



BOARD OF ZONING APPEALS

MINUTES

November 15, 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 November 15, 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 4:03p.m.

ROLL CALL

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

Others in attendance were Peter Ahrens, Building Official; Scott Elder, Zoning Chief; Christina Magrans, Staff Attorney; Lisa Hatfield, Assistant City Attorney; Joshua Frerichs, Stormwater Engineering and Juliana LeClair, Board Secretary.

MINUTES

Member Charlie Van Beke made a correction to the October 18, 2018 Minutes to reflect that the Board voted 3-0 not 5-0. Member David Dupree made a motion to approve the Minutes with the necessary corrections. It was seconded by Member Daniel Odle. The Board voted 4-0 to **APPROVE**.

Member Daniel Odle made a motion to approve the October 29, 2018 Special Called Meeting Minutes. It was seconded by Member Kristin Grove. Members Charlie Van Beke and David Dupree recused as they were not in attendance for the meeting. The board voted 2-0 to **APPROVE**.

OLD BUSINESS

File: 7-F-18-VA
Applicant: Creative Structures
Address: 2012 N. Broadway
Zoning: C-3 (General Commercial) District

Parcel ID: 082HA021
4th Council District

Variance Request:

- 1) Reduce the minimum drive aisle width from 26 ft. to 24 ft. (Article V Section 7.E.1.d.Table 3)
- 2) Reduce the minimum parking space depth for 90 degree parking spaces from 17.5 ft. to 15 ft. (Article V section 7.E.1.d.Table 3)
- 3) Reduce the required number of parking spaces from 35 to 17 (Prior Ordinance – Article V Section 7.A.3.a Table)

As per plan submitted proposing construction of a new multi-tenant building in the C-3 (General Commercial) District, 4th Council District.

Scott Elder advised the application had been before the Board before, no changes were made and the City of Knoxville Engineering Department had no opposition.

Applicant representative Arthur Seymour was present and advised the property was a shopping center with four current tenants. The building was built and completed although variances were needed.

Member Daniel Odle asked to confirm that there was a previous variance in place to 21 spaces. Joshua Frerichs advised that during the as-built process it was discovered that the driveway was built too wide and a variance was needed to narrow the driveway and comply with the plans. It was also determined to be an unsafe condition.

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

File: 7-I-18-VA
Applicant: Arthur Seymour
Address: 619 Women’s Basketball Hall of Fame Drive
Zoning: O-1 (Office, Medical and Related Services) District

Parcel ID: 095IH00101
6th Council District

Variance Request:

- 1) Decrease the front yard setback off Women’s Basketball Hall of Fame Dr. from 25’ to 10’ (Article 4, Section 2.2.1.D.1)
- 2) Decrease the front yard setback off James White Parkway from 25’ to 11’-2” (Article 4, Section 2.2.1.D.1)
- 3) Decrease the east side yard setback from 15’ to 5’ (Article 4, Section 2.2.1.D.2)
- 4) Increase maximum lot coverage from 35% to 52% (Article 4, Section 2.2.1.D.5.b)
- 5) Decrease the minimum required parking from 17 to 8 (Article 5, Section 7.D.1.Table 1)

As per plan submitted proposing construction of a new indoor storage facility in the O-1 (Office, Medical and Related Services) District.

Applicant representative Arthur Seymour was present and requested a withdrawal. Board Member Kristin Grove made a motion to withdraw. It was seconded by Member David Dupree. The Board voted 4-0 to **WITHDRAW**.

File: 10-C-18-VA
Applicant: Wes Brown
Address: 2218 Spence Pl.
Zoning: R-1 (Low Density Residential) District

Parcel ID: 095MB003
1st Council District

Variance Request:

1) Increase the maximum permitted height of an accessory structure from 15 ft. to 18.2 ft. (Article 4, Section 2.1.1.F)

As per plan submitted to construct a new rear yard two-story accessory structure in the R-1 (Low Density Residential) District.

Scott Elder advised the application had been postponed in the October meeting.

Applicant Wes Brown was present and advised the plans had been changed to a lesser variance of 17.10 ft.

Member Kristin Grove asked for an explanation of hardship. The applicant advised lot size was the hardship due to a sub-standard lot under a quarter acre. The applicant advised that it was a sloping lot from the road back to the lot and that the structure would be unobtrusive. Member Kristin Grove asked City Staff to confirm that it was a small lot of record. Scott Elder confirmed that the lot was sub-standard in width and Member Kristin Grove confirmed that that equaled a small lot of record.

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

NEW BUSINESS

File: 11-A-18-VA
Applicant: Annette Hommel, Site Inc.
Address: 121 E. Young High Pike
Zoning: RP-2 (Planned Residential) District

Parcel ID: 109OA007
1st Council District

Variance Request:

1) Reduce peripheral boundary on north property line from 29' to 15.17' (Article 4, Section 3.1.D.2)

- 2) Reduce peripheral boundary on west property line from 29' to 15.31' at north end (Article 4, Section 3.1.D.2)
- 3) Reduce peripheral boundary on south property line from 29' to 15.08' on west end (Article 4, Section 3.1.D.2)
- 4) Reduce peripheral boundary on east property line from 29' to 15.08' west side of AT&T building (Article 4, Section 3.1.D.2)
- 5) Reduce peripheral boundary on west property line from 29' to 15.40' east side of AT&T building (Article 4, Section 3.1.D.2)
- 6) Reduce peripheral boundary on south property line from 29' to 19.34' east end (Article 4, Section 3.1.D.2)
- 7) Reduce peripheral boundary on east property line from 29' to 15.13' west side of Post Office (Article 4, Section 3.1.D.2)

As per submitted site plan to construct a multi-family development in the RP-2 (Planned Residential) District.

Applicant representative Arthur Seymour was present and advised of an odd shaped lot with a South Central Bell building in the middle of the lot. The applicant's intention was to develop the lot as part of the City's affordable housing project.

Neighbor Kenneth Allen McBride was present to speak in opposition to the variance requests with a primary concern about the ingress/egress and the routing of traffic in an already dangerous traffic zone.

Arthur Seymour advised of a pending Use on Review with MPC regarding engineering issues that needed to be worked through. Joshua Frerichs advised that the Engineering Department required a traffic impact study.

Member Charlie Van Beke asked for confirmation that the issue brought up by Mr. McBride would be addressed at another stage of the development process. That was confirmed by Joshua Frerichs.

Member Daniel Odle made a motion to approve. It was seconded by Member Charlie Van Beke. Member Daniel Odle made an amendment that the approval be based on Use on Review with MPC. The Board voted 4-0 to **APPROVE**.

File: 11-B-18-VA
Applicant: Thomas A. Stubbs
Address: 7901 Livingston Dr.
Zoning: R-1 (Low Density Residential) District

Parcel ID: 120JC008
2nd Council District

Variance Request:

1) Increase the maximum accessory building height from 15' to 15'7" (Article 4, Section 2.1.1.F)

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

Applicant Thomas A. Stubbs was present and advised of the need for additional roof height on the garage housing a recreational vehicle. Mr. Stubbs advised of an 8 or 10 ft. privacy fence on the property as well as a row of 25 foot tall trees which provided a buffer of privacy for the neighbor. Member Kristin Grove asked the applicant to explain the hardship. The applicant advised that the motorhome was too tall and that he needed a place to park it. Member Kristin Grove made a motion to deny based on lack of legal hardship. It was seconded by Member David Dupree. Members Kristin Grove, David Dupree and Daniel Odle voted to deny. Member Charlie Van Beke voted in opposition of denial. The Board voted 3-1 to **DENY**.

File: 11-C-18-VA

Parcel ID: 095ID026

Applicant: Steve James

6th Council District

Address: 800 S. Central St.

Zoning: D-1 (Downtown Design Overlay / C-3 (General Commercial) Districts

Variance Request:

1) Reduce the minimum required number of parking spaces from 13-0 (Article 5, Section 7.D.1.Table 1)

As per plan submitted for a proposed theater in the D-1 (Downtown Design Overlay) / C-3 (General Commercial) Districts.

Scott Elder advised the property was a previous church being turned into a theater with a change of occupancy which triggered the re-evaluation of parking.

Applicant Steve James was present and advised there was no available space for any parking on the property. Member David Dupree advised he was familiar with the property and had seen cars parked next to the building. Mr. James advised the cars parked next the building were parked on property owned by TDOT, the next door property was not owned by the building at 800. S. Central St. Peter Ahrens advised that the City had evaluated the lot to see if there were any opportunities for parking and they determined there were no opportunities for legally complying parking spaces on the property.

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

File: 11-D-18-VA
Applicant: Alan Grissom
Address: 9341 S. Northshore Dr.
Zoning: C-6 (General Commercial Park) District

Parcel ID: 154EF002
2nd Council District

Variance Request:

- 1) Decrease required lot area from 2 acres to 1.22 acres (Article 5, Section 3.F.7.d)

As per submitted site plan for a proposed self-storage in the C-6 (General Commercial Park) District.

Per Peter Ahrens the request was for reduction in minimum lot size for self-storage. The self-storage would have to go through a Use on Review through the MPC. The BZA Board's responsibility was only to look at the lot size reduction as it related to the described hardships.

Project Developer Clint Patterson was present and advised the proposal was for a completely enclosed self-storage, climate controlled, indoor accessed units in one building with no outside drive up. Applicant representative Alan Grissom with Cannon and Cannon was also present.

Member Kristin Grove asked for an explanation of the legal hardship. Mr. Patterson advised site constraints and no possible opportunity to pick up any additional land around the property to meet the 2 acre ordinance which applied to exterior storage not enclosed self-storage. Peter Ahrens advised it met the setback and lot coverage requirements and the regulations were most likely meant for the traditional drive-up storage.

Member Kristin Grove made a motion to deny based on a lack of legal hardship. It was seconded by Member Daniel Odle. Member Charlie Van Beke was opposed and Member David Dupree abstained. City Attorney Christina Magrans advised that a quorum of three was needed and if there were two votes in support of the motion then the motion failed. In that instance then a second motion to approve was required in order to make it stronger for the Court of Appeals if it had to go up on appeal.

Member Charlie Van Beke made a motion to approve. It was seconded by Member Daniel Odle for the purpose of continued discussion. Member Daniel Odle asked Member Charlie Van Beke for his interpretation of the hardship. Member Charlie Van Beke advised it was an odd shaped lot and the reason for the two acres was not applicable to the case. Member Kristin Grove advised that it was applicable by code and current written standards. Member Daniel Odle asked Member Charlie Van Beke to describe how it was not applicable. Member Charlie Van Beke advised that with the more modern use that the property would be put to, he felt that it should go ahead.

The applicant clarified that the customer would drive, park and then walk into the building. The customer would walk into a building then get into an elevator to go up to the unit. All units would

be internally accessed and customers would not drive up to their storage unit. Member Daniel Odle confirmed this use was something that was new other than what the ordinance intended.

Member Kristin Grove re-confirmed the motion and the second. Members Charlie Van Beke and Daniel Odle voted in favor, Member David Dupree and Kristin Grove opposed.

Christina Magrans advised the motion failed for a lack of votes, would need three votes in the affirmative either way.

File: 11-E-18-VA
Applicant: Alan Grissom
Address: 4705 Chapman Hwy.
Zoning: C-4 (Highway and Arterial Commercial) District

Parcel ID: 123BD02403
1st Council District

Variance Request:

1) Decrease required lot area from 2 acres to 1.89 acres (Article 5, Section 3.F.7.d)

As per submitted site plan for a proposed self-storage in the C-4 (Highway and Arterial Commercial) District.

Per Peter Ahrens the request was for reduction in minimum lot size for self-storage. The self-storage would have to go through a Use on Review through the MPC. The BZA Board's responsibility was only to look at the lot size reduction as it related to the described hardships.

Project Developer Clint Patterson was present and advised the property was 1.89 acres rather than two acres as in related application 11-D-18-VA. Power line cuts the front of the property with a large setback. Proposing a 100% enclosed, climate controlled interior accessed facility.

Alan Grissom with Cannon and Cannon advised that in the past the property used to be two acres before the right of way came in.

Member Daniel Odle made a motion to approve. It was seconded by Member David Dupree. Members Daniel Odle, Charlie Van Beke and David Dupree voted to approve. Member Kristin Grove opposed. The Board voted to 3-1 to **APPROVE**.

File: 11-F-18-VA
Applicant: Holly McClarnon
Address: 3426 June St.
Zoning: R-1 (Low Density Residential) District

Parcel ID: 109FE018
1st Council District

Variance Request:

- 1) Reduce rear yard setback from 25' to 18'8" (Article 4, Section 2.1.1.E.3.a)

As per plan submitted to construct a new rear sun room attached to the existing structure in the R-1 (Low Density Residential) District.

Per Christina Magrans, based on conversations during the Pre-Agenda meeting with City staff and based on superseding Federal law, the law department was in support of the variance request and recommended postponement.

Member Kristin Grove made a motion to postpone to the December 20, 2018 meeting. It was seconded by Member Daniel Odle. The Board voted 4-0 to **POSTPONE**.

File: 11-G-18-VA
Applicant: NLA Kingston, LLC
Address: 7621 Kingston Pike
Zoning: C-3 (General Commercial) District

Parcel ID: 120GB01101
2nd Council District

Variance Request:

- 1) Increase maximum height of secondary detached sign from 8' to 62' (Article 8, Section 11.6.b.3)
- 2) Increase maximum sign area of a secondary detached sign from 32 sq. ft. to 200 sq. ft. (Article 8, Section 11.6.b.3)
- 3) Decrease the minimum setback of a detached sign from 10' to 0.2' (Article 8, Section 7.1.b)

As per plan submitted for property signage in the C-3 (General Commercial) District.

Scott Elder advised an email was received requesting postponement to the December 20, 2018 meeting. Member Kristin Grove made a motion to postpone. It was seconded by Member Charlie Van Beke. The Board voted 4-0 to **POSTPONE**.

File: 11-H-18-VA
Applicant: Church Street United Methodist
Address: 913 Henley St.
Zoning: C-2 (Central Business) / D-1 (Downtown Design Overlay) Districts

Parcel ID: 094MF025
6th Council District

Variance Request:

- 1) Sign 1 – Reduce the required minimum setback for an incidental sign at Cumberland Ave. from 10' to 0' (Article 8, Section 8.4.d.7)
- 2) Sign 2 – Reduce the required minimum setback for a monument sign at Poplar St. corner from 10' to 0' (Article 8, Section 7.1.a)
- 3) Sign 3 – Reduce the required minimum setback for an incidental sign at Poplar St. from 10' to 0' (Article 8, Section 8.4.d.7)
- 4) Sign 4 – Reduce the required minimum setback for an incidental sign at W. Hill Ave. from 10' to 0' (Article 8, Section 8.4.d.7)

As per plan submitted for property signage in the C-2 (Central Business) / D-1 (Downtown Design Overlay) Districts.

Scott Elder advised of a previous variance request in 2017 which was approved. Applicant came back due to discrepancy in site plan, asking for setbacks to be brought to 0' instead of 10'.

Applicant Nathan Rowell was present and advised the signs are in the same location as on the earlier location, however on four of the signs the property line was not where they thought it was. If they were to go with the 10' setback, the signs would not be visible from the street or not visible in time to be able to read them. Additionally, if they went with the setback, two of the signs would be blocked by large KUB poles.

Member Charlie VanBeke made a motion to approve. It was seconded by Member Daniel Odle. The Board voted 4-0 to **APPROVE**.

File:	11-I-18-VA	Parcel ID: 095AM014
Applicant:	Spacebox Knoxville, LLC	6 th Council District
Address:	201 Randolph St.	
Zoning:	I-2 (Restricted Manufacturing and Warehousing) District	

Variance Request:

- 1) Reduce required parking spaces from 157 to 28 (Article 5, Section 7.D.1 table 1)
- 2) Reduce minimum drive aisle width in parking garage from 26' to 16'1" (16.08') (Article 5, Section 7.E.1.d Table 3)

As per plan submitted for partial conversion of existing storage facility in the I-2 (Restricted Manufacturing and Warehousing) District.

Scott Elder advised this was a redevelopment of the old fire proof storage building.

Joshua Frerichs advised City Engineering was uncomfortable with the narrowness of the internal drive aisle which was pushing the limits of functionality for the parking spaces.

Applicant representative Arthur Seymour was present and advised the building was built in the 20's and predated the City's zoning ordinance, there was no parking there. Mr. Seymour

discovered the applicant had made a miscalculation. Peter Ahrens acknowledged the miscalculation but because City staff did not capture it, as a policy the applicant could move forward with the understanding that if there were any changes in the uses, the parking would have to be re-evaluated and another variance may have to be requested in the future.

Developer Casey Tippens was present and confirmed that a vacant lot adjacent to the main building had 10 parking spaces but because of re-development of the building that parking lot had to be brought up to code which would reduce the number of spaces from 10 to 5. Mr. Tippens advised of the plans to purchase a lot across the road and demolish the existing building to create another parking lot.

Member Daniel Odle asked why the request was to reduce the number of spaces to 28 and Mr. Tippens advised that that was the maximum number of spaces that would fit on the property.

Member David Dupree made a motion to approve. It was seconded by Member Charlie VanBeke. The Board voted 4-0 to **APPROVE**.

ADJOURNMENT

The meeting adjourned at 5:29p.m.

OTHER BUSINESS

The next BZA meeting is on December 20, 2018.