

BOARD OF ZONING APPEALS

MINUTES May 17, 2018

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 May 17, 2018, meeting at 4:00 pm in the Main 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. § 9-44-101, et seq.

CALL TO ORDER

Board Chairman Kristin Grove called the meeting to order at 4:00 pm.

ROLL CALL

Board members present were David Dupree, Kristin Grove, Don Horton, Daniel Odle and Charlie Van Beke.

Others in attendance were Peter Ahrens, Building Official; Lisa Hatfield, Staff Attorney; Scott Elder, Zoning Chief; Brandon Littlejohn, Zoning Inspector; Joshua Frerichs, Stormwater Engineering; Mike Brusseau, MPC Senior Planner; and Angelia Rooks, Board Secretary.

MINUTES

Member Daniel Odle made a motion to approve the April 19, 2018 minutes. It was seconded by member Don Horton. The Board voted 4-0 to **APPROVE**. Member Charlie Van Beke abstained.

OLD BUSINESS

File:	1-B-18-VA	Parcel ID: 081NH00801
Applicant:	Knoxville Preservation & Development, LLC	(formerly 081NH004, 005, 008)
Address:	108 W. Oklahoma Avenue (formerly 1221 N Central St)	4 th Council District
Zoning:	C-3/I-2 (General Commercial / Restricted Manufacturing & Warehousing)	

Variance Requests:

1. Reduce the minimum required front yard setback from 25 ft to 1 ft along N. Central Street per Article 4, Section 2.2.3.E.1.
2. Reduce the minimum required front yard setback from 25 ft to 0 ft along W. Oklahoma Avenue per Article 4, Section 2.2.3.E.1.
3. Reduce the minimum required screening area between the proposed parking lots and all rights-of-way from 6 ft to 0 ft per Article 5, Section 7.J.2.c.2.
4. Reduce the minimum required setback for a parking lot from 6 ft to 0 ft per Article 5, Section 7.C.3.

5. Reduce the minimum required area for a terminal island from 120 sf to 0 sf for 4 terminal islands per Article 5, Section 7.G.5.d.
6. Reduce the minimum distance between a driveway accessing an arterial street on a corner lot and a local intersecting street from 100 ft to 42 ft 10 inches per Article 5, Section 7.H.2.a.Table 5.
7. Reduce the minimum required parking spaces from 127 to 57 per Article 5, Section 7.Tables 1.31 and 1.46.

As per plan submitted to combine lots with existing non-conforming buildings in a C-3 and I-2 Districts.

Daniel Schuh, the applicant, was present. The hardships for items 1–5 were existing conditions. Item 6 was amended to 46 ft 10 inches. They were in the process of re-zoning to C-2, but it had not been approved, yet, by City Council. He applied for these variances first to speed up the permit process.

Joshua Frerichs stated that Engineering did not support the submitted site plan. They were working with the applicant on alternative solutions. He confirmed that even with a new site plan and C-2 approval, variances would still be required.

Member Daniel Odle clarified that either way, the applicant would have to come back for variance approvals. Asking the Board to grant 5 variances in C-3 using the current site plan, and then to grant 2 variances in C-2 using a different site plan, would not speed up the process. Lisa Hatfield advised the Board that variances granted today would be moot if he submitted a new site plan. She also noted that the current site plan was not supported by Engineering.

Scott Elder reminded the Board that the application had reached its expiration date. They could not postpone and wait for the new site plan. Mr. Schuh agreed to **WITHDRAW** the application.

File: 2-B-18-VA
Applicant: Creative Structures
Address: 2012 N. Broadway
Zoning: C-3 (General Commercial)

Parcel ID: 082HA021
4th Council District

Variance Request:

Increase the maximum width of a driveway entrance from 30 ft to 40 ft per Article 5, Section 7.H.3C.Table, as per plan submitted showing as-built condition of a driveway in a C-3 District.

Joshua Frerichs advised the Board that there were safety issues with the ingress and egress. TDOT responded that they did not support a second driveway to address these issues. The applicant was developing an alternative solution; but had not submitted an updated site plan.

The applicant was not present. Member Charlie Van Beke made a motion to postpone. It was seconded by member Daniel Odle. The Board voted 5-0 to **POSTPONE** to the June 21, 2018 meeting.

File: 4-E-18-VA
Applicant: Ann Sowards
Address: 1708 Boone Street
Zoning: I-3 (General Industrial)

Parcel ID: 082HD035
2nd Council District

Variance Request:

Reduce the minimum required side yard setback on the north property line from 25 ft to 11 ft per Article 4, Section 2.3.2.E.3., as per plan submitted proposing construction of a new detached dwelling in an I-3 District.

Scott Elder advised the Board that this was for a manufactured home, and a previous variance was granted in 2003. Now that the owner was moving forward with the project, it's been determined that a greater setback variance was necessary.

The applicant was not present. Member David Dupree motioned to postpone. It was seconded by member Don Horton. The Board voted 5-0 to **POSTPONE** to the June 21, 2018 meeting.

NEW BUSINESS

File: 5-A-18-VA
Applicant: Sycamore Sign Service
Address: 8906 Kingston Pike
Zoning: C-3 (General Commercial)

Parcel ID: 132-03413
2nd Council District

Variance Request:

Decrease the minimum required setback from the street for a detached on-premise ground sign from 10 ft to 2 ft per Article 8, Section 7.1.a., as per plan submitted to install a new business sign on an existing pole and foundation in a C-3 District.

Brad Nicely, the applicant, was present. The hardships were the TDOT right-of-way dedication and visibility. Complying with the setback would require placing the sign behind the build line.

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

File: 5-B-18-VA
Applicant: James Ellis
Address: 2714 Carson Avenue
Zoning: R-1A (Low Density Residential)

Parcel ID: 082BA039
4th Council District

Variance Request:

Allow the alley to be used as a primary means of vehicular ingress and egress per Article 5, Section 6.D.9, as per plan submitted proposing construction of a detached dwelling in an R-1A District.

James Ellis, the applicant, was present. The previous structure was demolished due to fire damage. The hardship was topography.

Member Charlie Van Beke made a motion to approve. It was seconded by member Daniel Odle. The Board voted 4-1 to **APPROVE**. Member David Dupree voted against the motion.

File: 5-C-18-VA
Applicant: David Hooper
Address: 1363 Shepard Street
Zoning: R-1A/IH-1 (Low Density Residential/Infill Housing Overlay)

Parcel ID: 081KF015
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 lot coverage for principal and accessory structures from 30% to 32.5% per Article 4, Section 2.1.2.D.6.a.

As per plan submitted proposing construction of a new accessory structure in the rear yard in R-1A/IH-1 Districts.

David Hooper, the applicant, was present. The hardship was the narrow lot shape, and a small lot of record. The first variance was amended to reduce the side yard setback to 5 ft instead of 3 ft as originally requested.

Member Daniel Odle made a motion to approve as amended. It was seconded by Chairman Kristin Grove. The Board voted 5-0 to **APPROVE as amended:** to reduce the side yard setback for an accessory structure from 8 ft to 5 ft.

File: 5-D-18-VA
Applicant: John Holmes
Address: 1605 Forest Avenue
Zoning: R-3/NC-1 (High Density Residential / Neighborhood Conservation Overlay)

Parcel ID: 094ND017
1st Council District

Variance Requests:

1. Reduce the minimum side yard setback for a house greater than one story from 12 ft to 2 ft 2 inches on the west elevation per Article 4, Section 2.1.7.D.2.b.
2. Reduce the minimum side yard setback for a house greater than one story from 12 ft to 3 ft 1 inch on the east elevation per Article 4, Section 2.1.7.D.2.b.

As per plan submitted proposing to create an additional story in the attic in R-3/NC-1 Districts.

John Holmes, the applicant, was present. The intent of the project was to increase storage area and make a habitable space. There was no change in the roof line.

Member Daniel Odle stated for the record that Mr. Holmes had spoken to him earlier and discussed the difficulty of permitting in the Fort Sanders area. He made it clear to Mr. Holmes that he was on the BZA Board and they did not discuss this project.

Member Daniel Odle made a motion to approve based on the small lot and existing conditions. It was seconded by member Charlie Van Beke. The Board voted 5-0 to **APPROVE.**

File: 5-E-18-VA
Applicant: Joshua Beeler
Address: 1007 Milam Circle

Parcel ID: 121PB035
2nd Council District

Zoning: R-1 (Low Density Residential)

Variance Requests:

1. Reduce the minimum front yard setback from 25 ft to 18 ft per Article 4, Section 2.1.1.E.1.a.
2. Reduce the minimum side yard setback for a detached accessory structure from 8 ft to 5 ft per Article 4, Section 2.1.1.E.2.b.

As per plan submitted proposing to construct a new detached dwelling in an R-1 District.

Joshua Beeler, the applicant, was present. They would build the new house further back than the original. The existing accessory structure would be too close to the new house if it were within the setback requirement. The hardship was the existing conditions. This was the only house on that section of the block.

Board member Charlie Van Beke stated it was the best use of the property and made a motion to approve. It was seconded by member David Dupree. The Board voted 5-0 to **APPROVE**.

File: 5-F-18-VA **Parcel ID:** 094MG007
Applicant: John Sanders FAIA/Sanders Pace Architecture 1st Council District
Address: 1114 Clinch Avenue
Zoning: O-1 (Office, Medical & Related Services)

Variance Request:

Increase the maximum permitted distance that mechanical equipment may extend into the required yard from 4 ft to 14 ft 5 inches per Article 5, Section 6.B.13, as per plan submitted proposing construction of a new natural gas emergency generator on the west side of the existing building in an O-1 District.

John Sanders, the applicant, was present. The wall to screen the generator would be less of a visibility issue than the current parking spaces. Also, three pre-existing non-conforming parking spaces would be removed.

Member Daniel Odle made a motion to approve conditioned on Engineering's approval of the screen wall. It was seconded by member Charlie Van Beke. The Board voted 5-0 to **APPROVE with the CONDITION** of Engineering's approval of the screen wall.

File: 5-G-18-VA **Parcel ID:** 123AG00501
Applicant: Thomas Caldwell 1st Council District
Address: 4201 West Martin Mill Pike
Zoning: C-3/R-1 (General Commercial / Low Density Residential)

Variance Requests:

1. Reduce the minimum required number of parking spaces from 104 to 47 per Article 5, Section 7.D.1.Table 1.
2. Reduce the required parking setback from 25 ft to 6 ft for parking lots with common frontage in the same block with residentially zoned property and located on roads with less than 4 existing travel lanes, for the 43.5 ft long area next to the ADA parking per the site plan per Article 5, Section 7.C.2.

3. Reduce the required parking setback from 10 ft to 6 ft, measured from the edge of the parking lot to all rights-of-way, for the 43.5 ft long area next to the ADA parking per the site plan per Article 5, Section 7.C.3.
4. Reduce the required perimeter screening area from 10 ft to 6 ft for the 43.5 ft long area next to the ADA parking per the site plan per Article 5, Section 7.J.2.c.2.

As per plan submitted proposing a new commercial recreation establishment in C-3/R-1 Districts.

William Doyle, representing the architect, was present. The hardship was the various adjacent zoning districts. Since they are next to a residential district, the setback was increased to 25 ft.

Board members noted that it was an improvement to the available parking. Member David Dupree commented that this usage was in keeping with the contour of the community and made a motion to approve. It was seconded by member Don Horton. The Board voted 5-0 to **APPROVE**.

File: 5-H-18-VA
Applicant: David Harbin
Address: 115 Circle Lane
Zoning: O-1 (Office, Medical & Related Services)

Parcel ID: 121AA030
 2nd Council District

Variance Requests:

1. Increase the maximum number of driveways for lot frontage of less than 150 feet from 1 to 2 per Article 5, Section 7.H.1.a.Table 4.
2. Reduce the minimum distance between driveways from 25 ft to 18 ft per Article 5, Section 7.H.2.c.

As per plan submitted proposing to construct a new office building in an O-1 District.

Fred Trainer, the applicant, was present. The hardships were the small lot, topography and slope. The street was a dead end.

Member Daniel Odle made a motion to approve. It was seconded by member David Dupree. The Board voted 5-0 to **APPROVE**.

File: 5-I-18-VA
Applicant: Aubrey's Inc, Randy Burleson
Address: 2226 Chapman Hwy
Zoning: FD-SW-6 (Henley Gateway)

Parcel ID: 109AK012
 1st Council District

Variance Requests:

1. Increase the required front yard setback from 0 ft to 40 ft per Article 4, Section 4.1.3.G.4.
2. Reduce the minimum required building frontage at setback from 50% to 0% per Article 4, Section 4.1.3.G.4.
3. Reduce the minimum required building height from 40 ft and 3-story to 20 ft 6 inches and 1-story per Article 4, Section 4.1.3.G.4.

4. Reduce the minimum transparent glass at the ground level on the principal frontage from 70% to 12.6% per Article 4, Section 4.1.3.G.6.
5. Increase the maximum parking from 3 spaces per 1,000 sf (23 spaces) to 7 spaces per 1,000 sf (52 spaces) per Article 4, Section 4.1.3.G.7.b.

As per plan submitted proposing to construct a new restaurant in the FD-SW-6 District.

Peter Ahrens noted that the staff received a significant number of letters and comments in support for this project, which were submitted in the Board's packet.

Randy Burlison and Scott Osborn, the applicants, were present. The hardship was the location of the property between a historic structure in the South Waterfront district and a C-4 district. A 3-story structure would overshadow the Kerns building. The exterior was slightly modified to fit within the district, but without detracting from the Kerns building. The transparent glass would be on the side facing the Kern's campus; the kitchen side would have a buffered landscape; and sidewalks would be moved away from Chapman Hwy to increase pedestrian safety. Parking would be available for access to the trail head to Fort Stanley as well. They met with and have the support of the surrounding neighborhood associations.

Member Daniel Odle asked for clarification as to why they did not have the property rezoned. He was concerned about creating a precedent that the Board would not want repeated in this district. Chairman Kristin Grove noted that this was situation was unique because it was the only property in the South Waterfront district located beyond the railroad tracks.

Chairman Kristin Grove made a motion to approve based on its unique location between zoning districts. It was seconded by member Don Horton. The Board voted 5-0 to **APPROVE**.

File:	5-J-18-VA	Parcel ID: 094JH025
Applicant:	Jim Stratton	6 th Council District
Address:	1931 Middlebrook Pike	
Zoning:	I-2/C-3 (Restricted Manufacturing & Warehousing / General Commercial)	

Variance Request:

Reduce the minimum required setback for open storage of material from 25 ft to 10 ft per Article 4, Section 2.2.6.E.1 and Article 4, Section 2.2.6.B.21, as per plan submitted proposing a new open storage area in I-2/C-3 Districts.

Jim Stratton, the applicant, was present. The hardship was 2 front yards.

Peter Ahrens presented the ward map to the Board to show that Bruce Avenue terminated into a permanent public access to Western Avenue. Board members discussed the possibility of one-lotting the property, which would negate the hardship of 2 front yards. Chairman Kristin Grove suggested postponing the request giving the applicant time to apply for one-lot approval. The applicant agreed to postpone.

Chairman Kristin Grove made a motion to postpone. It was seconded by member Charlie Van Beke. The Board voted 5-0 to **POSTPONE** to the June 21, 2018 meeting.

File: 5-K-18-VA
Applicant: Dempster Poured Foundations
Address: 6731 Ridgerock Lane
Zoning: R-1E (Low Density Exclusive Residential)

Parcel ID: 106MB016
2nd Council District

Variance Request:

Increase the average roof height of an accessory structure from 15 ft to 17.87 ft per Article 4, Section 2.1.3.E, as per plan submitted proposing a new two-story pool house in an R-1E District.

Ross Dempster, the applicant, was present. The pool house would not be visible from adjacent properties. They would like the roof pitch to match the roof of the house.

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

File: 5-L-18-VA
Applicant: Orange Knoxville Cumberland, LLC
Address: 2223 Cumberland Avenue
Zoning: FD-CU-2 (Cumberland Avenue) and FD-CU-3 (White Avenue/Hospital)

Parcel ID: 108CC03301
1st Council District

Variance Requests:

1. Decrease the story level for a building setback from the 2nd or 3rd story to the 1st story on the northeast end of the building per Article 4, Section 4.2.3.B.3.Table.
2. Reduce the minimum ground floor elevation for a nonresidential use from 0 ft to negative (-) 12.5 ft per Article 4, Section 4.2.3.B.3.Table.
3. Reduce the minimum required ground story transparency on Cumberland Avenue from 75% to 55% per Article 4, Section 4.2.3.B.4.Table.
4. Reduce the minimum required ground story transparency on Twenty Second Street from 75% to 44% per Article 4, Section 4.2.3.B.4.Table.
5. Reduce the minimum required residential parking spaces from 360 to 329 (9% reduction) per Article 4, Section 4.2.6.B.2.Table.

As per plan submitted proposing construction of a new 7-story mixed-use (commercial and residential) building in the FD-CU-2 / FD-CU-3 Districts.

Peter Ahrens advised that previous variances were based on conceptual drawings. As they transitioned into construction drawings, engineering details mandated design changes.

Jeff Brewer, the applicant, was present. Four of the requests were adjustments to previous variances due to design changes driven by topography. Item 5 was a new request based on topography and a required water quality unit which could not be moved. He confirmed that the commercial parking was separated from residential parking.

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

OTHER BUSINESS

The next BZA meeting is June 21, 2018.

ADJOURNMENT

The meeting adjourned at 5:34 pm.