

**CITY OF KNOXVILLE
BOARD OF ZONING APPEALS
MEETING MINUTES
April 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 **April 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 4:08 p.m. Other Board members present were David Dupree, Kristin Grove, Daniel Odle, and Charlie Van Beke.

Others in attendance were DeAnn Bogus, Deputy Director of Building Inspections; Crista Cuccaro, Law Department; Scott Elder, Zoning Chief; Brandon Littlejohn, Zoning Inspector; Mark Johnson, Engineering; David McGinley, Engineering; Mike Reynolds, MPC; Angelia Rooks, Board Secretary; and Melvin Wright, Plans Reviewer.

APPROVAL OF MINUTES

Board member Charlie Van Beke made a motion to approve the March 17, 2016 minutes. It was seconded by Board member Daniel Odle. The Board voted 5-0 to **APPROVE** the minutes.

OLD BUSINESS

File:	1-B-16-VA	Parcel ID: 094OD02001
Applicant:	908 Development Group	
Address:	2308 Forest Avenue	
Zoning:	RP-3 (Planned Residential) District	
	1st Council District	

Variance Requests:

1. Reduce the minimum drive aisle width for two-way traffic with 90 degree parking from 26 ft. to 24 ft. near the pool per Article 5 Section 7.A.4.a.2.Table.
2. Reduce the minimum drive aisle width for two-way traffic with 90 degree parking from 26 ft. to 25 ft. in the alley per Article 5, Section 7.A.4.a.2.Table.

As per submitted plan to bring existing parking lot into conformance in an RP-3 (Planned Residential) District.

Te Ridner, General Manager at University Walk, was present. The developer/applicant, was based out of town, and could not attend the meeting.

Mark Johnson, Engineering, stated that the parking lot was not built per submitted plans. The as-built drawings showed several deficiencies, most of which have been corrected and were now in compliance. The developer could not rebuild or correct the drive aisle widths. Engineering supported the variance requests.

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

File: 1-F-16-VA **Parcel ID:** 094KF015
Applicant: Brian Pittman / McCarty, Holsaple, McCarty
Address: 220 Carrick Street
Zoning: O-1/H-1 (Office, Medical and Related Services / Historic Overlay) Districts
6th Council District

Variance Request:

Increase the maximum number of ground signs permitted from 1 sign to 2 signs per Article 8 Section 11.5.b.2.

As per submitted plan to permit an additional ground sign in an O-1/H-1 (Office, Medical and Related Services / Historic Overlay) Districts.

David Collins, of MHM Architects & Interior Design, and David Wells were present. He presented an additional site-plan and photos for the Board. The second ground sign was necessary for safety of students and drivers at the school entrance. He amended the request to include removing the canopy sign to reduce the amount of signage.

Board member Kristin Grove made a motion to approve the request as amended to include the removal of the canopy sign. It was seconded by Board member Daniel Odle. The Board voted 4-1 to **APPROVE** the request **AS AMENDED**. Board member David Dupree voted against the motion.

File: 3-F-16-VA **Parcel ID:** 069LA013
Applicant: Brett Honeycutt
Address: 4125 McKinley Street
Zoning: C-3 (General Commercial) District
5th Council District

Variance Request:

Reduce the minimum required front yard setback from 25 ft. to 15 ft. per Article 4, Section 2.2.6.E.1.

As per submitted plan to permit construction of a new building in a C-3 (General Commercial) District.

Brett Honeycutt, the applicant, requested the Board to postpone hearing the request for 60 days to get C-6 rezoning approval first. He planned to amend the variance request to reflect the C-6 zoning.

Board member Kristin Grove made a motion to postpone the request to the June meeting. It was seconded by Board member Charlie Van Beke. The Board voted 5-0 to **POSTPONE** the request to the June 16, 2016 meeting.

NEW BUSINESS

File: 4-A-16-VA **Parcel ID:** 058ED012
Applicant: Brian Ripley
Address: 5101 Kesterwood Court
Zoning: R-1 (Low Density Residential) District
4th Council District

Variance Request:

Reduce the minimum required front yard setback from 25 ft. to 19.7 ft. per Article 4, Section 2.1.1.E.1.

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

Brian Ripley, the applicant, and Harold Cannon were present. The narrow width of the road increased the required front yard setback. The project was stopped in January, when this was brought to his attention. The road was a dead end, and the house was further from the road than neighboring houses.

Board member Charlie Van Beke 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: 4-C-16-VA
Applicant: Southern Signs
Address: 10248 Kingston Pike
Zoning: C-3 (General Commercial) District
2nd Council District

Parcel ID: 131NC01401

Variance Request:

Reduce the minimum required setback for a sign from a street right-of-way for an on premise ground sign from 10 ft. to 8 ft. 6 in. per Article 8, Section 7.1.a.

As per submitted plan to permit reuse of existing poles to install a new sign in a C-3 (General Commercial) District.

Fritz Thumler, the applicant, was present. A new sign head will be added to an existing sign structure. The height was reduced to comply with the sign ordinance. There was 11.5 ft of clearance underneath the sign. Moving the sign structure would be expensive. He had not considered if the topography would prevent moving it, or how it would affect the existing parking count.

In opposition, Margot Kline of Scenic Knoxville was present. She said the applicant did not have a valid hardship required to grant a variance. The city sign ordinance required the sign setback to be 15 ft. as measured from the edge of the pavement, because it was a greater distance than measuring from the right-of-way (10 ft). She concluded that the actual variance would be greater than what was submitted on the application. There were also concerns about the sight distance. Ms. Kline submitted additional photos and accident data from the Knox County Sheriff's Office, which indicated that 48 accidents had occurred within 200 ft of this intersection within the last 10 years.

Brandon Littlejohn, Zoning Inspector, clarified that there was a 7 ft right-of-way from the edge of the pavement. The sign setback requirement was an additional 10 ft from the right-of-way, for a total of 17 ft from the edge of the payment. The variance request was written correctly, using the greater distance as required by the city sign ordinance.

Scott Elder, Zoning Chief, stated that this was a signaled intersection; so west-bound traffic entering Kingston Pike would be at a stop. There was more than 10 ft clearance underneath the sign. The city did not deem it a sight issue.

Board member Kristin Grove stated that a lot of the accident data presented occurred quite a distance from the intersection.

Board member Daniel Odle said all of the goals of the sign ordinance had been met. It did not make sense to move the existing sign structure 1½ ft. He made a motion to approve the request. It was seconded by Board member David Dupree. The Board voted 5-0 to **APPROVE** the request.

File: 4-D-16-VA
Applicant: City of Knoxville
Address: 953 E. Moody Avenue
Zoning: R-1/H-1 (Low Density Residential / Historic Overlay) and OS-2 (Park and Open Space) Districts
1st Council District

Parcel ID: 109GB01505 &
109GB01504

Variance Requests:

1. Reduce the minimum required southern side yard setback from 35 ft. to 15 ft. per Article 4, Section 2.1.1.E.2.c.
2. Reduce the minimum required rear yard setback from 25 ft. to 0 ft. per Article 4, Section 2.1.1.E.3.a.
3. Increase the maximum permitted lot coverage from 25% to 35.6% per Article 4, Section 2.1.1.E.6.b.

As per submitted plan to permit platting of the City owned property in an R-1/H-1 (Low Density Residential / Historic Overlay) and OS-2 (Park and Open Space) District.

Ken McMahan, Department of Community Development, was present. This was the old South High School which was sold by Knox County to a developer, but it was never developed and left to decay. The City acquired it through a negotiated sale; and added additional property for parking areas. The City's intent was to find a developer who will develop the building.

Board member Charlie Van Beke 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: 4-E-16-VA **Parcel ID: 094EF02501**
Applicant: Jesse Galbraith
Address: 333 Depot Avenue
Zoning: C-2/D-1 (Central Business / Downtown Design Overlay) District
6th Council District

Variance Requests:

1. Reduce the minimum required driveway width from 20 ft. to 11 ft. on Williams Street per Article 5, Section 7.B.3.c.Table.
2. Reduce the minimum required driveway width from 20 ft. to 16 ft. on E. Magnolia Avenue per Article 5, Section 7.B.3.c.Table.
3. Reduce the minimum required distance between driveways from 21 ft. to 8 ft. per Article 5, Section 7.B.1.d.

As per submitted plan to permit development of a parking lot in a C-2/D-1 (Central Business District / Downtown Design Overlay) Districts.

Board member Daniel Odle recused himself.

Jesse Galbraith and Faris Eid, the applicants, were present. Also present was Joe Petre, the developer. The original project design was completed and in compliance until an existing alley was closed. Because of the alley closure, they were limited to where an entrance could be located without redesigning several elements of the project.

Board member Kristin Grove made a motion to approve the requests. It was seconded by Board member Charlie Van Beke. The Board voted 4-0 to **APPROVE** the requests.

File: 4-F-16-VA **Parcel ID: 121JB00507**
Applicant: Knoxville Utilities Board
Address: 1500 Lyons Bend Road
Zoning: O-2 (Civic and Institutional) District
2nd Council District

Variance Request:

Decrease the minimum required floor elevation from 823.5 ft., one foot above the 500 year flood elevation, to 814.5 ft. per Flood Damage Prevention and Control Ordinance: Article 3, Section 12-52(2).

As per submitted plan to permit the construction of new equipment buildings in an O-2 (Civic and Institutional) District.

Arthur Seymour, Jr., representing the applicant, was present. Also present were Bernard Maloy of CDM Smith, and other KUB representatives.

David McGinley, Engineering, stated that this was different from other projects for several reasons. The plant was originally built in the 1950's, before the City came into the Flood Insurance Program in 1971; the Tennessee River was dam controlled; and this was part of a critical utility project, necessary to continue providing services. The City supported the variance request.

Board member Charlie Van Beke 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: 4-G-16-VA Parcel ID: 121HA00225
Applicant: Gerry Eastman
Address: 6520 Baum Drive
Zoning: C-6 (General Commercial Park) District
2nd Council District

Variance Request:

Reduce the minimum required east side yard setback from 20 ft. to 17.46 ft. per Article 4, Section 2.2.9.D.2.b.

As per submitted plan to permit an addition to an existing building in a C-6 (General Commercial Park) District.

Board Chairman Don Horton recused himself.

Garry Eastman, the applicant, was present. Also present was Bill Blankenship, representing the architect. The location of the existing building prohibited construction of the addition within the required setback. The original construction plans included the addition, but after the addition was removed from the plans, the building was moved closer to the setback. They could not reduce the size of the addition, as they were already using the smallest available building components from Butler buildings.

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

File: 4-H-16-VA Parcel ID: 058FF024 & 058FF028
Applicant: Robert G. Campbell & Associates, LP
Address: 103 Midlake Drive
Zoning: O-1 (Office, Medical and Related Services) and R-2 (General Residential) Districts
4th Council District

Variance Request:

Reduce the minimum required width of a drive aisle serving 90 degree parking from 26 ft. to 24 ft. per Article 5, Section 7.A.4.a.2. Table.

As per submitted plan to permit expansion of an existing medical office building in an O-1 (Office, Medical and Related Services) and R-2 (General Residential) Districts.

Robert Campbell, the applicant, was present. The topography, lot size, sidewalk, retaining wall and landscape buffer prohibited compliance with the minimum required drive aisle width.

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

Board member Charlie Van Beke left the meeting at 5:20 pm.

File: 4-I-16-VA Parcel ID: 081LC017
Applicant: Nick Shaffer
Address: 517 E. Oklahoma Avenue
Zoning: R-1A/H-1 (Low Density Residential / Historic Overlay) District
4th Council District

Variance Requests:

1. Reduce the minimum required side yard setback for an accessory structure from 8 ft. to 3 ft. per Article 4, Section 2.1.2.D.2.b.
2. Increase the maximum permitted height of an accessory structure from 15 ft. to 17.5 ft. per Article 4, Section 2.1.2.F.
3. Reduce the minimum required lot width at the front building line from 75 ft. to 53 ft. 8 in. per Article 4, Section 2.1.2.D.4.a.

As per submitted plan to permit platting of the lot and the construction of an accessory building in an R-1A/H-1 (Low Density Residential / Historic Overlay) District.

Nick Shaffer, the applicant, was present. He presented drawings of the accessory building to the Board for review. The building would be on the site of a one-car garage that was removed. The location of the driveway and lot size prohibited compliance with the setback and lot width requirements; the maximum permitted height prohibited the use for an additional living space. There were other accessory buildings in the neighborhood that exceed the maximum height requirement. Adding the additional living space above the garage was preferred to expanding the lot coverage.

Melvin Wright, Plans Reviewer, clarified that this accessory building was not considered a dwelling unit. The building code definition of *dwelling unit* includes, at minimum, a cooking surface, toilet facilities and a bedroom.

Scott Elder, Zoning Chief, stated that the applicant already has a COA for the design approval.

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

File: 4-J-16-VA Parcel ID: 109AA003-00302
Applicant: Wes Bradley
Address: 1995 Henley Street, 313 W. Blount Avenue
Zoning: FD-SW-6 (Form District, South Waterfront)
1st Council District

Variance Requests:

1. Increase the maximum permitted number of parking spaces from 482 spaces to 498 spaces per South Waterfront Design Guidelines, Section 4.1.3.G.7.b.
2. Reduce the minimum required percentage of porous pavement from 65% to 0% on the rail road property per South Waterfront Guidelines, Section 4.1.3.G.7.c.

As per submitted plan to permit construction of new apartments in an FD-SW-6 (Form District, South Waterfront) District.

Mike Price, representing MAP Engineers, was present. He stated that there was a parking lease agreement for this parcel between the applicant and Norfolk Southern Railway. The agreement was

verbally approved; and a written agreement will be provided to City staff before beginning work. They asked for a reduction of porous pavement because this was a brownfield site. The additional parking will be for public access to the Riverwalk area or visitors to the student housing.

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

File: 4-K-16-VA **Parcel ID:** 080JA007
Applicant: Batson, Himes, Norvell & Poe
Address: 5429 Pleasant Ridge Road
Zoning: C-3 (General Commercial), RP-1 (Planned Residential), and F-1 (Floodway) Districts
3rd Council District

Variance Requests:

1. Reduce the minimum required number of parking spaces from 46 spaces to 32 spaces per Article 5, Section 7.A.3.a.Table.
2. Increase the maximum driveway width from 30 ft to 36.5 ft per Article 5, Section 7.B.3.c.Table.
3. Increase the maximum driveway curb cut from 60 ft to 87.2 ft per Article 5, Section 7.B.3.c.Table.

As per submitted plan to permit construction of a new retail store in C-3 (General Commercial), RP-1 (Planned Residential) and F-1 (Floodway) Districts.

Tim Dunaway, the applicant, was present. The project was for a Dollar General store, and they typically have a low parking demand. Topography prohibits compliance with the minimum parking requirement. The increase in driveway width and curb cut was for truck access and turn-around area.

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

File: 4-L-16-VA **Parcel ID:** 108CE004-006 & 019-021
Applicant: Collegiate Development Group
Address: 1830 Cumberland Avenue
Zoning: FD-CU-1 and FD-CU-2 (Cumberland Avenue Form District)
1st Council District

Variance Requests:

1. Reduction of the minimum required parking module width in a parking garage with 90 degree parking on one side of the aisle from 44 ft. to 39 ft. per Article 5, Section 7.A.4.d.1.Table.
2. Reduction of the minimum required parking module width in a parking garage with 90 degree parking on both sides of the aisle from 60 ft. to 56 ft. per Article 5, Section 7.A.4.d.1.Table.
3. Reduce the minimum required number of parking spaces from 363 spaces to 348 spaces per Article 4, Section 4, Cumberland Avenue District 4.2.6.B.2.
4. Reduce the minimum ground floor elevation in the CU-1 Zone from 2 ft. to no minimum per Article 4, Section 4, Cumberland Avenue District 4.2.3.A.3.i.
5. Reduce the minimum required ground floor transparency for residential use in the CU-1 Zone from 40% to 20% per Article 4, Section 4, Cumberland Avenue District 4.2.3.A.4.A.
6. Reduce the minimum required width of a parking space from 8.5 ft. to 8.0 ft. for up to 40% of the provided parking per Article 5, Section 7.A.4.b.

As per submitted plan to permit construction of a mixed commercial and residential development in an FD-CU-1 & FD-CU-2 (Cumberland Avenue Form District).

Brandt Stiles, Alicia McCawley, and Arthur Seymour, Jr., representing the applicant, were present. Form code approval was conditioned on BZA approval of these variance requests. Topography

prohibits compliance with the minimum parking space width, number of required spaces, ground floor elevation and ground floor transparency. ADA parking spaces will be in compliance.

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

File: 4-M-16-VA **Parcel ID:** 131KA03101
Applicant: Arthur Seymour, Jr.
Address: 10461 Parkside Drive
Zoning: C-6 (General Commercial Park) District
2nd Council District

Variance Request:

Reduce the minimum required setback from the street right-of-way for a sign from 10 ft. to 0 ft. per Article 8, Section 7.1.a.

As per submitted plan to permit reuse of an existing sign after a change in tenant use in a C-6 (General Commercial Park) District.

Arthur Seymour, Jr., the applicant, and Alicia McCawley were present. The existing sign was built before the City annexed the property, and did not block visibility. Only the sign graphics will be changed. Utility easements (underground stormwater infrastructure, sanitary sewer) prohibited moving the sign, which would require re-engineering the entire site. A utility site-plan was presented to the Board for review.

Board members were concerned about setting a precedent for sign variances. The staff clarified that the property's location near Interstate 40 allowed for increased sign area and height limits. Specific dimensions for the existing sign were unavailable for review because the property was in the County at the time of construction. The applicant could possibly build a larger sign under the City's sign ordinance. Board members agreed that the intent of the sign ordinance had been met.

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

Board member David Dupree left the meeting at 6:10 pm.

File: 4-N-16-VA **Parcel ID:** 121CO1501
Applicant: Charles Atkins
Address: 6400 Sherwood Drive
Zoning: EN-2 (Established Neighborhood) District
2nd Council District

Variance Request:

Reduce the minimum required front yard setback from 79.45 ft. to 25 ft. per Article 4, Section 2.1.4.E.Table.

As per submitted plan to permit construction of a detached dwelling on a substandard lot of record in an EN-2 (Established Neighborhood) District.

Charles Atkins, the applicant, and Arthur Seymour, Jr., were present. The size of the lot prohibited compliance with the current setback. The property was platted in 2006 when it was still zoned R-1 with 25 ft setbacks. Knoxville City Council approved EN-2 zoning in 2011, changing the setback requirement to 79.45 ft, effectively making this lot impossible to develop.

Board members and staff discussed the process of rezoning, non-conforming lots, and compliance with development standards.

In opposition, Shawn Lyke, was present. As the president of the neighborhood board, he asked the Board to deny the request. They wanted to preserve the look of the historic neighborhood, which would be compromised by building houses too close to the road. The property was at the entrance of the neighborhood next to the water wheel. Development of this property would not only eliminate green space, but also expose the back of the proposed house to the main road. The owner created the hardship by carving out an unauthorized cul-de-sac. The owner should re-plat the property as it was originally, to allow development that would comply with the current zoning standards.

Board members and staff discussed the possibility of rezoning to R-1, re-platting options, the impact of this variance on adjacent lots, and redesigning or repositioning the house. The Board suggested postponing the request to give all parties time to discuss and explore other options.

Mr. Atkins stated that the architecture of the house would fit with the character of the area, but the lot was unbuildable under the EN-2 zoning requirements. Mr. Seymour clarified that the house frontage would be on Sherwood Drive. Mr. Lyke suggested a compromise by moving the home further back from Sherwood Drive by an additional 20 ft. As Board member Kristin Grove was illustrating Mr. Lyke's proposal, all parties broke into separate, simultaneous discussions, until a point of order was called.

Board Chairman Don Horton summarized the discussion for the record: It was suggested that the applicant amend the variance request by reducing the south side setback (to the interior of the lot) to allow more of a front yard setback on Sherwood Drive. The Board recommended postponing the request to give all parties time to discuss and explore other options.

Ron Hutchins, architect of the proposed house, stated that the house was designed around R-1 zoning requirements. He said he can move the footprint of the house, and asked the Board to advise him on what they would approve. The Board stated that he would have to submit a new site plan for review and amend the variance as needed. Board member Daniel Odle advised that more neighborhood support would be helpful, and he hoped they would be included in the discussion.

Mr. Seymour asked to postpone the request until the May meeting. The applicant would review the options, address the concerns of the neighborhood, revise the variance request, and also submit additional BZA applications for the adjacent lots.

Board member Kristin Grove made a motion to postpone the request. It was seconded by Board member Daniel Odle. The Board voted 3-0 to **POSTPONE** the request until the May 19, 2016 meeting.

OTHER BUSINESS

The next BZA meeting is May 19, 2016.

ADJOURNMENT

The meeting was adjourned at 6:55 pm.

Respectively submitted,

Angelia Rooks
Angelia Rooks, Board Secretary