

**CITY OF KNOXVILLE  
BOARD OF ZONING APPEALS  
MEETING MINUTES  
March 19, 2015**

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 19, 2015 meeting at 4:00 p.m. in the Small Assembly Room, City/County Building, 400 Main Street, Knoxville, TN.**

**CALL TO ORDER**

Board Chairman Don Horton called the meeting to order at 4:02 p.m. Members present were: Don Horton; Barbara Clark; Charlie Van Beke; and Daniel Odle.

Others in attendance: Peter Ahrens, Plans Review and Inspections Director; Scott Elder, Zoning Chief; Mark Johnson, City Engineering; David McGinley, City Engineering; Crista Cuccaro, Law Department; Scott Brenneman, Sign Inspector; Marty Clay, Chief Building Inspector; Debbie Brooks, Board Secretary; and Thomas Brechko, Metropolitan Planning Commission (MPC).

**OLD BUSINESS**

**File: 1-E-15-VA**  
**Applicant: Anthony Capiello**  
**Address: 5400 Kingston Pike** **Parcel ID: 107NJ001**  
**Zoning: C-3 (General Commercial) District**  
**2nd Council District**

**Variance Request:**

Reduce the minimum required front yard setback on Homberg Drive from 25 feet to 0 feet per Article 4, Section 2.2.6.E.1.

As per the submitted plan to permit an addition to an existing non-conforming commercial building in a C-3 (General Commercial) District.

**Board Chairman Don Horton said this item had been WITHDRAWN by the applicant.**

**File: 2-E-15-VA**  
**Applicant: Ortwein Sign**  
**Address: 6650 Clinton Highway** **Parcel ID: 067LB002**  
**Zoning: PC-1 (Retail and Office Park) District**  
**3rd Council District**

**Variance Request:**

Increase the maximum sign allowance from 1 square foot of sign area per each 10 square feet of floor space to 1.2 square feet of sign area per each 10 square feet of floor space per Article 5, Section 10.E.13.

As per the submitted plan to permit the installation of a new sign package for the existing business in a PC-1 (Retail and Office Park) District.

Mr. Jim Teal, Ortwein Sign Company, said he was representing the owners of Wendy's at 6650 Clinton Highway. Mr. Teal said at the last meeting they decided to reconvene this month and review the priority

of the signage that the client would like for the Board to consider at his site. Mr. Teal said the revised drawings have been submitted. Mr. Teal said the owner had petitioned Wendy's corporate office and asked for a reduction in the sign package. Mr. Teal said they have reduced to a grouping of:

Item 1 (Sign A) -- A 30-inch tall illuminated sign. This was reduced from 36 inches to 30 inches and the reduction was 9.8 square feet from their standard package.

Item 2 (Sign B) -- A 36-inch illuminated channel-letter sign on the right-side elevation. There was currently a 24-inch sign and that was the only wall sign at the site and it faced Clinton Highway.

Item 3 (Sign C) – A 24-inch sign would be on the back side of the building facing the strip mall behind them.

Item 4 (Sign D) – A non-illuminated sign on the back side of the building as customers exit the drive-thru to say Thank You.

Board member Charlie Van Beke said the Board had been informed by the staff that the owners have reduced the differential between what the applicant asked for and what was required by 20% by diminishing the sign sizes and removing one sign. Mr. Teal said that was correct. Mr. Van Beke said the Board appreciated the fact that they had done that much. Mr. Teal said he appreciated the Board considering the request. Mr. Teal said the sign on the street was one they would like to replace. Mr. Teal said they would like to take the 24-inch sign that was currently on the front of the building and place it on the back side of the building to face the strip mall. Mr. Horton asked about the pole sign. Mr. Teal said there were no changes to the pole sign.

No opposition was present at the meeting.

Board member Charlie Van Beke made a motion to APPROVE the one request and it was seconded by Board Chairman Don Horton. **The Board voted 4-0 to APPROVE the one request.**

**File: 2-H-15-VA**  
**Applicant: Dan Cannon**  
**Address: 146 Moss Grove Blvd. Parcel ID: 132-02713**  
**Zoning: PC-1(k) (Retail and Office Park) District**  
**2nd Council District**

**Variance Request:**

Reduce the minimum number of required parking spaces from 315 spaces to 280 spaces per Article 5, Section 7.A.3.a.Table.

As per the submitted plan to permit the construction of a new commercial building in a PC-1(k) (Retail and Office Park) District.

Scott Elder, Zoning Chief, said the original request that was heard a month ago was for 315 spaces to 280 spaces for a 70,000 square-foot building. Mr. Elder said the applicant has since submitted a new site plan showing a 57,894 square-foot (retail space) building and the parking requirement was from 261 spaces to 232 spaces. Mr. Elder said this represented an 11% reduction and the revision was what the Board was hearing today.

Andrew Prince, Moss Grove Boulevard, said he was seeking a variance to go from 4-1/2 parking spaces to 4 parking spaces per 1000. Mr. Prince said the reason they had done this was basically the grade in the rear of the building. Mr. Prince said they had a substantial amount of grade from the back to the front. Mr. Prince said to obtain their parking grade that they needed to maintain they needed to reduce

the number of parking spaces. Mr. Prince said they had learned from their last variance request, they now wanted to have sinkholes over near the detention pond and also had a request from their tenant to have more green space. Mr. Prince said that was why they shifted the parking to the rear of the building and left the triangle of green space beside the detention pond.

Board Chairman Don Horton said they made the building smaller and moved it south. Mr. Horton said they kept the same ratio. Mr. Horton asked what the facility type was. Mr. Prince said it was an industrial-style flooring retail. Mr. Prince said their hardships were the grade and sinkholes near the detention pond. Mr. Prince said as of right now they also had a soils report that was not really favorable because of the retail store to the west and the apartments to the south. Mr. Prince said they used it as a staging/fill site. Mr. Prince said they had reduced the amount of acreage that they were covering with the parking because they wanted to disturb as little amount of acreage as possible.

No opposition was present at the meeting.

Board member Barbara Clark said it appeared that the applicant had some serious topography issues that translated into their hardship. Mr. Prince said they had put in a substantial amount of retaining walls around the building as it was with the reduction in parking.

Board member Barbara Clark made a motion to APPROVE the one request (reduce the parking spaces from 261 to 232) and it was seconded by Board member Daniel Odle. **The Board voted 4-0 to APPROVE the one request (reduce the parking spaces from 261 to 232).**

### **NEW BUSINESS**

**File: 3-A-15-VA**  
**Applicant: Dan Butler**  
**Address: 724 Deery Street Parcel ID: 094DJ019**  
**Zoning: R-1A/H-1 (Low Density Residential / Historic Overlay) Districts**  
**4th Council District**

#### **Variance Request:**

Increase the maximum permitted lot coverage from 30% to 55% coverage per Article 4, Section 2.1.2.D.6.a.

As per the submitted plan to permit the construction of an addition to a house in an R-1A / H-1 (Low Density Residential / Historic Overlay) Districts.

Scott Elder, Zoning Chief, said the applicant has received a Certificate of Appropriateness from Historic Zoning Commission.

Dan Butler, 617 Deery Street, said the variance request was for 724 Deery Street. Mr. Butler said they wanted to build a porch on the back of their house but the lot was very narrow. Mr. Butler said already the house covered 45% of the lot. Mr. Butler said the porch would be 12 feet by 18 feet on the rear of the house with an inset from the sides. Mr. Butler said there was an alleyway between their house and the next side of the block.

No opposition was present at the meeting.

Board member Charlie Van Beke said he was pleased to see the continuing upgrading of the Fourth and Gill area. Mr. Van Beke said the plans looked like this would be a real improvement to the property. Mr. Van Beke said given the lot size and it was an old lot he would be inclined to approve the request. Mr.

Van Beke made a motion to APPROVE the one request and it was seconded by Board Chairman Don Horton. **The Board voted 4-0 to APPROVE the one request.**

**File:** 3-B-15-VA  
**Applicant:** Knoxville Botanical Gardens and Arboretum  
**Address:** 2832 Wimpole Avenue **Parcel ID: 082NJ00801**  
**Zoning:** A-1 (General Agricultural) District  
6th Council District

**Variance Request:**

Reduce the minimum number of required parking spaces from 44 spaces to 42 spaces per Article 5, Section 7.A.3.a.Table.

As per the submitted plan to permit conversion of an existing building for use as a visitor pavilion in an A-1 (General Agricultural) District.

Scott Elder, Zoning Chief, said there was a little bit of history here but only if the Board had specific questions then the staff would be happy to answer the questions.

Aarron Gray, Fulghum, MacIndoe, & Associates, Inc., 10330 Hardin Valley Road, said they were requesting a parking reduction for a new visitor center at the Botanical Gardens site. Mr. Gray said the parking reduction was mainly to reduce the impact the existing Botanical Gardens (the trees and the other historical features). Mr. Gray said given the use and the occupancy of the building they thought it was appropriate there, too.

Board Chairman Don Horton said he understood this was a sophisticated gravel parking lot. Mr. Gray said that was correct except for the handicapped parking spaces which were required to be hard surface.

No opposition was present at the meeting.

Board member Charlie Van Beke made a motion to APPROVE the one request and it was seconded by Board member Daniel Odle. **The Board voted 4-0 to APPROVE the one request.**

**File:** 3-C-15-VA  
**Applicant:**  
**Address:** **Parcel ID:**  
**Zoning:**

**Variance Request: WITHDRAWN**

**File:** 3-D-15-VA  
**Applicant:** Elizabeth Eason Architecture  
**Address:** 2647 Bafford Place **Parcel ID: 109DC00802**  
**Zoning:** RP-1 (Planned Residential) & H-1 (Historic Overlay) Districts  
1st Council District

**Variance Request:**

Reduce the minimum number of required parking spaces from 25 spaces to 17 spaces per Article 5, Section 7.A.3.a.Table.

As per the submitted plan to permit increased enrollment at an existing private school in an RP-1 (Planned Residential) & H-1 (Historic Overlay) Districts.

Crista Cuccaro, Law Department, said if the request is approved by the Board it should be conditioned upon the approval of the Use-On-Review by the Metropolitan Planning Commission (MPC).

Monica Miller, Elizabeth Eason Architecture, 524 South Gay Street, said Ella Jones, the building owner, was also present at the meeting. Ms. Jones said their building was not on the Historic Registry yet but they were hoping it would be someday. Ms. Jones said they were seeking the approval to go from 25 spaces to 17 spaces. Ms. Jones said the private school had children from toddlers up through age 12. Ms. Jones said they would be expanding into classrooms serving ages 6-12 with their next phase of renovation. Ms. Jones said because they had mixed ages in the building that had staggered arrival times. Ms. Jones said they preferred the school day to work that way because it benefited the families. Ms. Jones said currently they had 50 students in the building. Ms. Jones said the way the building was situated on the property they connected to Ijams Nature Center and they were also on a hill. Ms. Jones said they were really using all of the space they could for parking that they currently had. Ms. Jones said any growth would infringe upon the natural space within the property.

No opposition was present at the meeting.

Board member Charlie Van Beke asked if they were currently not using the entire building. Ms. Jones said no. Mr. Van Beke asked if they would be increasing the usage of the building without affecting the footprint of the building. Ms. Jones said this was correct. Mr. Horton asked if they had applied for the National Register or was it a goal. Ms. Jones said it was a goal. Mr. Horton said he knew the building and the site and he agreed there was a good bit of contour that was unusable or easily usable as far as parking. Mr. Horton asked if the request addressed basically staff parking. Ms. Jones said yes. Mr. Van Beke asked if they contemplated having any family events at the school. Ms. Jones said they were fortunate because their property connected to Ijams Nature Center and there was a trail that connected to their overflow parking. Ms. Jones said in larger events most families would park in the overflow parking (Ijams) when their parking lot is full. Ms. Jones said they had a good partnership with the nature center. Ms. Jones said they have also had shuttles for the events. Ms. Jones said they have tried to have classroom-specific evenings where one classroom or one parent group would be there at a time. Ms. Jones said they would go somewhere else for a larger whole-school event. Mr. Horton said the owner had a casual agreement with Ijams Nature Center and not an official agreement. Ms. Jones said it was a casual agreement. Mr. Van Beke said with the topographical features there, he did not know how they could do anything else than what they were doing. Mr. Horton said he agreed with Mr. Van Beke. Board member Daniel Odle asked when the owner increases to 120 students, how many staff member would be on site every day. Ms. Jones said it would be about 10 staff members and they would not be all there at one time. Mr. Horton said when the school increases the number of students, there would be a lot of siblings involved. Ms. Jones said yes.

Board Chairman Don Horton made a motion to APPROVE the one request conditioned upon the approval of the Use-On-Review from MPC and it was seconded by Board member Barbara Clark. **The Board voted 4-0 to APPROVE the one request conditioned upon the approval of the Use-On-Review from MPC.**

**File: 3-E-15-VA**  
**Applicant: Breck Bowlin**  
**Address: 1929 Laurel Avenue Parcel ID: 094NN017**  
**Zoning: O-1 (Office, Medical and Related Services) District**  
**1st Council District**

**Variance Request:**

Reduce the minimum required west side yard setback from 15 feet to 5 feet per Article 4, Section 2.2.1.D.2.b.

As per the submitted plan to permit the construction of a new accessory structure to serve the hospital in an O-1 (Office, Medical and Related Services) District.

Board member Charlie Van Beke recused himself from hearing this request.

Crista Cuccaro, Law Department, said if there is a motion to approve the request it should be conditioned upon the one-lot subdivision.

Rusty Baksa, Land Development Solutions, 310 Simmons Road, Suite K, said Fort Sanders Regional Medical Center has experienced some growth and the center has to replace their existing emergency generator. Mr. Baksa said this building will accommodate the proposed generator and it is so large they would need a variance to reduce the side yard setback. Mr. Baksa said the one-lot subdivision was approved by MPC just the other day and they are prepared to move along. Mr. Horton said the one-lot subdivision took the property line away. Mr. Baksa said that was correct. Mr. Horton asked what the generator height was. Mr. Baksa said it was 17 feet tall with a block wall built around it with penetrations. Mr. Baksa presented the exterior elevation diagrams to the Board members and explained that the space facing the street was the second diagram from the top. Mr. Baksa said it was an enclosed building.

No opposition was present at the meeting.

Board member Barbara Clark said this would certainly benefit the public. Ms. Clark said the hospital has outgrown its current facility and it was necessary to build a new one.

Board member Barbara Clark made a motion to APPROVE the one request and it was seconded by Board member Dan Odle. **The Board voted 3-0 to APPROVE the one request.**

**File: 3-F-15-VA**  
**Applicant: The Tennessean, LLC**  
**Address: 531 Henley Street Parcel ID: 094LJ001, 00101,00104,00105**  
**Zoning: C-2/D-1 (Central Business / Downtown Design Overlay) Districts**  
**6th Council District**

**Variance Request:**

Reduce the minimum floor elevation from one foot above the 500-year flood elevation 876.0 to 866.2 feet above sea level (City Code, Chapter 12 – Flood Damage Prevention and Control, Article 3, Section 12-52(2)).

As per the submitted letter from Cannon & Cannon to permit the renovation of an existing building for the conversion to a hotel in a C-2 / D-1 (Central Business / Downtown Design Overlay) Districts.

Board member Charlie Van Beke returned to the Board meeting table.

Board Chairman Don Horton recused himself from hearing this request. Board member Barbara Clark made a motion to elect Board member Charlie Van Beke to serve as the acting chairman. The motion was seconded by Board member Daniel Odle. **The Board voted 3-0 to elect Mr. Van Beke to serve as the acting chairman.**

Scott Elder, Zoning Chief, said David McGinley, City Engineering, and Mark Johnson, City Engineering, were present at the meeting to answer any questions from the Board.

**Mark Johnson, City Engineering, said he had a couple of revisions to the application:**

1. **The parcel number 094LJ001.01 needed to be removed from the application. This was a parcel that was owned by the City of Knoxville not by The Tennessean, LLC.**
2. **The variance needed to be revised to match the actual finished floor elevation and it should be from 876.0 to 866.78 feet. This revision was a lesser variance than what was advertised so it could still be heard.**

Arthur Seymour, Jr. 550 West Main Avenue, said he was present on behalf of the applicant. Mr. Seymour said he needed Harold Cannon, Cannon & Cannon Inc., to explain the engineering aspects. Mr. Seymour said Mr. Cannon had been consulting with the City of Knoxville on the effect of the revisions of the FEMA maps and how they and the City of Knoxville disagreed.

Harold Cannon, Cannon & Cannon Inc., 8550 Kingston Pike, said the City of Knoxville was currently using the FEMA maps dated August, 2013. Mr. Cannon said prior to this the vintage of the maps was 2009. Mr. Cannon said in regards to the modeling that took place to establish the 2013 maps there were some changes made to the modeling criteria that FEMA sat out. Mr. Cannon said to City of Knoxville Engineering Department's credit they challenged FEMA on this. Mr. Cannon said FEMA did stay with the criteria which have caused some more surface profiles throughout the City of Knoxville to raise. Mr. Cannon said in this particular case when FEMA revised the model, they actually had a bad cross section at Cumberland Avenue. Mr. Cannon said in fact, the cross section reflected there was a wall at Cumberland Avenue which would cause water to back up over 40 feet in the valley of Cumberland Avenue. Mr. Cannon said it would back up to the church parking lot and to the west side of the valley it would get into the University of Tennessee's (UT) parking garage. Mr. Cannon said most of us knew no such wall existed right now. Mr. Cannon said with the cooperation of the City of Knoxville's Engineering Department they have remodeled that and have added more sections throughout the valley and have established what the revised 500-year flood plain would be. Mr. Cannon said he had a larger map than maybe what the Board had seen earlier that reflected the changes and he explained the larger drawing to the Board members:

*"A small scale of this map was in the revised FEMA flood analysis for this particular section of Second Creek. The green line was the limits of the 500-year flood plain per FEMA's current model. If you compare it to the 2009 model there are areas including the Exposition Center, The Tennessean, and Holiday Inn, none of which were in the flood plain before. They were shown to be in it now which included part of UT's parking garage and how far it came up Cumberland Avenue. It then tapers down to a smaller corridor. It was a mistake and these things were rare but do happen. Mr. Cannon said through the variance mechanism they were allowed to remodel and the cross section was the revised 500-year flood plain. The model was done in accordance with FEMA standards and additional sections were added to the model to reflect the new proposed limits."*

Board member Charlie Van Beke asked if FEMA corrects the map the cross section would then be the actual 500-year flood plain. Mr. Cannon said there would be a letter of map revision filed with FEMA. Mr. Cannon said the maps would be revised to reflect the area in the cross section. Mr. Van Beke said that would get The Tennessean along with the other structures out of the flood plain. Mr. Cannon said yes.

Mr. Seymour said this was not a zoning variance as such. Mr. Seymour said they were dealing the City of Knoxville's Flood Damage, Prevention and Control Ordinance which he thought was in the Board members' agenda packet. Mr. Seymour said there was a variance procedure which was permitted in this ordinance and there were various criteria by which the Board members consider the ordinance. Mr. Seymour said the big thing was harm to the public and there was none. Mr. Seymour said this existing old state office building has been there since the 1980s and was surplus initially by the State of Tennessee. Mr. Seymour said the surplus transferred to the City of Knoxville Industrial Development Board for disposal. Mr. Seymour said they issued a proposal request and The Tennessean responded to the request with a proposal for an up-scaled hotel at this location which was a good use for it because it

was across Clinch Avenue from the Convention Center. Mr. Seymour said The Tennessean acquired the property from the Industrial Development Board on July 1, 2013 and at that time it was not in the 500-year FEMA maps. Mr. Seymour said those maps were submitted in October, 2013. Mr. Seymour said the Industrial Development Board hoped this to be developed as a luxury hotel and the applicant would certainly suffer a hardship if this request was not granted. Mr. Seymour said he submitted that there was no criteria set forth in the ordinance that would be violated by the request.

No opposition was present at the meeting.

David McGinley, City Stormwater Engineering, said they were not in opposition of this request which was highly unusual for a request of this nature. Mr. McGinley said he wanted to point out that the map was incorrect and City Engineering knew it was wrong. Mr. McGinley said they had an engineered study showing where the limits and the elevations should be. Mr. McGinley said the variance request was to what the corrected map was going to show. Mr. McGinley said the variance was to bridge the gap until FEMA could approve those maps and allow the developer to continue on. Mr. McGinley said the City Engineering Department was not opposed to this request.

Acting Board Chairman Charlie Van Beke said what it came down to was but for the mistake made in the most recent map there would be no need for a variance. Mr. McGinley said that was correct and that was what they understood and what Mr. Cannon's study showed. Board member Daniel Odle asked what the chances were that FEMA would actually not correct their maps. Mr. McGinley said he had been with the City of Knoxville for 18 years and the flood plain manager for approximately 16 years. Mr. McGinley said he had not seen FEMA reject a Letter of Map Revision (LOMR) that they had reviewed and approved. Mr. McGinley said the chances were low. Mr. Cannon said in further support of that position was the fact that there was bad information that was used for the model on FEMA's map. Mr. Cannon said it had no choice but to be corrected. Mr. Cannon said they could physically go out to the site and see what they were showing on their maps could not simply occur right now. Mr. Cannon said if the City of Knoxville approves a change, FEMA usually does not challenge that. Mr. Cannon said in this particular case because bad information was put into the model he saw the chance slim to none that they would back out on this.

Board member Daniel Odle made a motion to APPROVE the request subject to the removal of Parcel 094LJ001.01 and it was seconded by Board member Barbara Clark. **The Board voted 3-0 to APPROVE the one request subject to the removal of Parcel 094LJ001.01 and the revision of the flood elevation from 876.0 to 866.78 (formerly 866.2) that was in the record.**

**File: 3-G-15-VA**  
**Applicant: Matrix Holdings**  
**Address: 301 Dickson Street Parcel ID: 082DC039**  
**Zoning: R-1 (Low Density Residential) District**  
**6th Council District**

**Variance Requests:**

1. Reduce the minimum required front yard setback from 25 feet to 21 feet per Article 4, Section 2.1.1.E.1.a.
2. Reduce the minimum required rear yard setback from 25 feet to 6 feet per Article 4, Section 2.1.1.E.3.a.
3. Reduce the minimum required lot size from 7500 square feet to 5587 square feet per Article 4, Section 2.1.1.E.5.a.

As per the submitted plan to permit the construction of a new dwelling in an R-1 (Low Density Residential) District.



Board Chairman Don Horton returned to the Board meeting table.

Scott Elder, Zoning Chief, said this lot was creating a small lot of record which under the Zoning Ordinance it must meet one of three exceptions. Mr. Elder said this lot did meet the one exception of being created by deed prior to the year 1947.

Jesse Hurley, Matrix Holdings, said they were requesting the front and rear setback reduction due to exceptional narrowness of the lot.

Board member Charlie Van Beke said the lot seemed to be really irregularly-shaped and it looked like it was pretty difficult to work with to begin with. Mr. Hurley said he met with Greg Anderson, Plans Examiner, and they looked at the best option for the structure to be put. Mr. Hurley said they would have plenty of room for the driveway and everything. Mr. Hurley said the right-hand side was on such an angle that it made a reduction in their width because of the front to the back of the house. Board member Barbara Clark said the Board understood that the adjacent property owner of Lots 38 and 40 would not sell. Mr. Hurley said he met with the adjacent property owner last month trying to purchase those lots (38 and 40) and he did not want to sell.

Board member Barbara Clark made a motion to APPROVE the three requests and it was seconded by Board member Daniel Odle. **The Board voted 4-0 to APPROVE the three requests.**

### **ADJOURNMENT**

The meeting was adjourned at 4:55 p.m.

Respectively submitted,

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Deborah Brooks, Board Secretary