

BOARD OF ZONING APPEALS

MINUTES

June 21, 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 June 21, 2018, 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. § 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; Crista Cuccaro, Staff Attorney; Brandon Littlejohn, Zoning Inspector; Joshua Frerichs, Stormwater Engineering; Mike Brusseau, MPC Senior Planner; and Juliana LeClair, Board Secretary.

MINUTES

Member Charlie Van Beke made a motion to approve the May 17, 2018 minutes. It was seconded by member Daniel Odle. The Board voted 5-0 to **APPROVE**.

OLD BUSINESS

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.

Peter Ahrens advised the applicant has begun working on a separate site plan with the Engineering Department. This would be the last time that this request can be heard and there is no value in moving forward since the applicant is not present.

Member Kristin Grove made a motion to deny. It was seconded by member Charlie Van Beke. The Board voted 5-0 to **DENY**.

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 (Article 4, Section 2.3.2.E.3).

As per plan submitted proposing construction of a new detached dwelling in an I-3 District.

Peter Ahrens advised of several unsuccessful attempts to contact the applicant. The applicant was not present.

Member Kristin Grove made a motion to deny. It was seconded by member Don Horton. The Board voted 5-0 to **DENY**.

File: 5-J-18-VA
Applicant: Jim Stratton
Address: 1931 Middlebrook Pike
Zoning: I-2/C-3 (Restricted Manufacturing & Warehousing / General Commercial)

Parcel ID: 094JH025
6th Council District

Variance Request:

Reduce the minimum required setback for open storage of material from 25 ft to 10 ft (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.

Peter Ahrens advised the applicant has reached out to the MPC and they are on the agenda for closing the Bruce Ave. alley to help resolve the issue related to alley dividing property. The applicant was not present. Member Kristin Grove advised this was revised on May 1 and Crista Cuccaro confirmed the time frame is still applicable within 120 days.

Member Kristin Grove made a motion to postpone to the July meeting. It was seconded by member Don Horton and opposed by member David Dupree. The board voted 4-1 to **POSTPONE**.

New Business

File: 6-A-18-VA
Applicant: Crisoforo Martin
Address: 3105 Wood Duck Lane
Zoning: R-1 (Low Density Residential)

Parcel ID: 080OF023
3rd Council District

Variance Request:

Increase the maximum allowable height of a detached accessory structure from 15 ft to 18 ft (Article 4, Section 2.1.1.F)

As per plan submitted proposing a new detached garage in the R-1 (Low Density Residential) District.

Crisoforo Martin, the applicant, was present. The hardships were size and elevation. Peter Ahrens advised this was a project that was started and during inspections it was noted that the height of the accessory structure exceeded that which is permitted. The structure was originally built as a garage with a second story to be used for storage. The second story was then turned into an office space with a bathroom.

Board confirmed that applicant did not change the original plans and the original plans had a permit. Peter Ahrens provided copies of the original plans which appeared to be drawn by homeowner missing some level of detail, and confirmed a permit was issued for a 24x24 garage. Peter Ahrens advised what was depicted on the cross section was a one story garage without a floor system. In defense of plans examiners, a traditional one story garage wouldn't come close to having height issues, but was obviously an oversight.

Member Kristin Grove asked for clarification that with that information the variance information is still applicable, Peter Ahrens confirmed yes. Peter Ahrens advised the building plans reflect a cathedral type ceiling, yet during construction a traditional platform frame was constructed. The use doesn't come into play with the structure. The pitch of the roof was not identified in the plans, the plans examiner saw a cathedral frame, there was no final inspection and the applicant was not provided with a certificate of occupancy. Peter Ahrens asked the applicant if the roof pitch changed when he decided to use the space as an office. The applicant advised the roof pitch never changed and the roof pitch of the building is not similar to the roof pitch of the house which is lower.

Peter Ahrens took full responsibility for the plans review and advised the Plans Review and Inspections Department was not opposed to the granting of the variance.

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

File: 6-B-18-VA
Applicant: Matthew Dawson
Address: 4502 Hutton Road
Zoning: R-1 (Low Density Residential)

Parcel ID: 069ID016
5th Council District

Variance Request:

Reduce the minimum required front yard setback from Glenoaks Dr. from 25 ft to 7 ft (Article 4, Section 2.1.1.E.1.a and Article 5, Section 6.D.3)

As per plan submitted proposing a new residence in the R-1 (Low Density Residential) District.

Matthew Dawson, the applicant, was present. The hardship was the size of the double front corner lot, existing small lot of record. Due to the parcel being too small and the restriction of double frontage, the applicant requested a reduction of the required 25 ft setback to make the lot buildable. Member Charlie Van Beke confirmed the applicant was representing Habitat for Humanity.

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

File: 6-C-18-VA
Applicant: Arthur Seymour
Address: 6720 Clinton Highway
Zoning: C-3 (General Commercial)

Parcel ID: 067LB007
3rd Council District

Variance Request:

Reduce the minimum required front yard setback from 25 ft to 8 ft (Article 4, Section 2.2.6.E.1)

As per plan submitted proposing a new tire business in the C-3 (General Commercial) District.

Arthur Seymour, the applicant representative, was present. The hardship was size, slope and topography. Supplemental documents were presented for the development of a Tire Discount store. The property on old Callahan Rd slopes to the east and is required to use a shared driveway with Kroger so there will not be other curb cuts on old Callahan. Since the property cannot have separate entrance off old Callahan, variance was requested for reduction of set back by 17 feet which would eliminate need to build retaining wall to level the site then construct the building, forcing trucks to back into the building to turn around. Board confirmed that no further agreement would be needed with Kroger.

Member David Dupree made a motion to approve. It was seconded by Daniel Odle. Members Kristin Grove and Charlie Van Beke opposed, member Don Horton approved. The Board voted 3-2 to **APPROVE**.

File: 6-D-18-VA
Applicant: David Kennedy / Alyssa Kuhns
Address: 2439 E. Fifth Avenue
Zoning: R-1A (Low Density Residential)

Parcel ID: 082JP022
6th Council District

Variance Request:

Increase the maximum permitted lot coverage from 30% to 39% for principal and accessory structures (Article 4, Section 2.1.2.D.6.a)

As per plan submitted proposing a storage shed and carport in the R-1A (Low Density Residential) District.

Alyssa Kuhns, applicant, was present. The hardship was size and lot coverage. Due to no street or front access parking, applicant requested variance to build carport and shed in the back of the property. Board clarified with applicant that most residents have other parking structures off of the alley.

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

File: 6-E-18-VA
Applicant: Barber McMurray Architects
Address: 2018 Clinch Avenue
Zoning: O-1 (Office, Medical & Related Services)

Parcel ID: 108CB021
1st Council District

Variance Request:

Decrease the minimum permitted front yard setback on Twentieth Street from 25 ft to 3 ft per (Article 4, Section 2.2.1.D.1)

As per plan submitted proposing a building addition in the O-1 (Office, Medical & Related Services) District.

Chuck Griffin, applicant representative, was present. The hardship was size, affecting public safety. Supplemental documents were presented for variance request which would accommodate higher volume of emergency room patients and create safer patient entrance at East Tennessee Children's Hospital. Ambulance bay would be relocated to the north along Clinch Ave, the entrance to emergency department would move south closer to emergency department parking area along a more level patient discharge area.

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

File: 6-F-18-VA
Applicant: Todd Witcher
Address: 1603 Jefferson Avenue
Zoning: R-1A/H-1 (Low Density Residential / Historic Overlay)

Parcel ID: 082PF024
6th Council District

Variance Request:

1. Increase the maximum permitted lot coverage from 30% to 31.2% for principal and accessory structures (Article 4, Section 2.1.2.D.6.a).
2. Reduce the minimum number of required parking from 2 spaces to 0 spaces (Article 5, Section 7.D.1.Table).
3. Reduce the lot size of a primary use from 'more than one acre' to 8,177.04 sq ft (Article 5, Section 4.C Table.Column 1.Row 4).
4. Reduce the minimum lot width at the building line from 75 ft to 60.1 ft (Article 4, Section 2.1.2.D.4.a).
5. Reduce the minimum required front yard setback on Winona Street from 25 ft to 10.05 ft for a pre-existing, non-conforming primary structure (Article 4, Section 2.1.2.D.1.a and Article 5, Section 6.D.3).
6. Reduce the minimum required front yard setback on Winona Street from 25 ft to 12.3 ft for a pre-existing, non-conforming accessory structure (Article 4, Section 2.1.2.D.1.a and Article 5, Section 6.D.3).

As per plan submitted proposing to subdivide lots with existing structures in the R-1A (Low Density Residential) / H-1 (Historic Overlay) District.

Keith Richardson, one of three partners in the property partnership, was present. Hardship was size. Peter Ahrens advised both 6-F-18-VA and 6-G-18-VA represent two lots combined into a single lot, now going through sub-division process back to original sizes. Between the two lots there are two single family dwellings and an accessory building which is unique. Plans department located permit for construction of the accessory building, now a matter of legalizing what was previously legally constructed.

Applicant advised desire to sell at some point in the future, trying to prepare property so that it won't be attractive only to an investor but will be attractive to owner occupant. Applicant assumed both structures will go back to single family ownership.

Applicant pointed out possible typo in variance request #5 which was determined to be error on the agenda but was correct on site plan. Correct information was confirmed by Peter Ahrens from site plans and correct application information was read aloud by member Kristin Grove: "Reduce the minimum front set back requirement on Winona Street from 25 to 10.05 ft for a pre-existing, non-conforming accessory structure per Article 4...", approved by applicant as read.

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

File: 6-G-18-VA
Applicant: Todd Witcher
Address: 1605 Jefferson Avenue
Zoning: R-1A/H-1 (Low Density Residential / Historic Overlay)

Parcel ID: 082PF023
6th Council District

Variance Request:

1. Reduce the minimum required west side yard setback from 8 ft to 6 ft (Article 4, Section 2.1.2.D.2.a).
2. Reduce the minimum required east side yard setback from 8 ft to 3.2 ft (Article 4, Section 2.1.2.D.2.a).
3. Reduce the minimum required sum of side yard setbacks from 20 ft to 9.2 ft (Article 4, Section 2.1.2.D.2.a).
4. Reduce the minimum required parking from 2 spaces to 0 spaces (Article 5, Section 7.D.1.Table).
5. Reduce the minimum required lot area for a house from 7500 sq. ft to 7001.34 sq. ft (Article 4, Section 2.1.2.D.5.a).
6. Reduce the minimum lot width at the building line from 75 ft to 50.29 ft (Article 4, Section 2.1.2.D.4.a).

As per plan submitted proposing to subdivide lots with existing structures in the R-1A (Low Density Residential) / H-1 (Historic Overlay) District.

See minutes from 6-F-18-VA. Applicant did not have any additional comments. Member Kristin Grove clarified this related variance request was regarding cottage parcel 23.

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

File: 6-H-18-VA
Applicant: Land Development Solutions
Address: 8529 Kingston Pike
Zoning: C-4 (Highway & Arterial Commercial)

Parcel ID: 120IA013
2nd Council District

Variance Request:

1. Decrease the minimum required front yard setback on Kingston Pike from 50 ft to 38 ft (Article 4, Section 2.2.7.E.2.a).
2. Decrease the minimum required front yard setback on Walker Springs Road from 50 ft to 25 ft (Article 4, Section 2.2.7.E.2.a).

As per plan submitted proposing to construct a new car wash in the C-4 (Highway & Arterial Commercial) District.

Rusty Baxtel, applicant, was present. Hardship was size. Peter Ahrens advised TDOT had not yet approved the access points and the Plans Review and Inspections department was not comfortable proceeding with that variable outstanding. Neither applicant nor staff had heard back from TDOT. Applicant had modified original proposal to make it a right turn only from

development to Kingston Pike. Applicant advised TDOT's primary concern was about people trying to turn left out of the driveway onto Kingston Pike.

Member Kristin Grove made recommendation to postpone until July at which point revised site plan and possible variance requests could be heard. Board asked what else is needed from TDOT and Joshua Frerichs advised TDOT's manual will not allow an entrance onto Kingston Pike. TDOT representative is talking to their management to see about a variance to allow a ride in/ride out etc. to allow some kind of access onto Kingston Pike. Peter Ahrens advised he was not familiar with how the access points would affect the rest of the development. Board confirmed that if applicant is not allowed the access to Kingston Pike then it will change the whole site plan. Without an accurate site plan the board was not able to render a verdict.

Member Daniel Odle made a motion to postpone to July, 2018 meeting. It was seconded by member David Dupree. The Board voted 5-0 to **POSTPONE**.

File: 6-I-18-VA
Applicant: Land Development Solutions
Address: 1901 Clinch Avenue
Zoning: O-1 (Office, Medical & Related Services)

Parcel ID: 094NK01901
1st Council District

Variance Request:

Increase the maximum allowable building height from 99 ft to 101 ft (Article 4, Section 2.2.1.E.2)

As per plan submitted proposing a building addition in the O-1 (Office, Medical & Related Services) District.

Rusty Baxtel, applicant, was present. Hardship was size, height restriction.

Center for Advanced Medicine was built on property in 2008. Height variances were granted at that time, although the building design wasn't completed for the top two floors that were constructed. With plan in place, applicant found that they needed variance for two more feet from 99 ft to 101 ft. Due to strange topography around the building, architect was not able to make change based on averaging the height.

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

File: 6-J-18-VA
Applicant: Michael Brady, Inc.
Address: 901 E. Summit Hill Drive
Zoning: C-3 (General Commercial)

Parcel ID: 095HC00801
6th Council District

Variance Request:

1. Reduce the minimum required parking from 132 spaces to 69 spaces (Article 5, Section 7.D.1.Table).
2. Increase the maximum allowable width for the Bell Street driveway from 30 ft to 33.49 ft (Article 5, Section 7.H.3.c.Table 7).
3. Increase the maximum allowable width for the Patton Street driveway from 30 ft to 33.09 ft (Article 5, Section 7.H.3.c.Table 7).
4. Increase the maximum allowable curb cut width for the Bell Street driveway from 60 ft to 86.79 ft (Article 5, Section 7.H.3.c.Table 7).
5. Increase the maximum allowable curb cut width for the Bell Street driveway from 60 ft to 86.79 ft (Article 5, Section 7.H.3.c.Table 7).
6. Reduce the minimum required depth of a rear yard for a building that abuts a residential district from 15 ft to 0 ft (Article 4, Section 2.2.6.E.3).

As per plan submitted proposing to construct a new data center in the C-3 (General Commercial) District.

Alicia McAully, applicant, was present. Hardship was elevation, slope, shape and existing conditions. Peter Ahrens advised that request #5 should not be heard due to an error made on the part of the Plans Department. Site plan in the application was accurate which identified concrete barriers to eliminate access to Patton St. to be addressed at a later date. Requests 1, 2, 3, 4 and 6 were applicable for discussion.

Property being converted from office use into Data Center. Four total structures based on master plan, three of which will be data only, no employees, hence request for reduction in parking spaces.

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

File: 6-K-18-VA
Applicant: Rick Norris / Oren Yarbrough
Address: 814 Tyson Street
Zoning: C-2 (Central Business)

Parcel ID: 094DP002
6th Council District

Variance Request:

Reduce the minimum required drive aisle width for 90 degree parking from 26 ft to 25 ft per (Article 5, Section 7.E.1.d.Table 3)

As per plan submitted proposing to develop offices in an existing building in the C-2 (Central Business) District.

Faris Ead of Design Innovation, applicant representative, was present. Hardship was limited lot depth. Member Daniel Odle recused himself. Peter Ahrens advised that 6-K-18-VA and 6-L-18-VA were adjacent properties with some shared parking so details would be the same for both variance requests. Member Kristin Grove consulted Crista Cucarro who advised discussion could be about both requests but each needed to be voted on separately.

Joint easement and joint access parking exists between two properties. Previously requested variance to reduce setback from Tyson, 5ft to 0ft. Later determined that leeway would be needed from front property line to back property line, hence request for reduction in setback from 26 ft to 25 ft so that parking lot would align between the two different properties.

Member Kristin Grove made a motion to approve. It was seconded by member Don Horton. The Board voted 4-0 to **APPROVE**. Member Daniel Odle was recused.

File: 6-L-18-VA
Applicant: Rick Norris / Oren Yarbrough
Address: 200 Jennings Avenue
Zoning: C-3 (General Commercial)

Parcel ID: 094DP001
6th Council District

Variance Request:

1. Reduce the minimum required parking from 35 spaces to 12 spaces for 8,825 sq. ft of professional offices (Article 5, Section 7.A.3.a.Table).
2. Reduce the minimum required distance from an adjacent street right-of-way line to a driveway from 25 ft to 22 ft, 4.75 in (Article 5, Section 7.B.2.a).
3. Reduce the minimum required drive aisle width for 90 degree parking from 26 ft to 25 ft per (Article 5, Section 7.A.4.a.2.Table).

As per plan submitted proposing to develop offices in an existing building in the C-3 (General Commercial) District.

See minutes from 6-K-18-VA. Member Daniel Odle recused himself. Hardship was the existing lot is too small for required parking counts. Property was issued a variance one time before to reduce the parking down to zero, based on a bakery to go into the existing building. Since then the bakery did not move forward. At one time, discussions with city were that since the office intensity was less than the bakery then the variance would stand. Because the existing building is going to be demolished to provide parking, then the parking variance is no longer valid. Total of (30) one and two bedroom apartments, office is approximately 8,800 sq. ft with 25 people working in the space. Plenty of street parking, residential component of property is zone C2 which requires zero parking, extra parking in the back.

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

File: 6-M-18-VA Parcel ID: 081PN001-003, 081PN005-033, 081PN03402
Applicant: City of Knoxville 5th Council District
Address: 0 Texas Avenue, 1714, 1720, 1726, 1744, 1748, & 1754 Texas Avenue, 0
Minnesota Avenue, 0 Sherman Street, 1751 Delaware Avenue
Zoning: OS-2/IH-1 (Parks and Open Space / Infill Housing Overlay)

Variance Request:

1. Reduce the minimum number of required parking spaces from 148 to 84 (Article 5, Section 7.D.1.Table 1).
2. Reduce the minimum perimeter screening area width between parking lots and mixed use or non-residential zones from 5 ft to 0 ft (Article 5, Section 7.J.2.c.3).

As per plan submitted proposing to develop an athletic sports complex in the OS-2 (Parks and Open Space) / IH-1 (Infill Housing Overlay) District.

Deputy Chief of Operations Chip Barry, the applicant, was present. The hardship was size and use and development of the site. Member Kristin Grove recused herself. Member Charlie Van Beke made a motion for member Don Horton to assume the chair.

Peter Ahrens advised this is a city project, following up with the needs of the community. Community based project, will create additional street parking as well as on a lot adjacent to that property. Perimeter screening adjacent to the non-residential zone is a school. Anticipate them to function concurrently where there would not be a conflict between the two. Plan is to construct the Lonsdale Sports Complex along with the Emerald Youth Foundation.

This is city owned, mostly undeveloped space to be taken up by sports facilities including two multi-use fields and a community building. Weren't able to fit all of parking onsite, remainder of parking would be around the perimeter on the street and there would be a use agreement with Knox County schools to use their parking as well and a corner lot off of Texas Ave. would have an additional 20 spaces.

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

OTHER BUSINESS

The next BZA meeting is July 19, 2018.

ADJOURNMENT