



**BOARD OF ZONING APPEALS  
MEETING MINUTES  
December 15, 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 **December 15, 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 4:00 pm. Other Board members present were Kristin Grove, Daniel Odle, David Dupree and Charlie Van Beke.

Others in attendance were Peter Ahrens, Director of Plans Review and Inspections; Scott Elder, Zoning Chief; Crista Cuccaro, Law Department; Mark Johnson, Engineering; Mike Reynolds, MPC; Brandon Littlejohn, Zoning Inspector; and Angelia Rooks, Board Secretary.

**APPROVAL OF MINUTES**

Board member Kristin Grove made a motion to approve the November 17, 2016 minutes. It was seconded by Board member Daniel Odle. The Board voted 4-0 to **APPROVE** the minutes. Board Chair Don Horton abstained.

**OLD BUSINESS**

<b>File:</b>	<b>10-F-16-VA</b>	<b>Parcel ID:</b> 107LA019
<b>Applicant:</b>	WP General Partnership	
<b>Address:</b>	4315 Kingston Pike	
<b>Zoning:</b>	C-6 (General Commercial Park) District 2 <sup>nd</sup> Council District	

**Variance Requests:**

1. Reduce the minimum required number of parking spaces from 1035 spaces to 670 spaces per Article 5, Section 7.A.3.a.Table.
2. Reduce the minimum front yard setback to allow an impervious outdoor seating area from 25 ft. to 10 ft. per Article 4, Section 2.2.9.D.2.a.

As per submitted plan to permit redevelopment of and existing shopping center in a C-6 District.

Arthur Seymour, Jr. and Brad Salzbury, the applicant, were present. The parking space variance request (item 1) was withdrawn. Plans were changing and the parking requirements would be recalculated. The setback variance request was to reduce the vegetative buffer requirement. The hardship was the topography and size of the property prohibited the addition of an outdoor seating area

for the planned restaurant. They did not have a tenant for this space, yet. Vegetation and green areas would be added when the parking area was redesigned.

Board member Charlie Van Beke made a motion to approve item 2 (setback). It was seconded by Board member David Dupree. The Board voted 4-1 to **APPROVE** the request of item 2. Board member Kristin Grove voted against the motion.

## **NEW BUSINESS**

**File:** 12-A-16-VA **Parcel ID:** 094OD02001  
**Applicant:** Batson-Cook Company  
**Address:** 2308 Forest Avenue  
**Zoning:** RP-3 (Planned Residential) District  
1<sup>st</sup> Council District

### **Variance Request:**

Reduce the minimum drive aisle width for two-way traffic with 90 degree parking from 26 ft. wide to 23.5 ft. wide per Article 5, Section 7.A.4.a.2.Table.

As per submitted plan to accommodate an as built parking lot in an RP-3 District.

Scott Elder advised the Board that the request was to correct a situation identified during an Engineering inspection. There were prior variance requests for this project.

Tyson Krutsinger, the applicant, was present. The width of the drive aisle changed from 26 ft wide to 23.5 ft wide, affecting approximately 9 parking spaces. Curvature of the drive aisle, an easement, and the location of a KUB transformer prohibited compliance with the width requirement. Otherwise, the sidewalk and the transformer pad would overlap. They had no control over the location of the transformer since KUB installed it. They did meet the required minimum number of parking spaces.

Board member Daniel Odle stated that the property was oddly shaped and 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:** 12-B-16-VA **Parcel ID:** 081NA005  
**Applicant:** James Hayes  
**Address:** 733 W. Emerald Avenue  
**Zoning:** R-1A (Low Density Residential) District  
6<sup>th</sup> Council District

### **Variance Request:**

Reduce the minimum required lot width at the front building line from 75 ft. to 65 ft. per Article 4, Section 2.1.2.D.4.a.

As per submitted plan to permit platting of a nonconforming parcel in an R-1A District.

Scott Elder advised the Board that there was a previous variance granted for this property, but since then it was discovered that this lot was not recorded on the City's ward map. This variance was required to qualify the lot for platting.

James Hayes, the applicant, was present. The house was built on the larger lot, and the driveway was located on the smaller lot.

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:** 12-C-16-VA  
**Applicant:** Johnson Architecture  
**Address:** 133 N. Broadway  
**Zoning:** C-6 (General Commercial Park) District  
6<sup>th</sup> Council District

**Parcel ID:** 094EL009

**Variance Request:**

Reduce the minimum required front yard setback from a railroad right-of-way from 25 ft. to 0 ft. per Article 4, Section 2.2.9.D.2.a.

As per submitted plan to permit an addition to a commercial building in a C-6 District.

Joey Staats, the applicant, was present. The TDOT development project on Broadway and the railroad easement prohibited development of the property. Parts of the existing building were demolished and the addition was needed for storage space.

Board member Charlie Van Beke stated that the site constraints were many and obvious. He 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:** 12-D-16-VA  
**Applicant:** Derek Dague  
**Address:** 3120 McKamey Road  
**Zoning:** C-3 (General Commercial) District  
3<sup>rd</sup> Council District

**Parcel ID:** 093AE00205

**Variance Requests:**

1. Increase the maximum permitted sign height of a primary detached ground sign from 10 ft. to 20 ft. per Article 8, Section 11.6.c.Table.
2. Increase the maximum permitted sign area of a primary detached ground sign from 100 sq. ft. to 141 sq. ft. per Article 8, Section 11.6.d.Table.

As per submitted plan to permit construction of a ground sign as shown in a C-3 District.

Ben Carroll, representing the property owner, was present. The proposed signage was the standard size used by the tenant at other locations around the country. The dimensions of the sign were based on studies that identified the best height and size for visibility. The height would conform with the taller, existing signs on Western Avenue.

Board member Charlie Van Beke asked if the taller signs on Western Avenue were older, and if there were any obstructions hindering visibility. Mr. Carroll acknowledged that the taller signs were older and approved under the previous sign ordinance. He also confirmed that there were no visual obstructions.

Board member Kristin Grove stated that there was no hardship and made a motion to deny the requests. It was seconded by Board member David Dupree. The Board voted 5-0 to **DENY** the requests.

**File:** 12-E-16-VA  
**Applicant:** Acadia Landscape Company  
**Address:** 706 Luttrell Street  
**Zoning:** R-1A / H-1 (Low Density Residential / Historic Overlay) Districts  
4<sup>th</sup> Council District

**Parcel ID:** 094DF012

**Variance Requests:**

1. Reduce the minimum required southeast side yard setback from 8 ft. to 0 ft. per Article 4, Section 2.1.2.D.2.B.
2. Reduce the minimum required rear yard setback from 5 ft. to 3 ft. per Article 4, Section 2.1.2.D.3.b.
3. Increase the maximum permitted lot coverage from 30% to 45% per Article 4, Section 2.1.2.D.6.

As per submitted plan to permit the addition of a carport to the rear of the house in R-1A / H-1 Districts.

Phil Bonifacio, the applicant, was present. He received a Certificate of Appropriateness from the HZC, and the design was consistent with neighborhood. The size of the property prohibited development.

Board member Daniel Odle stated the size of the lot was prohibitive and made a motion to approve the requests. It was seconded by Board member Charlie Van Beke. The Board voted 4-1 to **APPROVE** the requests. Board member David Dupree voted against the motion.

**File:** 12-F-16-VA  
**Applicant:** Mark Miller  
**Address:** 1311 Dowell Springs Blvd  
**Zoning:** O1 (Office, Medical and Related Services) District  
3<sup>rd</sup> Council District

**Parcel ID:** 106DA00912

**Variance Requests:**

1. Increase the maximum permitted area of wall sign #1 from 24 sq. ft. to 145 sq. ft. per Article 8, Section 11.5.1.
2. Increase the maximum permitted area of wall sign #2 from 24 sq. ft. to 58 sq. ft. per Article 8, Section 11.5.1.

As per submitted plan to permit wall signs as requested in an O1 District.

Mark Miller, the applicant, was present. He presented additional renderings of the proposed illuminated signage. The client wanted signage similar to the neighboring properties, which were in PC-1 zones, to increase visibility and to match the scale of the building. The sign was the company logo which was used on letterhead and other written communications.

Crista Cuccaro clarified that illuminated signage was prohibited in this zone, and the Board was only considering variances for the size of the signage.

Board member Kristin Grove stated that the logo sign was very large and easily recognizable. Board member Daniel Odle agreed, and stated that there was no hardship.

Board member Kristin Grove made a motion to deny both requests. It was seconded by Board member Daniel Odle. The Board voted 5-0 to **DENY** both requests.

**File:** 12-G-16-VA  
**Applicant:** Flatiron Restorations, LLC  
**Address:** 724 N. Broadway

**Parcel ID:** 094DL013

**Zoning:** C-3 (General Commercial) District  
4<sup>th</sup> Council District

**Variance Request:**

Reduce the minimum required number of parking spaces from 5 spaces to 0 spaces per Article 5, Section 7.A.3.a.Table.

As per submitted plan to permit mixed use development (commercial / residential) in a C-3 District.

Lauren Rider and Aaron Streeter, the applicants, were present. The building was constructed in 1912, and was always a commercial site with an apartment on the upper floor. The hardship was the existing building, which covered the entire property. On-street parking was available.

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:** 12-H-16-VA  
**Applicant:** Urban Engineering, Inc.  
**Address:** 118 Lovell Road  
**Zoning:** C-3 (General Commercial) District  
2<sup>nd</sup> Council District

**Parcel ID:** 131-05401

**Variance Request:**

Reduce the minimum required number of parking spaces from 118 spaces to 66 spaces per Article 5 Section 7.A.3.a.Table.

As per submitted plan to permit construction of a senior independent living facility in a C-3 District.

Chris Sharp and Dan Brewer, the applicants, were present. Mr. Brewer explained that “independent living” offered fewer services than “assisted living” facilities, but operated in a similar manner. It also did not require state licensing and had a much lower parking demand. The 66 spaces included 50 for residents and 16 for staff. Only 15% of the apartments had kitchens, so it would not be easily convertible into a standard apartment building, should the facility fail.

Peter Ahrens stated that the staff was not made aware that there would be units without kitchens. Submitted plans identified them as dwelling units. Without kitchens, they do not meet the definition of dwelling units. The facility may function like “congregate living,” which was in a proposed ordinance under consideration by MPC. He suggested postponing the request so the staff can review the plans with the applicant to make sure the parking counts were accurate.

Board member David Dupree made a motion to postpone the request. It was seconded by Charlie Van Beke. The Board voted 5-0 to **POSTPONE** the request until the January 19, 2017 meeting.

**File:** 12-I-16-VA  
**Applicant:** Toby Strange  
**Address:** Miller Place Way  
**Zoning:** SC-3 (Regional Shopping Center) District  
4<sup>th</sup> Council District

**Parcel ID:** 059EA002 & 003

**Variance Request:**

Increase the maximum permitted sign height of a primary detached ground sign from 10 ft. to 35 ft. per Article 8, Section 11.6.c.Table.

As per submitted plan to permit construction of a new ground sign in an SC-3 District.

Robert Harrison, representing the applicant, was present. The hardship was visibility obstructions, and elevation. This location was second row, so existing buildings blocked visibility from traffic queuing for the left-turn lane. There was no left-turn lane after the intersection, only right-in-right-out access.

Keith Whitner, representing the owners of the property, was present. Because of the uncertain future of the mall as a retail destination, nearby businesses could no longer depend on mall traffic. They had to draw traffic from residential areas. Visibility and traffic flow was a concern.

Board member Kristin Grove stated that this area was growing and Zaxby's would be successful with or without this sign. Board member Daniel Odle disagreed, stating that the elevation and physical barriers were legitimate hardships. Brandon Littlejohn confirmed that the sign would be measured in relation to Miller Place Way. Board member Charlie Van Beke stated that this was not like interstate traffic. It was more like a neighborhood restaurant, and would easily establish its presence with nearby residents.

Board member David Dupree pointed out that I-640 also had signage for restaurants at this exit. Mr. Harrison stated that space for these interstate signs were limited, and other restaurants that serve breakfast (e.g. Hardee's, McDonald's) would have priority over Zaxby's.

Board member Daniel Odle made a motion to approve the request based on the elevation which materially affects their ability to use this lot. There was no second. The motion failed.

Board member Kristin Grove made a motion to deny the request because there was no hardship. It was seconded by Board member Charlie Van Beke. The Board voted 4-1 to **DENY** the request. Board member Daniel Odle voted against the motion.

**File:** 12-J-16-VA

**Parcel ID:** 094MJ023

**Applicant:** Brewer Ingram Fuller Architects, Inc.

**Address:** 1501 White Avenue

**Zoning:** O-2 (Civic and Institutional) District  
1<sup>st</sup> Council District

**Variance Requests:**

1. Reduce the minimum required number of parking spaces from 110 to 12 per Article 5, Section 7.A.3.a.Table.
2. Reduce the minimum width of a 2-way aisle within a parking garage from 26 feet to 15 feet, as shown on the site plan per Article 5, Section 7.A.4.d.2.
3. Reduce the minimum module width between columns or walls within a parking garage with 90 degree parking and two-way traffic from 60 feet to 59 feet per Article 5, Section 7.A.4.d.1.Table.
4. Reduce the minimum driveway width from 20 feet to 15 feet per Article 5, Section 7.B.3.c.Table.

As per submitted plan to permit an addition to an existing office building in an O-2 District.

Dan Brewer, the applicant, was present. The owner proposed building another level to create 2 floors for restaurants and coffee shops. The hardship was the existing building. The garage below the building had only 11 spaces. This was a heavily pedestrian area, and public parking garages were available nearby. Mike Suede, the owner, was present. The staff would park in the basement garage, which would be widened.

Peter Ahrens explained that accessible parking was based on number of spaces provided, not the number of tenants. Only 1 of the 11 would have to be accessible.

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

**File:** 12-K-16-VA **Parcel ID:** 082HA021  
**Applicant:** Eddie Mubarak  
**Address:** 2004 N. Broadway  
**Zoning:** C-3 (General Commercial) District  
4<sup>th</sup> Council District

**Variance Request:**

Reduce the minimum required number of parking spaces from 35 spaces to 21 spaces per Article 5, Section 7.A.3.a.Table.

As per submitted plan to permit construction of a multi-tenant center in a C-3 District.

Tim Donovan, the architect, was present. Topography prohibited development of the property.

Board member Charlie Van Beke agreed and 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:** 12-L-16-VA **Parcel ID:** 095BF02201  
**Applicant:** Cherokee Health Systems  
**Address:** 2202 Martin Luther King, Jr. Avenue  
**Zoning:** O-1 (Office, Medical and Related Services) District  
6<sup>th</sup> Council District

**Variance Request:**

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

As per submitted plan to permit an addition to an existing building in an O-1 District.

Guy Wantiez, the applicant, was present. The two existing buildings will be expanded and combined to create a third space. The hardship was the existing building, egress stair and size of the property.

Board member Charlie Van Beke 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:** 12-M-16-VA **Parcel ID:** 069LA013  
**Applicant:** Brett Honeycutt  
**Address:** 4125 McKinley Street  
**Zoning:** C-6 (General Commercial Park) District  
5<sup>th</sup> Council District

**Variance Request:**

Reduce the minimum required front yard setback from 25 ft. to 0 ft. per Article 4, Section 2.2.9.D.2.a.

As per submitted plan to permit construction of a commercial building in a C-6 District.

Brett Honeycutt, the applicant, was present. The hardship was the topography and railroad easement, which prohibits development. This variance request should have been included with the prior variance requests for this project, but was omitted in error.

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

**File:** 12-N-16-VA **Parcel ID:** 108CK006 & 009-013  
**Applicant:** Starboard Properties IV, LLC  
**Address:** 2120 Cumberland Avenue  
**Zoning:** FD-CU-1 & FD-CU-2 (Form District-Cumberland Avenue) Districts  
1<sup>st</sup> Council District

**Variance Request:**

Reduce the minimum required width for a parking space from 9 ft. to 8 ft. per Article 5, Section 7.A.4.a.2.Table.

As per submitted plan to permit redevelopment of the site with a multi-use project in an FD-CU-1 & FD-CU-2 Districts.

The applicant notified the staff that they would like to postpone the request.

Board member Daniel Odle made a motion to postpone the request. It was seconded by Board member Charlie Van Beke. The Board voted 5-0 to **POSTPONE** the request to the January 19, 2017 meeting.

**OTHER BUSINESS**

The next BZA meeting is January 19, 2017.

**ADJOURNMENT**

The meeting adjourned at 5:35 pm.

Respectively submitted,

Angelia Rooks  
Angelia Rooks, Board Secretary