

BOARD OF ZONING APPEALS

MINUTES June 15, 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 June 15, 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 Daniel Odle, David Dupree, Don Horton, and Charlie Van Beke.

Others in attendance were DeAnn Bogus, Deputy Director of Plans Review & Inspections; Scott Elder, Zoning Chief; Crista Cuccaro, Staff Attorney; Mark Johnson, Engineering; Dan Kelly, MPC Deputy Director; and Angelia Rooks, Board Secretary.

APPROVAL OF MINUTES

Member David Dupree made a motion to approve the minutes for May 18, 2017. It was seconded by member Daniel Odle. The Board voted 4-0 to **APPROVE** the minutes. Member Charlie Van Beke abstained.

AGENDA ORDER

Member Daniel Odle made a motion to hear files **6-H-17-VA** and **6-K-17-VA** together. It was seconded by member Charlie Van Beke. The Board voted 5-0 to **APPROVE** changing the agenda order to hear 6-K before 6-I.

Member Charlie Van Beke made a motion to postpone file **6-J-17-VA** to the next meeting, per the applicant's request. The motion was seconded by member Don Horton. The Board voted 5-0 to **POSTPONE** the request to the July 20, 2017 meeting.

OLD BUSINESS

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

Parcel ID: 081MU009

Variance Request:

Reduce the minimum required number of parking spaces from 4 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.

The staff received a notice from the applicant to **WITHDRAW** the variance request.

File: **4-E-17-VA** **Parcel ID:** 070JJ009,
Applicant: Mac Tobler 010, and 011
Address: 3100, 3102 & 3102, Unit A, Forestdale Avenue
Zoning: RP-1 (Planned Residential) District
4th Council District

Variance Request:

Reduce the minimum required peripheral boundary setback from 25 ft. to 6.12 ft. for proposed lot #1; from 25 ft. to 12.34 ft. for proposed lot #2; from 25 ft. to 6.07 ft. for proposed lot #3; and from 25 ft. to 6.09 ft. for proposed lot #4 per Article 4, Section 3.1.D.2.

As per submitted plan to permit the construction of four detached dwellings in an RP-1 District.

Mac Tobler, the applicant, was present. She was subdividing the property from 3 lots to 4 lots. She planned to remove the 2 existing structures, construct 4 new single-story dwellings, and add a third driveway. The new houses would improve the neighborhood. The surveyor advised her on the best way to fit the houses on the lots. Topography prohibited relocating the 3rd driveway. The lots were too small, but were zoned as a planned residential development.

Board members stated that there was no hardship, although similar developments were in the area. Dan Kelly, MPC Deputy Director, was asked to clarify if there were any significant features or qualities about the property that allowed the zoning approval for a planned development with small lots.

Mr. Kelly confirmed that the lots were unusually small for zoning as a planned residential development, but the development as proposed did not exceed the density that was approved for the property. The internal setbacks would be established during the Use-On-Review process. He clarified that MPC had not made any UOR recommendations, yet, as they were awaiting the BZA's action on the peripheral boundary variance request.

Chairman Kristin Grove pointed out that it was possible to divide the property into 3 lots for 3 houses without the need for any variance approvals. Ms. Tobler stated that she would still need setback variances because of the addition of a 3rd driveway between the 2 front houses.

Member Daniel Odle made a motion to deny the request. It was seconded by member Don Horton. The Board voted 5-0 to **DENY** the request.

NEW BUSINESS

File: **6-A-17-VA** **Parcel ID:** 093HB056
Applicant: John Zimmerman
Address: 3343 Dewine Road
Zoning: O-1 (Office, Medical and Related Services) District
3rd Council District

Appeal of the Building Official's interpretation that the proposed use of the property is a hospital (Article 4, Section 2.2.1.C.2. and Article 2, Definitions) in an O-1 District.

The staff received a request from the applicant to **POSTPONE** to the July 20, 2017 meeting.

File: **6-B-17-VA** **Parcel ID:** 0711B007
Applicant: Amanda Moore Flores
Address: 412 N. Burns Road
Zoning: R-1A (Low Density Residential) District
6th Council District

Variance Request:

Reduce the minimum required lot width which will permit two driveways from 150 ft. to 85 ft. per Article 5, Section 7.B.1.a.Table.

As per submitted plan to permit a second driveway in an R-1A District.

Amanda Flores, the applicant, was present. The second graveled driveway was created by the previous owner. Ms. Flores did not know it was in violation of City codes when the property was purchased. The hardships were topography, the existing retaining wall, water lines, steep steps from the original driveway to the main entrance, and elderly residents.

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: **6-C-17-VA** **Parcel ID:** 095AK019
Applicant: Civil and Environmental Consultants Inc
Address: 1010 E. Jackson Avenue
Zoning: I-3 (General Industrial) District
6th Council District

Variance Requests:

1. Reduce the minimum required width of a perimeter parkway from 10 ft. to 0 ft. per Article 5, Section 7.A.5.b.1.
2. Reduce the minimum required drive aisle width for 90 degree parking from 26 ft. to 20 ft. per Article 5, Section 7.A.4.a.2.Table.

As per submitted plan to permit construction of a parking lot in an I-3 District.

Charles Robinson, representing the applicant, was present. He asked to postpone to July.

Chairman Kristin Grove made a motion to postpone to the next meeting. It was seconded by member Don Horton. The Board voted 5-0 to **POSTPONE** the request to the July 20, 2017, meeting.

File: 6-D-17-VA
Applicant: Modupe Osaro
Address: 2409 N. Central Street
Zoning: C-3 (General Commercial) District
5th Council District

Parcel ID: 081KA006

Variance Request:

Reduce the minimum required number of parking spaces from 9 to 5 spaces per Article 5, Section 7.A.3.a.Table.

As per submitted plan to permit a change of commercial use in a C-3 District.

Modupe Osaro, the applicant, was present. He wanted to expand his business by relocating across the street. The small lot and existing building prohibited compliance with the parking requirement. Customer transactions were brief, and he did not anticipate a high parking demand. The only two employees were himself and his wife. They worked separate shifts, and would use only one space.

In opposition, Perry Benson was present. He owned a business on the same block. He stated that the expansion of the package store would contribute to the perpetuation of neighborhood degradation and the sub-culture of vagrants, drug dealers, drunks and prostitutes. He had no opposition to the approval of a parking variance.

Board members explained that they could only consider the request for parking reduction, not the commercial use of the property.

Member Charlie Van Beke stated that many businesses in the area had small lots, and made a motion to approve the request to reduce parking. It was seconded by Chairman Kristin Grove. The Board voted 5-0 to **APPROVE** the request.

File: 6-E-17-VA
Applicant: David B. Harbin
Address: 7509 Kingston Pike
Zoning: C-4 (Highway and Arterial Commercial) District
2nd Council District

Parcel ID: 120FA009

Variance Requests:

1. Reduce the minimum required north front yard setback from 50 ft. to 18 ft. per Article 4, Section 2.2.7.E.2.a.
2. Reduce the minimum required south front yard setback from 50 ft. to 5 ft. per Article 4, Section 2.2.7.E.2.a.
3. Reduce the minimum required west side yard setback from 12 ft. to 5 ft. per Article 4, Section 2.2.7.E.3.

As per submitted plan to permit subdivision of the property in a C-4 District.

David Harbin and Arthur Seymour, Jr. were present. They planned to subdivide the lot to separate the cell tower, and develop the remainder. The hardships were the existing maintenance buildings, a utility easement, the expansion of TDOT right-of-way, 2 front yards,

and the shape of the property. The cell tower was built in 1987, before placement and height regulations were imposed.

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

File: **6-F-17-VA** **Parcel ID:** 108CC030,
Applicant: Orange Knoxville Cumberland LLC 032 & 033
Address: 2217 Cumberland Avenue
Zoning: FD-CU-2 and FD-CU-3 (Form District - Cumberland Avenue) Districts
1st Council District

Variance Request:

Reduce the minimum required amount of building façade that must be located in the build to zone for buildings on a corner lot from 30 ft. to 5 ft. as measured from the intersection of the two right-of-way lines per Article 4, Section 4.0.3.D.3.

As per submitted plan to permit the construction of a commercial/residential building in an FD-CU-2 and FD-CU-3 Districts.

DeAnn Bogus, Deputy Director of Plans Review & Inspections, reminded the Board that the applicant already had several variances approved last March for this project.

Bob Whetsel, representing the applicant, was present. Nothing had changed on the plans or design. This was discovered during permitting process.

Member Charlie Van Beke stated that the Board reviewed and discussed this project thoroughly in March, 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: **6-G-17-VA** **Parcel ID:** 121GA00302
Applicant: Vaughn and Melton
Address: 201 S. Northshore Drive
Zoning: C-3 (General Commercial) District
2nd Council District

Variance Request:

Reduce the minimum required north front yard setback from 25 ft. to 5 ft. per Article 4, Section 2.2.6.E.1.

As per submitted plan to permit construction of a commercial building in a C-3 District.

Jeff Miller, representing the applicant, was present. The hardship was 3 front yards that prohibited development. There were no adjacent neighbors, and the affected yard abutted the railroad.

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: 6-H-17-VA
Applicant: David Collins, MHM Inc
Address: 7699 S. Northshore Drive
Zoning: C-3 (General Commercial) District
2nd Council District

Parcel ID: 133EB0018

Variance Requests:

1. Reduce the minimum required number of parking spaces from 15 to 11 spaces per Article 5, Section 7.A.3.a.Table.
2. Reduce the minimum required drive aisle width from 26 ft. to 24.5 ft. per Article 5, Section 7.A.4.a.2.Table.
3. Reduce the minimum drive aisle width for two-way parallel parking from 25 ft. to 21 ft. per Article 5, Section 7.A.4.a.2.Table.

As per submitted plan to permit a change of use to a restaurant in a C-3 District.

David Collins, the applicant, and Bob Patrone, the property owner, were present. The hardships were the existing buildings and small lots. They planned to re-use the existing buildings; and they would close the existing driveway between the properties to create 4 additional parking spaces. File 6-H was for the corner lot where *Marco's Pizza* would open. *Marco's* was anticipated to be 98% carry-out/drive-thru business, but 2 tables were available for interior seating, making it a restaurant use. File 6-K was for the adjacent lot where *K-Brew* would open, also as a restaurant use. The restaurants would have different high-traffic hours, and they expected to share or lease parking between the two businesses.

Scott Elder explained that the corner lot would not need a parking variance if the applicant removed the tables from *Marco's*. As a 100% carry-out/drive-thru business, the use would be defined as retail, which required half the parking spaces as a restaurant. The result would be three extra parking spaces available that could be leased to *K-Brew*.

Crista Cuccaro explained that the applicants could proceed with the variance for 6-H as written, or withdraw the request if they opted to remove the tables, changing the use to retail and eliminating the need for a parking variance. Mr. Patrone stated that he would like to proceed with the variance as written.

Chairman Kristin Grove stated that she was uncomfortable with two adjacent restaurants on a busy corner with very little available parking. She pointed out that the variance would stay with the property and applied to any future restaurants that would not have common ownership or parking-lease agreements.

6-H-17-VA: Chairman Kristin Grove made a motion to deny item 1 (parking) and approve items 2 and 3. It was seconded by member Daniel Odle. The Board voted 4-1 to **DENY** item 1 and **APPROVE** items 2 and 3. Member David Dupree voted against the motion.

6-K-17-VA: Member Daniel Odle made a motion to approve the requests. It was seconded by member Don Horton. The Board voted 4-1 to **APPROVE** the requests. Member David Dupree voted against the motion.

File: **6-I-17-VA** **Parcel ID:** 107NE012
Applicant: Dixon Greenwood
Address: 4811 Lyons View Pike
Zoning: O-1(k) (Office, Medical and Related Services) District – Conditioned
2nd Council District

Variance Requests:

1. Reduce the minimum required parking lot setback line on Lyons View Pike from 25 ft. to 6 ft. per Article 5, Section 7.A.2.d.
2. Reduce the minimum required parking setback for an office use contiguous to a residential district which has common frontage on the same block from 25 ft. to 8 ft. on Midland Avenue per Article 5, Section 7.A.2.d.

As per submitted plan to conversion of a church building into an office building in an O-1(k) District.

Dixon Greenwood, the applicant, was present. The existing building and topography prohibited development of the property. The building was a residence in the 1930's, then became a church in the 1950's. He planned to change it to an office use. He had obtained City Council and MPC approvals with the condition that the existing building remained in place.

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

File: **6-J-17-VA** **Parcel ID:** 108CH01801
Applicant: BET Investments Inc
Address: 0 Lake Avenue
Zoning: FD-CU-1 (Form District – Cumberland Avenue) District
1st Council District

Variance Requests:

1. Reduce the minimum required side street parking setback from 10 ft. to 5 ft. per Article 4, Section 4.4.2.3.A.2.F.
2. Reduce the minimum required number of parking spaces from 223 spaces to 161 spaces per Article 4, Section 4.2.6.B.2.Table.
3. Reduce the minimum required length of a parking space from 18.5 ft. to 15.5 ft. for 75 degree parking angle for up to 13% of the provided parking per Article 5, Section 7.A.4.a.2.Table.
4. Reduce the minimum required length of a parking space from 17.5 ft. to 15.5 ft. for 90 degree parking angle for up to 4% of the provided parking per Article 5, Section 7.A.4.a.2.Table.
5. Reduce the minimum required façade wall offset from 4 ft. to 2 ft. per Article 4, Section 4.4.2.3.A.3.E.
6. Reduce the required balcony extension from the vertical plane of the lot line at the alley elevation from 2 ft. to 1 ft. per Article 4, Section 4.4.2.4.C.1.

As per submitted plan to permit the construction of an eight story residential building in an FD-CU-1 District.

File **6-J-17-VA** was postponed to July 20th earlier in the meeting – see *Agenda Order* section.

File: **6-K-17-VA**
Applicant: David Collins, MHM Inc
Address: 7685 S. Northshore Drive
Zoning: C-3 (General Commercial) District
2nd Council District

Parcel ID: 133EB001701

Variance Requests:

1. Reduce the minimum required number of parking spaces from 26 to 14 spaces per Article 5, Section 7.A.3.a.Table.
2. Reduce the minimum required drive aisle width for 90 degree parking from 26 ft. to 19 ft. per Article 5, Section 7.A.4.a.2.Table.

As per submitted plan to permit a change of use to a restaurant in a C-3 District.

File **6-K-17-VA** was approved earlier in the meeting – see File **6-H-17-VA**.

OTHER BUSINESS

Crista Cuccaro will provide BZA training for Board members from August through November before each Pre-Agenda meeting.

The next BZA meeting is July 20, 2017.

ADJOURNMENT

The meeting adjourned at 5:15 pm.