



BOARD OF ZONING APPEALS

MEETING MINUTES

January 19, 2017

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 **January 19, 2017** 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 members present were Kristin Grove, Daniel Odle, and David Dupree. Member Charlie Van Beke was absent.

Others in attendance were Peter Ahrens, Director of Plans Review and Inspections; Scott Elder, Zoning Chief; Crista Cuccaro, Law Department; Mark Johnson, Engineering; Mike Reynolds, MPC; and Angelia Rooks, Board Secretary.

APPROVAL OF MINUTES

Member Kristin Grove made a motion to approve the December 15, 2016 minutes. It was seconded by member Daniel Odle. The Board voted 4-0 to **APPROVE** the minutes.

OLD BUSINESS

File:	12-N-16-VA	Parcel ID: 108CK006 &
Applicant:	Starboard Properties IV, LLC	009-013
Address:	2120 Cumberland Avenue	
Zoning:	FD-CU-1 & FD-CU-2 (Form District-Cumberland Avenue) Districts	
	1 st Council District	

Variance Request:

Reduce the minimum required width for a parking space from 9 ft. to 8 ft. per Article 5, Section 7.A.4.a.2.Table.

As per submitted plan to permit redevelopment of the site with a multi-use project in an FD-CU-1 & FD-CU-2 Districts.

The staff received a request from the applicant to postpone.

Member Kristin Grove made a motion to postpone the request until the next meeting. It was seconded by member Daniel Odle. The Board voted 4-0 to **POSTPONE** the request until the February 16, 2017 meeting.

NEW BUSINESS

File: 1-A-17-VA
Applicant: Church of God of Union Assembly, Inc.
Address: 3428 Keith Avenue
Zoning: R-2 (General Residential) District
3rd Council District

Parcel ID: 093LG005

Variance Requests:

1. Reduce the minimum required front yard setback for an accessory structure for a church from 35 ft. to 30 ft. per Article 4, Section 2.1.6.D.1.b.
2. Reduce the minimum required east side yard setback for an accessory structure for a church from 35 ft. to 25 ft. per Article 4, Section 2.1.6.D.2.c.

As per submitted plan to permit a new accessory structure for the church in an R-2 District.

The applicant was not present. Member Daniel Odle made a motion to postpone the requests until the next meeting. It was seconded by member Kristin Grove. The Board voted 4-0 to **POSTPONE** the requests until the February 16, 2017 meeting.

File: 1-B-17-VA
Applicant: John McCay
Address: 4005 Ivy Avenue
Zoning: R-1 (Low Density Residential) District
6th Council District

Parcel ID: 083AA03

Variance Request:

Reduce the sum of the two side yards from 12 ft. to 10 ft. per Article 4, Section 6.D.6.

As per submitted plan to permit construction of a new single-family dwelling in an R-1 District.

John McCay, the applicant, was present. The small lot prohibited development. The proposed modular house was 40 feet wide, which required a 2 foot setback variance to fit it on the lot. This was the smallest modular house design available.

Member Daniel Odle made a motion to approve the request based on the hardship of a small lot. It was seconded by member David Dupree. The Board voted 4-0 to **APPROVE** the request.

File: 1-C-17-VA
Applicant: John McCay
Address: 2922 Tecoma Drive
Zoning: R-1 (Low Density Residential) District
4th Council District

Parcel ID: 070HC075

Variance Request:

Reduce the sum of the two side yards from 12 ft. to 10 ft. per Article 4, Section 6.D.6.

As per submitted plan to permit construction of a new single-family dwelling in an R-1 District.

John McCay, the applicant, was present. The circumstances and conditions were the same as 1-B-17-VA. The small lot prohibited development. The proposed modular house was 40 feet wide, which

required a 2 foot setback variance to fit it on the lot. Mr. McCay stated that the house would be centered on the lot, and would have at least 5 feet between adjacent properties.

Member Daniel Odle made a motion to approve the request based on the hardship of a small lot. It was seconded by member Kristin Grove. The Board voted 3-1 to **APPROVE** the request. Member David Dupree voted against the motion.

File: 1-D-17-VA **Parcel ID:** 108CE00601 & 108CE02101
Applicant: CCSHP Knoxville LLC
Address: 1830 Cumberland Avenue
Zoning: FD-CU1 and FD-CU2 (Form District – Cumberland Avenue) Districts
1st Council District

Variance Request:

Reduce the minimum required depth for a canopy from 6 ft. to 5 ft. per Article 4, Section 4, Cumberland Avenue Corridor District 4.2.4.E.1.

As per submitted plan to permit construction of a canopy on the south side (Lake Ave) of the building in FD-CU1 and FD-CU2 Districts.

Arthur Seymour, Jr., representing the applicant, was present. Topography of the property prohibited compliance with district guidelines. At 6 ft, the canopies would encroach on the 10 feet separation requirement between the sidewalk and the bottom of the canopies. A similar variance was approved by the Board last August on the Cumberland Avenue side of this property.

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

File: 1-E-17-VA **Parcel ID:** 0951E024 & 02401
Applicant: Scott Falvey
Address: 322 W. Church Avenue
Zoning: C-2 / D-1 (Central Business District / Downtown Design Overlay) District
6th Council District

Variance Requests:

1. Reduce the minimum stall dimensions from 9 ft to 7.5 ft. per Article 5, Section 7.A.4.2.Table.
2. Reduce the minimum module widths for 90 degree parking on both sides of the aisle from 60 ft to 53.5 ft. per Article 5, Section 7.A.4.d.1.Table.
3. Reduce the minimum module width for 90 degree parking on one side of the aisle from 44 ft to 43 ft. per Article 5, Section 7.A.4.d.1.Table.
4. Reduce the minimum driveway width on Clinch Avenue from 20 ft to 18.5 ft. per Article 5, Section 7.B.3.c.
5. Reduce the minimum driveway width on Market Street from 20 ft to 17 ft. per Article 5, Section 7.B.3.c.

As per submitted plan to permit redevelopment of the Pryor Brown Parking Garage in a C-2 / D-1 District.

Scott Falvey, representing Design Innovation Architects, was present. The project would convert the garage into retail space, residential units, and residential parking. The existing structure and topography prohibited compliance with the parking requirements. These existing conditions only affected a few parking spaces in the southeast corner of the building. The remaining parking spaces

were in compliance. The requested variances would give the developer a little flexibility to make minor adjustments depending on the type of elevator installed, type of stair treads used, or other issues that might come up, without requiring another variance.

Member Kristin Grove discussed amending the wording of item 1 to limit the variance to just one parking space, instead of a blanket variance that would include all spaces. If another variance was required later, then they would have to reapply. Member Daniel Odle disagreed. This was a historic building with existing conditions, and minor adjustments would be expected as the project developed. There may be 3 or 5 spaces affected, depending on other variables mentioned. Mr. Falvey suggested changing the wording of the request to limit the variance to 3 parking spaces. Board members agreed.

Member Kristin Grove made a motion to approve item 1 amended to affect a maximum of 3 spaces, and conditioned on approval from Engineering; and to approve items 2 through 5 as written. It was seconded by member Daniel Odle. The Board voted 4-0 to **APPROVE** item 1 **AMENDED** to affect a maximum of 3 parking spaces and **CONDITIONED** on approval from City Engineering; and **APPROVE** items 2 through 5 as written.

File: 1-F-17-VA
Applicant: David Harbin
Address: 2104 E. Magnolia Avenue
Zoning: C-3 (General Commercial) District
6th Council District

Parcel ID: 082ON003

Variance Requests:

1. Reduce the minimum required drive aisle width for 90 degree parking from 26 ft to 19.6 ft. per Article 5, Section 7.A.4.2.Table.
2. Reduce the minimum required Kyle St. front yard setback from 25 ft. to 8.5 ft. per Article 4, Section 2.2.6.E.1.
3. Reduce the minimum required Islington Avenue front yard setback from 25 ft to 17.25 ft. per Article 4 Section 2.2.6.E.1.

As per submitted plan to permit a change in occupancy and to construct an accessory building in a C-3 District.

David Harbin, the applicant, and Arthur Seymour, Jr. were present. **Mr. Harbin withdrew item 1** (drive aisle width). The owner was in the process of obtaining Use-On- Review approval for a funeral home through MPC. The owner also planned to acquire the adjacent property. The hardship was 3 front yards and an existing garage on the property, which was built without a permit. These conditions prohibited compliance with setback requirements.

Chairman Don Horton confirmed that the garage was a modular building, like the main building, and asked why it was not movable. Mr. Seymour stated that it was imbedding in the ground with rods, and met the definition of real estate, as opposed to personal property, according to the bankruptcy code. Peter Ahrens stated that it was a pre-fab structure, and did not know how it was secured because it was not inspected. It was added without a permit and was an illegal building. A setback variance approval was the first step to legalizing the building. They could not keep it at its present location, and the City could not issue a building permit because it did not comply with the setback requirements.

Because the buildings were modular, the Board asked the staff to clarify how an approval would affect future development of the property if the buildings were removed, or if another tenant changed the use of the property. Mr. Ahrens clarified that the main building was within the setbacks, but the garage was not. An approval for this variance would establish a new setback as long as the garage was in place,

meaning additional buildings could be constructed within the new setback. If the entire lot was razed, including the garage, then the original setback of 25 feet would be restored.

Member Daniel Odle stated that the hardship was 3 front yard setbacks, and made a motion to approve items 2 and 3 conditioned on UOR approval. It was seconded by member David Dupree. The Board voted 4-0 to **APPROVE** items 2 and 3 **CONDITIONED** on Use-On-Review approval from MPC.

File: 1-G-17-VA
Applicant: Matthew Lyon
Address: 1043 Cedar Hill Road
Zoning: R-1 (Low Density Residential) District
2nd Council District

Parcel ID: 121DK029

Variance Request:

Reduce the minimum required side yard setback for a single story dwelling from 8 ft to 4 ft. per Article 4, Section 2.1.1.E.2.a.

As per submitted plan to permit an addition to an existing house in an R-1 District.

Angie Lyon, the applicant, was present. This was a 2-bedroom Lustron house, built from a kit in 1948. The outer construction was porcelain baked enamel panels, and the interior was metal (walls, ceilings, etc.) The proposed addition was for a third bedroom. To preserve the enamel panels, it was designed to connect to the house in a minimal way. Other hardships were the existing footprint of the house and 2 front yards. The neighbor on the adjacent property sent the applicant an email in support of the variance request. A copy was presented to the Board.

Sandy Gillespie, representing the Kingston Pike-Sequoyah Hills Association, was present. He supported the variance request.

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

File: 1-H-17-VA
Applicant: Capso Properties LLC
Address: 3515 N. Broadway
Zoning: C-3 / F-1 (General Commercial / Floodway) District
5th Council District

Parcel ID: 069MA010

Variance Request:

Reduce the minimum required separation distance that an Alternative Financial Service facility must maintain from a residential zoning district from 1000 ft to 89.3 ft. per Article 5, Section 26.A.2.

As per submitted plan to permit an alternative financial service to occupy an existing building in a C-3 / F-1 District.

The staff received a request from the applicant to postpone.

Member Kristin Grove made a motion to postpone the request until the next meeting. It was seconded by member Daniel Odle. The Board voted 4-0 to **POSTPONE** the request until the February 16, 2017 meeting.

OTHER BUSINESS

Member Daniel Odle made a motion to elect member Kristin Grove as Chairman. It was seconded by Chairman Don Horton. The Board voted 4-0 to **APPROVE** Kristin Grove as the Chairman for 2017.

The next BZA meeting is February 16, 2017.

ADJOURNMENT

The meeting adjourned at 4:55 pm.

Respectively submitted,

Angelia Rooks
Angelia Rooks, Board Secretary