



BOARD OF ZONING APPEALS
MEETING MINUTES
March 16, 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 **March 16, 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 Kristin Grove called the meeting to order at 4:00 pm. Other members present were Don Horton, Daniel Odle, David Dupree, and Charlie Van Beke.

APPROVAL OF MINUTES

Member Charlie Van Beke made a motion to approve the February 16, 2017, minutes. It was seconded by member Daniel Odle. The Board voted 5-0 to **APPROVE** the minutes.

OLD BUSINESS

File: **12-N-16-VA** **Parcel ID:** 108CK006 & 009-013
Applicant: Starboard Properties IV, LLC
Address: 2120 Cumberland Avenue
Zoning: FD-CU-1 & FD-CU-2 (Form District-Cumberland Avenue) Districts
1st 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 applicant was not present. Member Charlie Van Beke made a motion to postpone indefinitely. It was seconded by member Daniel Odle. The Board voted 5-0 to **POSTPONE INDEFINITELY**.

File: **2-B-17-VA** **Parcel ID:** 081MU009
Applicant: Reagan Design and Construction
Address: 902 N. Central Street
Zoning: C-3 (General Commercial) District
4th Council District

Variance Request:

Reduce the minimum required number of parking spaces from 4 spaces to 0 spaces per Article 5, Section 7.A.3.a.Table.

As per submitted plan to permit development of two dwelling units on the second floor of an existing commercial building in a C-3 District.

Daniel Park, representing the applicant, was present. They did not have a signed parking lease agreement, and no prospects. Without the variance, they could not utilize the upper floor. Additional photos were presented to show their work with the City's façade improvement program. The Board's concern was that this was for the residential use of the upper floor versus a commercial use. It would be difficult to reconcile a residential use with no available parking.

Member David Dupree made a motion to postpone the request until the May meeting to give the applicant more time to obtain a parking lease agreement. It was seconded by member Don Horton. The Board voted 5-0 to **POSTPONE** the request until the May 18, 2017 meeting.

NEW BUSINESS

File: **3-A-17-VA** **Parcel ID:** 069LB006 &
Applicant: Scott Williams & Associates 069LB007
Address: 4100 N. Broadway and 3818 Powers Street
Zoning: C-3 (General Commercial) District
4th Council District

Variance Requests:

1. Reduce the minimum required drive aisle width from 26 ft. to 15 ft. per Article 5, Section 7.A.4.2.Table.
2. Increase the maximum permitted driveway width from 30 ft. to 55 ft. per Article 5, Section 7.B.3.c.Table.
3. Decrease the minimum permitted driveway width from 20 ft. to 12 ft. per Article 5, Section 7.B.3.c.Table.

As per submitted plan to permit warehouse expansion onto an adjoining property in a C-3 district.

Scott Elder noted a typo on the application for item one. The variance was to reduce the drive aisle width to 15 ft, not 5 ft. The notice was published with the correct information.

Katie Moran, representing the applicant, was present. The hardships were the existing building, the lot shape, and an existing utility pole that prohibited building expansion. They had very minimal and mostly one-way traffic.

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

File: **3-B-17-VA** **Parcel ID:** 095OD008
Applicant: Mark V. Graham Engineering Consultants, LLC
Address: 1640 Island Home Avenue
Zoning: FD-SW-2 (Form District - South Water Front) District
1st Council District

Variance Request:

Increase the maximum permitted width of a driveway from 24 ft. to 36 ft. per Article 4, Section 4.1.3.C.7.g.i.

As per submitted plan to permit access improvements to an existing business in the FD-SW-2 district.

Mark Graham, the applicant, was present. The improvements would expedite truck traffic from the road onto the property. They were also reducing parking overage to create more green space.

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

File: 3-C-17-VA

Parcel ID: 102GA00405

Applicant: Pamlico Investments, Inc.

Address: 7807 Kingston Pike

Zoning: C-4 (Highway and Arterial Commercial) District
2nd Council District

Variance Requests:

1. Reduce the minimum required front yard setback on West Town Way from 50 ft. to 10 ft. per Article 4, Section 2.2.7.E.2.a.
2. Increase the maximum permitted floor area ratio from 1.6 to 1.8 per Article 4, Section 2.2.7.F.
3. Reduce the minimum required lot area required for a self-storage facility from 2 acres to 1.2 acres per Article 5, Section 3.F.7.d.

As per submitted plan to permit construction of a multi-story self-storage facility in a C-4 district

Arthur Seymour, Jr., representing the applicant, was present. The widening of I-40 in 2002 reduced the size of the lot, and limited its accessibility and use. The multi-story building design for self-storage was relatively new, and was not considered when the lot area requirement was adopted into the ordinance.

Member Daniel Odle made a motion to approve the requests with the condition of UOR approval. It was seconded by Chairman Kristin Grove. The Board voted 5-0 to **APPROVE with the CONDITION** of Use-On-Review approval form MPC.

File: 3-D-17-VA

Parcel ID: 107NG021

Applicant: Reagan Bollig

Address: 565 Arrowhead Trail

Zoning: R-1 (Low Density Residential) District
2nd Council District

Variance Request:

Reduce the minimum required north side yard setback from 12 ft. to 5.5 ft. per Article 4, Section 2.1.1.E.2.a.

As per submitted plan to permit the addition of an attached carport in an R-1 district.

Reagan Bollig was present. The topography and existing building prohibited the addition of an attached carport within the setback requirement.

In opposition, Brian Hochanadel was present. He owned the adjacent property. He wanted to know how close the retaining wall would be to his driveway. Mr. Bollig had no detailed plans regarding its size or location, other than it would be 5.5 feet from the property line. Mr. Elder clarified that the 5.5 feet distance was measured from the edge of the roof line; and the wall could be built on the property line.

Board members pointed out the lack of a hardship. They suggested a postponement to give him time to address his neighbors' concerns. Mr. Bollig agreed.

Member Charlie Van Beke made a motion to postpone the request until the April meeting. It was seconded by member David Dupree. The Board voted 4-1 to **POSTPONE** the request until the April 20, 2017 meeting. Member Daniel Odle voted against the motion.

File: **3-E-17-VA**
Applicant: Urban Engineering, Inc.
Address: 800 Broome Road
Zoning: RP-1 (Planned Residential) District
2nd Council District

Parcel ID: 106OA040

Variance Requests:

1. Increase the maximum permitted driveway width from 30 ft. to 31 ft. per Article 5, Section 7.B.3.c.Table.
2. Increase the maximum permitted driveway curb cut length from 60 ft. to 108 ft. per Article 5, Section 7.B.3.c.Table.

As per submitted plan to permit the construction of an assisted living facility in an RP-1 district.

Chris Sharp, the applicant, was present. The deceleration lane and driveway configuration prohibited compliance with the code.

Member Charlie Van Beke made a motion to approve the requests. It was seconded by member Daniel Odle. The Board voted 4-0 to **APPROVE** the request. Member David Dupree abstained. Member Charlie Van Beke amended the motion to include UOR approval. It was seconded by member Daniel Odle. The Board voted 4-0 to **APPROVE with the CONDITION** of Use-On-Review approval from MPC. Member David Dupree abstained.

File: **3-F-17-VA**
Applicant: Carl Lansden
Address: 1029 Kenyon Street
Zoning: R-1A / H-1 (Low Density Residential / Historic Overlay) Districts
4th Council District

Parcel ID: 081LF007

Variance Request:

Reduce the minimum required Armstrong Street front yard setback from 25 ft. to 6.5 ft. per Article 4, Section 2.2.6.E.1.

As per submitted plan to permit placing a relocated detached dwelling at this location in an R-1A / H-1 district.

The request was **WITHDRAWN** by the applicant before the meeting.

File: **3-G-17-VA** **Parcel ID:** 082PL016
Applicant: Shelli Glasgow – Nana’s House
Address: 1711 E. Magnolia Avenue
Zoning: O-1 (Office, Medical and Related Services) District
6th Council District

Variance Requests:

1. Reduce the minimum required lot size for a private day nursery from 15,000 sq. ft. to 7,500 sq. ft. per Article 5, Section 3.F.4.a.
2. Reduce the minimum required fenced outdoor play area for a private day nursery from 4,000 sq. ft. to 1,750 sq. ft. per Article 5, Section 3.F.4.c.
3. Reduce the minimum required setback for the fenced outdoor play area from a public street from 35 ft. to 0 ft. per Article 5, Section 3.F.4.c.
4. Reduce the minimum number of required parking spaces from 5 spaces to 0 spaces per Article 5, Section 7.A.3.a.Table.

As per submitted plan to permit continued operation of an existing private day nursery in an O-1 district.

Shelli Glasgow and Vicki Reedy, the applicants, were present. The hardship was the existing business use as a daycare. They were unaware of the violations when they purchased the property. They kept 16 to 18 children, and had 4 employees. They never received any complaints. The Epilepsy Foundation of East TN, located next door, verbally agreed to share 3 parking spaces.

In opposition, Christopher Salmons was present. He resided across the alley. The daycare business was operating illegally, and without city or state business licenses. Numerous complaints were made about the daycare’s garbage in the alleyway, excessive noise, and traffic problems. He doubted their parking agreement claim because the epilepsy center used cones to prevent the daycare’s traffic from using their parking lot. A registered sex offender lived in the apartment building next door. The applicants showed a willful disregard for state codes, and the safety and welfare of the children they kept. The variance requests were excessive. The play area was 100% asphalt, used barbed wire fencing, and was located next to an active alleyway. Because children could reach through the fence into the alley, he was concerned passing vehicles could potentially hit the children. They were not good neighbors and had disagreements with owners of adjacent properties. The City code set standards that should not be lowered, as they were designed to ensure the safety and welfare of the public. All the other daycare centers in the district were in full compliance, and met the City’s standards. The applicant had no hardship and should find another lot that could meet the City’s code for the safety of children.

In rebuttal, Ms. Reedy stated they never had a problem with the parking area’s cleanliness. Other daycare centers in the area were also adjacent to the alley. They never had a problem with the epilepsy center. The cones were placed by the daycare center for safety. The first disagreement with the epilepsy center was resolved by opening the back gate to allow traffic to flow into the alley. This was why Mr. Salmons was upset. They were willing to keep the gates closed. Multiple fences

were on the property. The one around the play area was chain link. The state inspected the property each year, and would not allow them to operate if there were safety issues.

Member Charlie Van Beke stated that many of the arguments presented by Mr. Salmons were not related to the variance requests. Chairman Kristin Grove questioned the need for a parking variance of zero (item 5). Mark Johnson clarified that the staff recommended this parking variance because there was no way to configure a parking space that would meet the city's code. Several variances would be required to create just one space.

Member David Dupree stated the daycare was providing a valuable service and made a motion to approve the requests. It was seconded by member Charlie Van Beke. Member David Dupree amended the motion by adding the condition of UOR approval from MPC. It was seconded by member Charlie Van Beke. The Board voted 5-0 to **APPROVE with the CONDITION** of Use-On-Review approval from MPC.

File: 3-H-17-VA
Applicant: Sara Martin
Address: 2103 Island Home Blvd
Zoning: R-1 (Low Density Residential) District
1st Council District

Parcel ID: 095NE02303

Variance Request:

Reduce the minimum required east side yard setback for an accessory building from 5 ft. to 3 ft. 1 in. per Article 4, Section 2.1.1.E.2.b.

As per submitted plan to permit the construction of a detached garage in an R-1 district.

Sara Martin, the applicant, was present. The proposed garage would be on the site of a previous garage. This placement would align the proposed garage with the existing concrete drive strips, but did not comply with the setback requirements. It also required a rated wall because of its proximity to the neighbor's garage. The neighbor supported the request. Member Charlie Van Beke noted that the request was consistent with the neighborhood.

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

File: 3-I-17-VA
Applicant: Joan Monaco for Christine Duncan
Address: 305 Richmond Avenue
Zoning: RP-1 (Planned Residential) District (pending)
3rd Council District

Parcel ID: 094HA002-005
& 094HB006-015

Variance Requests:

1. Reduce the minimum number of required parking spaces from 17 spaces to 12 spaces per Article 5, Section 7.A.3.a.Table.
2. Decrease the minimum required distance a driveway can be constructed away from an adjacent street right-of-way line on a corner lot from 25 ft. to 0 ft. per Article 5, Section 7.B.2.a.

3. Decrease the minimum required width of a driveway from 20 ft. to 15 ft. per Article 5, Section 7.B.3.c.Table.

As per submitted plan to permit construction of a residential development consisting of multiple dwellings and a community building in an RP-1 district.

Joan Monaco, representing Christine Duncan, was present. The buildings would be small, clustered together, and share a common parking area. The variances were in keeping with the intent of the Hillside and Ridgetop Protection Plan.

Member Charlie Van Beke made a motion to approve the request with the condition of UOR approval from MPC. It was seconded by member Don Horton. The Board voted 5-0 to **APPROVE with the CONDITION** of Use-On-Review approval from MPC.

File: **3-J-17-VA** **Parcel ID:** 121BA014
Applicant: Jeb Scoggins
Address: 5900 Kingston Pike
Zoning: C-4 (Highway and Arterial Commercial) District
2nd Council District

Variance Request:

Reduce the minimum number of required parking spaces from 20 spaces to 8 spaces per Article 5, Section 7.A.3.a.Table.

As per submitted plan to permit a change of use in an existing commercial building in a C-4 district.

Jeb Scoggins, the applicant, was present. The existing building prohibited compliance with the parking space requirement. There would be 2 or 3 employees at the most.

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

File: **3-K-17-VA** **Parcel ID:** 108CC030,
Applicant: Orange Knoxville Cumberland, LLC 032 & 033
Address: **0 Cumberland Avenue**
Zoning: FD-CU-2 & FD-CU-3 (Form District – Cumberland Avenue) Districts
1st Council District

Variance Requests:

1. Increase the maximum permitted build-to-zone distance from 10 ft. to 20 ft. per Article 4, Section 4.2.3.B.2.Table.
2. Increase the maximum permitted building height from 100 ft. to 105.5 ft. per Article 4, Section 4.2.3.B.3.Table.
3. Increase the required story level for a building stepback from the 2nd or 3rd story to the 4th story on the western end of the building per Article 4, Section 4.2.3.B.3.Table.

4. Increase the maximum permitted entrance spacing from 50 ft. to 162 ft. for the eastern most ground floor tenant on the primary street frontage per Article 4, Section 4.2.3.B.4.Table.
5. Increase the maximum permitted entrance spacing from 50 ft. to 72 ft. for the western most ground floor tenant on the primary street frontage per Article 4, Section 4.2.3.B.4.Table.
6. Reduce the minimum required ground story floor to ceiling height from 12 ft. to 9 ft. per Article 4, Section 4.2.3.B.3.Table.
7. Reduce the minimum required ground floor elevation for a nonresidential use from 0 ft. to -8 ft. per Article 4, Section 4.2.3.B.3.Table.
8. Increase the maximum permitted curb cut length on Cumberland Avenue from 60 ft. to 64.8 ft. per Article 5, Section 7.B.3.c.
9. Reduce the minimum required ground story transparency on Cumberland Avenue from 75% to 69.5% per Article 4, Section 4.2.3.B.4.Table.
10. Reduce the minimum required ground story transparency on 22nd Street from 75% to 54% per Article 4, Section 4.2.3.B.4.Table.

As per submitted plan to permit construction of mixed use commercial / residential building in FD-CU-2 and FD-CU-3 districts.

Peter Ahrens explained that the plans have not been approved, yet, by the FBC Administrative Review Committee. More variances may be required later.

Because of the number of variance requests, Chairman Kristin Grove made a motion to grant the applicant an additional 5 minutes to explain his requests. It was seconded by member Charlie Van Beke. The Board voted 5-0 to **APPROVE** the motion.

Bob Whetzel, Jeff Brower, Grace Jones, Mike Waller, and Arthur Seymour, Jr., were present. ARC approval was expected within 30 days. Topography was the primary hardship. Slope issues prohibited compliance with the Form Based Code for Cumberland Avenue. They were working closely with City Engineering to find workable solutions. Jeff Brewer explained that CVS parking was completely segregated from other parking. All residential parking was from White Avenue, and was 100% access controlled. Guest parking areas would be monitored by security personnel. Member Don Horton asked about the energy code requirements. Mr. Ahrens confirmed that energy code compliance was part of the permit process.

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

File: **3-L-17-VA**
Applicant: Nature's Best Organics of Tennessee, LLC
Address: 1255 Procter Street
Zoning: I-4 & F-1 (Heavy Industrial & Floodway) Districts
 3rd Council District

Parcel ID: 0941E006

Variance Request:

Reduce the minimum required setback from the Holston River Railroad from 75 ft. to 0 ft. per Article 4, Section 2.3.3.E.2.

As per submitted plan to permit reuse of the existing building for a mulch transfer station in an I-4 & F-1 districts.

Rob Sanders, the land surveyor representing the applicant, was present. This was a pre-existing non-conforming property. He presented a Southern Railroad map from 1927 that showed the property had remained relatively unchanged. They planned to modify the interior, but could not get a permit because it was never a lot of record. In order to plat the property, everything had to be in compliance, which led to this variance request. Neither the building footprint nor the industrial use had changed.

Member Charlie Van Beke made a motion to approve the request. It was seconded by member David Dupree. The Board voted 4-0 to **APPROVE** the request. Member Daniel Odle abstained.

OTHER BUSINESS

The next BZA meeting is April 20, 2017.

ADJOURNMENT

The meeting adjourned at 5:30 pm