2.3.2.E.4.

As per submitted plan to permit construction of a new commercial warehouse building in an I-3 District.

The size of the lot limited development of the property. Board member Daniel Odle explained how Smart Fix 40 altered the previous residential neighborhood.

Board member Kristin Grove made a motion to approve the requests. It was seconded by Board member Daniel Odle. The Board voted 5-0 to **APPROVE** the requests.

File: 7-I-16-VA
Applicant: Raymond W. and Malinda A. Morrow
Address: 817 Deery Street
Zoning: R-1A/H-1 (Low Density Residential / Historic Overlay) Districts
4th Council District

Parcel ID: 094DE020

Variance Requests:

1. Increase the maximum permitted lot coverage for principal and accessory buildings from 30% to 47.5% per Article 4, Section 2.1.2.D.6.a.
2. Decrease the minimum required sum of the side yard setbacks from 12 ft to 10 ft per Article 5, Section 6.D.6.

As per submitted plan to permit construction of a detached dwelling in an R-1A/H-1 District.

Raymond Morrow, the applicant, was present. The size of the lot limited development of the property.

Board member Daniel Odle stated that all the lots in this neighborhood were small, and made a motion to approve the requests conditioned on receiving a Certificate of Appropriateness from the HZC. It was seconded by Board member Kristin Grove. The Board voted 5-0 to **APPROVE** the requests, **CONDITIONED** on receiving a COA from the Historic Zoning Commission.

File: 7-J-16-VA **Parcel ID:** 154EE002
Applicant: W. Scott Williams & Associates
Address: 9615 Kroger Park Drive
Zoning: C-6 (General Commercial Park) District
 2nd Council District

Variance Requests:

1. Reduce the minimum required front yard setback from 25 ft. to 5 ft. per Article 4, Section 2.2.9.D.2.a.
2. Reduce the minimum number of required parking spaces from 31 to 27 spaces per Article 5, Section 7.A.3.a.Table.

As per submitted plan to permit construction of a new commercial building in a C-6 District.

Scott Williams, the applicant, and Dwaine Setzer, the Burger King franchisee were present. The lot size prohibited compliance with parking requirements. They had a parking lease agreement with Kroger's, but when Kroger's expanded their building, they used all the available excess parking.

Board member Daniel Odle made a motion to approve the requests. It was seconded by Board member Kristin Grove. The Board voted 5-0 to **APPROVE** the requests.

File: 7-K-16-VA **Parcel ID:** 081KA002
Applicant: John L. Sanders / Sanders Pace Architecture
Address: 2423 N. Central Street
Zoning: C-3 (General Commercial) District
 5th Council District

Variance Request:

Reduce the minimum required number of parking spaces from 18 to 0 spaces per Article 5, Section 7.A.3.a.Table.

As per submitted plan to permit a restaurant in an existing building in a C-3 District.

John Sanders, the applicant, was present. The existing building and lot size prohibited compliance with parking requirements.

Board member Daniel Odle made a motion to approve the request. It was seconded by Board member Charlie Van Beke. The Board voted 5-0 to **APPROVE** the request.

File: 7-L-16-VA **Parcel ID:** 107KC009
Applicant: Renegade Yoga, LLC
Address: 516 Renford Road

**Zoning: C-1 (Neighborhood Commercial) District
2nd Council District**

Appeal the determination of the Building Official that a Wellness Center providing chiropractic, massage, yoga, meditation and related professional activities is not the equivalent of a professional business office in a C-1 District per Article 7, Section 1.C.a.

Arthur Seymour, Jr. and Shawn King, the owner, were present. The ordinance defines professional office as “*the office of a member of a recognized profession maintained for the conduct of that profession,*” but it does not define “*recognized profession.*” He pointed out that Title 63 of state law covers “the professions of the healing arts” such as chiropractors, massage therapists, reflexologists, dieticians and acupuncturists. He asked the Board to overrule the decision of the Building Official. David Williams, President of the Pond Gap Neighborhood Association, was present. His organization supported having the Wellness Center in the area.

Crista Cuccaro clarified for the Board that approval would change the interpretation of the ordinance so that in a C-1, a “professional office” would include this type of use. It would affect this property and any other property in a C-1 zone. She explained that personal services were not enumerated in the zoning code, and therefore, presumed to be prohibited. She pointed out that it’s not possible for the code to identify every single use; that was for the Board to determine.

Peter Ahrens stated that some of the clinical services offered by the Wellness Center fit the definition of professional offices, but other services, such as yoga and meditation, were considered personal services as defined by the Zoning Ordinance. For example, auto repair shops were allowed in a C-3, but they could not sell cars, even though the services were similar and related.

Mr. King acknowledged that they did not meet the ordinary definition of a clinic, but they did meet the definition of professional office. He stated that coin laundries were defined as personal services, but explicitly allowed in C-1. If they do not get approval, then they were going to find another location. Even if yoga services were a gray area, he hoped that the Board would consider the other services offered that were allowed.

Board member Daniel Odle stated that he was not comfortable with the implications of overturning the Building Officials’ decision, or using state law to overrun local ordinances.

Board member David Dupree made a motion to approve the appeal. It was seconded by Board member Charlie Van Beke. The Board voted 3-2 to **APPROVE** the appeal and overturn the Building Official’s decision. Board members Kristin Grove and Daniel Odle voted against the motion.

File: 7-M-16-VA
Applicant: Craig Griffith
Address: 500 Princeton Court
Zoning: R-1 (Low Density Residential) District
2nd Council District

Parcel ID: 120LC026

Variance Request:

Reduce the required rear yard setback from 25.0 to 8.0 feet per Article 4, Section 2.1.1.E.3.a.

As per submitted plan to permit an addition to a detached dwelling in an R-1 District.

Craig Griffith, the applicant, was present. The flood plain, and the lot size and shape prohibited meeting the setback requirement. The existing deck would be removed, and the addition would be in the approximate footprint of the deck.

Board member Kristin Grove made a motion to approve the request. It was seconded by Board member Charlie Van Beke. The Board voted 5-0 to **APPROVE** the request.

File: 7-N-16-VA
Applicant: Metropolitan Airport Authority
Address: 2701 Spence Place
Zoning: A-1 (Agricultural) District
1st Council District

Parcel ID: 095MC014

Variance Request:

Decrease the minimum required floor elevation from 832.2, one foot above the 500-year elevation, to 831.25 per Flood Damage Protection and Control Ordinance: Article 3, Section 12-52 (2).

As per submitted plan to permit a new airplane hangar in an A-1 District.

Board member Charlie Van Beke recused himself.

Sherry Self, the applicant, and Ed McHugh of Michael Baker Engineers, were present. The variance was needed so aircraft could access the taxiway and runway. Other buildings were also built at the same elevation.

Engineering supported the variance request. It was located on an island in the Tennessee River, which was controlled by the TVA, and not subject to the same flooding issues seen in other locations. They still met the 100-year flood criteria.

Board member David Dupree made a motion to approve the request. It was seconded by Board member Kristin Grove. The Board voted 4-0 to **APPROVE** the request.

OTHER BUSINESS

The next BZA meeting is August 18, 2016.

ADJOURNMENT

The meeting was adjourned at 6:07 pm.

Respectively submitted,

Angelia Rooks