

**CITY OF KNOXVILLE
BOARD OF ZONING APPEALS
MEETING MINUTES
January 15, 2015**

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 **January 15, 2015, meeting at 4:00 p.m. in the Small Assembly Room, City/County Building, 400 Main Street, Knoxville, TN.**

CALL TO ORDER

Board Chairman Don Horton called the meeting to order at 4:00 p.m. Members present were: Don Horton; Kristin Grove; Barbara Clark; Charlie Van Beke; and Daniel Odle.

Others in attendance: Peter Ahrens, Plans Review and Inspections Director; Scott Elder, Zoning Chief; Mark Johnson, City Engineering; Crista Cuccaro, Law Department; Debbie Brooks, Board Secretary; and Dan Kelly, Metropolitan Planning Commission (MPC).

APPROVAL OF NOVEMBER 20, 2014 MINUTES

Board member Barbara Clark made a motion to APPROVE the November 20, 2014 minutes and it was seconded by Board member Daniel Odle. Board member Charlie Van Beke recused himself because he was not present at the November 20, 2014 meeting. **The Board voted 4-0 to APPROVE the November 20, 2014 minutes.**

OLD BUSINESS

File:	11-H-14-VA	
Applicant:	Earthadelic	
Address:	4217 Hiawatha Drive	Parcel ID: 107MC023
Zoning:	R-1 (Low Density Residential) District 2nd Council District	

Variance Request:

Reduce the minimum required northeast side yard setback from 5 feet to 2.5 feet per Article 4, Section 2.1.1.E.2.

As per the submitted plan to permit the construction of a deck addition on an existing pool in an R-1 (Low Density Residential) District.

Michael Shawn Patrick Martin, 4701 Meredith Road, said he was the senior representative for Earthadelic Landscapes and the designer for this project. Mr. Martin said the Sequoyah Hills property has been vacated for about five years. Mr. Martin said Ms. Wynne Shelton had purchased the property and has been renovating the house both inside and outside. Mr. Martin said Earthadelic took care of everything outside. Mr. Martin said there was an existing pool on the property and it has been refurbished. Mr. Martin said the deck was horribly dilapidated and was built with old sub-standard techniques. Mr. Martin said they tore the old deck down and built a new deck to the exact same dimensions. Mr. Martin said they did not know if they tore the old deck down and there was a variance granted that they had lost it. Mr. Martin said under the direction and guidance of Melvin Wright, Plans Examiner, they submitted for the appeal to go ahead and replace the deck.

Scott Elder, Zoning Chief, said there was a letter from Dr. Scott Kinzy, a neighbor, in the agenda packet.

Board Chairman Don Horton said there was an existing pool. Mr. Martin said the new deck was built to the exact same size dimensionally as the old deck. Mr. Martin said they failed to realize when the deck was removed that any variance granted by this Board was lost. Mr. Martin said they were reapplying for the variance.

Board member Charlie Van Beke asked if the deck configuration could be changed so it would not encroach on the setback. Mr. Martin said no. Mr. Martin said they would surely like to do that if possible but the way the new design was done with the privacy fence going up at that particular corner actually had to meet a wooden fence that came across there (privacy fence). Mr. Martin said the area was really small. Board member Kristin Grove asked if there was an existing variance to allow this previously. Mr. Martin said as he was informed Mr. Wright was unable to ever find a variance on this. Mr. Martin said this was a very old residence maybe 35-45 years old. Mr. Martin said Mr. Wright did not inform him that there was an old variance at all. Mr. Van Beke asked if Mr. Martin had any photographs or better drawings to what they had done or going to do on the property. Mr. Martin said he wanted to apologize because he did not bring any photographs with him. Mr. Martin said he asked to be guided about doing anything he could to make it evident to the Board. Mr. Martin said he thought this was about respecting the laws and respecting the administrative grants more than anything. Mr. Martin said it was certainly not about infringing on someone. Mr. Van Beke asked if the privacy fence would go up the property line. Mr. Martin said no. Mr. Martin said it actually runs at a 45-degree angle to the property line itself and goes over to an existing wall to the right side of the residence that was already there.

Mr. Horton asked about the topography (the slope) around the pool. Mr. Martin said as you face the house on the right side the topography was severe and went down to the property line with probably a 6-8% grade. Mr. Martin said the forward corner on the pool closest to the street on the right side of the residence the deck came off of there and went up to within 2.5 feet of the property line. Mr. Martin said the setback was supposed to be 5 feet if he understood it correctly and this was the variance they were seeking. Mr. Martin said it had been that way many years but what they took down was very dangerous. Ms. Grove asked if there was any photographic evidence that showed the deck existing in that exact form prior to the applicant removing it and rebuilding it. Mr. Martin said the only thing he could offer to the Board would be to check satellite photographs under Google Earth (fall shots – 6 to 9 months behind). Mr. Horton asked if Dr. Kinzy's property was to the right. Mr. Martin said Dr. Kinzy's property was to the left so the variance as they faced the residence that they were seeking was to the right-hand property line. Mr. Elder said as you face the residence, Dr. Kinzy's property was to the right of the property.

Mr. Van Beke said he could not visualize anything and he thought it was a pretty poor record that was submitted. Mr. Van Beke said he could not see how it was situated on the lot. Mr. Horton asked if there was any old photographic evidence before they started the work. Mr. Martin said he had some photographs in the company archives on the computer and he asked about bringing them and was told it was unnecessary. Mr. Martin said he wanted the Board to have everything they needed to make an important decision. Mr. Martin said there was a detailed draft for the client. Mr. Van Beke asked if Mr. Martin had a site plan because Dr. Kinzy had submitted one for his property. Mr. Van Beke said the Board did not have a site plan for Ms. Shelton's property. Mr. Van Beke said it would be helpful to see how everything laid on the lot.

Mr. Horton said the status right now was that the deck was built and this variance request had been postponed once. Mr. Horton said if the Board postponed the request again so the applicant could get more documentation on what was there, that would be helpful on this decision and what was there now. Mr. Martin asked if they would have to wait another month. Mr. Horton said if they postponed the request, it would be another month. Mr. Martin said he was trying to do everything he had been asked to do there. Mr. Horton said he understood. Mr. Van Beke said he was not prepared to go forward and vote on this request. Mr. Van Beke said if push came to shove he would have to vote but right now he

did not see he had a record in front of him that he could deal with. Board member Barbara Clark said she agreed with Mr. Van Beke. Ms. Clark said one of the things Dr. Kinzy was concerned about was a loud pool party and noise. Ms. Clark said Mr. Martin had indicated that there was some kind of a wall. Mr. Martin said there was a privacy wall that was going between the formal corner of the pool over to a wall. Mr. Martin said actually the privacy was re-established between the two properties with trees that were planted on the right end of the pool to create a better privacy than what existed there now. Ms. Clark said it would be good to have a visual so the Board could see how that would impact the yard and this situation. Mr. Martin said he really did respect the Board's desire for that information and he was more than happy to bring it. Mr. Martin asked if there was any kind of an exception that could be made for them in the event that he could present the information quickly and they would not have to wait another six weeks to get this done. Mr. Van Beke said no one would be using the pool unless it was heated. Mr. Martin said it was heated and they were also trying to get the job done to give Ms. Shelton the privacy she needed to use it.

Crista Cuccaro, Law Department, said the Board did have the authority to call a special meeting so long as there was the adequate time for a public notice. Ms. Cuccaro said that was an option but she was not sure how the dates lined up. Mr. Horton said if the Board postponed the request, it would be four weeks until the next meeting. Mr. Horton said an adequate notice for a special meeting might be around the same time. Mr. Van Beke said it was up to the applicant if they wanted to move the request for a month. Ms. Cuccaro said the Board could make a motion to postpone the meeting. Mr. Van Beke said he would like to hear the applicant's view on postponing the request for a month. Mr. Van Beke said Mr. Martin had heard the Board talking and if the Board voted now, Mr. Martin might not be happy. Mr. Van Beke said it might be in Mr. Martin's best interest that the Board postpones the request and if the Board did that would Mr. Martin object. Mr. Martin said no. Mr. Martin said advice was only good if it is taken.

Board member Charlie Van Beke made a motion to POSTPONE the one request until the February 19, 2015 meeting and it was seconded by Board member Barbara Clark. **The Board voted 5-0 to POSTPONE the one request until the February 19, 2015, meeting.**

File: 12-E-14-VA
Applicant: Batson, Himes, Norvell & Poe
Address: 2313 Amherst Road Parcel ID: 092-part of 092
Zoning: RP-1 (Planned Residential) District
3rd Council District

Variance Requests:

1. Reduce the minimum required rear yard setback from 25 feet to 18.2 feet per Article 4, Section 3.1.D.2.
2. Reduce the minimum number of required parking spaces from 46 spaces to 32 spaces per Article 5, Section 7.A.3.a. Table.
3. Increase the maximum permitted wall sign size from 10 square feet to 69 square feet per Article 5, Section 10.C.6.

As per the submitted plan to permit the construction of a new commercial development in an RP-1 (Planned Residential) District.

Board Chairman Don Horton said the Board had received a request for the three items to be postponed and this was the second postponement. Board member Kristin Grove said because it was the second postponement she would like to make a motion to POSTPONE the three items until the February 19, 2015 meeting and it was seconded by Board member Charlie Van Beke. **The Board voted 5-0 to POSTPONE the three items until the February 19, 2015, meeting.**

NEW BUSINESS

File: 1-A-15-VA
Applicant: Tamara Daggs
Address: 419 E. Quincy Avenue **Parcel ID:** 081FM02001
Zoning: R-2/IH-1 (General Residential / Infill Housing Overlay) District
5th Council District

Variance Requests:

1. Increase the maximum permitted lot coverage from 30% to 38% per Article 4, Section 2.1.6.D.6.
2. Increase the maximum permitted lot coverage of an accessory structure from 900 square feet to 1019 square feet for a lot less than 15,000 square feet in size subject to use on review approval per Article 5, Section 4.C. Table.

As per the submitted plan to permit constructing an addition to an existing accessory structure in an R-2/IH-1 (General Residential / Infill Housing Overlay) Districts.

Scott Elder, Zoning Chief, said there were no staff comments.

Tamara Daggs, 419 E. Quincy Avenue, said she used 38% of her lot coverage and was only allowed to use 30%. Ms. Daggs said the building was used for storage and has been there 8-9 years. Ms. Daggs said there was a deck on the building. Ms. Daggs said she knocked the deck down and built a small part to the building.

Board member Charlie Van Beke said he understood that Ms. Daggs did not have a permit to do any of the work. Ms. Daggs said she did not have a permit. Mr. Van Beke asked if the permit was in the process now. Ms. Daggs said she wanted to get the variance approved.

Mr. Horton said it was a fairly dense residential neighborhood and asked if there was an alley in the back. Ms. Daggs said yes.

Mr. Van Beke asked if the structure that Ms. Daggs had described was once a garage for this property. Ms. Daggs said it was a garage that she built and was not really a garage but a opened shed. Ms. Daggs said over time she enclosed the shed. Mr. Horton asked what the neighbors had to say about the structure. Ms. Daggs said on one side the neighbor would actually be her mother. Ms. Daggs said the other neighbor never complained or said anything about the building and this was the person who owned the home. Ms. Daggs said standing in front of her house, the person to the right would be her mother. Ms. Daggs said the privacy fence was on the backside of the property and a chain-link fence divided the two properties. Ms. Daggs said the building sat in the rear of the house. Mr. Horton asked the staff if the Board approved the variance requests, the approval would be subject to a building permit and a use-on-review and was that correct. Mr. Elder said that was correct. Mr. Elder said she would need a use-on-review for the structure and also it would be subject to all of the necessary permits. Mr. Horton said there was an additional roof that Ms. Daggs wanted to extend. Ms. Daggs said the roof was completed.

No opposition was present at the meeting.

Board member Charlie Van Beke made a motion to APPROVE the two requests subject to the other requirements of the City of Knoxville having been met. Board member Barbara Clark seconded the motion. **The Board voted 5-0 to APPROVE the two requests subject to the other requirements (building permit, subpermits, and a use-on-review) of the City of Knoxville being met.**

File: 1-B-15-VA
Applicant: Boys and Girls Club of the Tennessee Valley

Address: 407 Caswell Avenue
Zoning: R-2 (General Residential) District
4th Council District

Parcel ID: 081MT005

Variance Request:

Reduce the minimum number of required parking spaces from 169 spaces to 145 spaces per Article 5, Section 7.A.3.a. Table.

As per the submitted plan to permit an addition to the existing club facilities in an R-2 (General Residential) District.

Mr. Horton said the applicant had requested this item be POSTPONED to the February 19, 2015 meeting.

File: 1-C-15-VA
Applicant: H. Frank Shanklin Jr.
Address: 2658 E. Magnolia Avenue
Zoning: General Commercial District
6th Council District

Parcel ID: 082KB006

Variance Request:

Reduce the minimum number of required parking spaces from 32 spaces to 9 spaces per Article 5, Section 7.A.3.a. Table.

As per the submitted plan to permit renovations to an existing commercial building in a C-3 (General Commercial) District.

Mr. Horton said the applicant was unable to attend the meeting and speak to this item but was available by cellphone. Board member Kristin Grove said since the applicant was not present she would like to make a motion to POSTPONE the one request until the February 19, 2015 meeting. Board Chairman Don Horton seconded the motion. **The Board voted 5-0 to POSTPONE the one request until the February 19, 2015 meeting.**

File: 1-D-15-VA
Applicant: Iqbal Bhimani
Address: 4004 Holston Drive
Zoning: C-3 (General Commercial) District
6th Council District

Parcel ID: 082DC012

Variance Requests:

1. Reduce the minimum required amount of outdoor fenced play area from 12,000 square feet to 7,000 square feet per Article 5, Section 3.F.4.c.
2. Reduce the minimum required setback for the fenced play area from Speedway Circle from 35 feet to 0 feet per Article 5, Section 3.F.4.c.

As per the submitted plan to permit conversion of an existing building for use as a child day care facility enrolling up to 100 children in a C-3 (General Commercial) District.

Scott Elder, Zoning Chief, said there were no staff comments.

Beverly Holland, 3930 Alma Avenue, said they were in the process of wanting to renovate the building into a childcare center. Ms. Holland said they were wanting to change some of the square footages of the fenced play area from 12,000 to 7,000 square feet. Ms. Holland said they also wanted to reduce the

fenced play area from 35 feet to 12 feet. Ms. Holland said the Board saw 0 feet but that should be 12 feet. Ms. Holland said she was the childcare director and part owner of the business. Ms. Holland said this would be a new center. Ms. Holland said she has an existing facility on Woodbine Avenue and they would be moving that location over to this location. Ms. Holland said she has been approved for 100 children. Mr. Van Beke asked if Ms. Holland had nerves of steel. Ms. Holland said she loved children and she had a staff that made her job easier.

Board member Kristin Grove said they had requested a reduction of 5,000 square feet on the outdoor fenced play area. Ms. Grove asked if there would be staggered playtimes or how did Ms. Holland feel she could accommodate that size of a reduction. Ms. Holland said the play area was a long fencing area and would be divided into two sides: a preschool side and a toddler side. Ms. Holland said the classrooms would have their times according to the schedules and although preschool and toddlers might be out there at the same time they would be divided and would have their equal time of play time. Ms. Holland said that would not be an issue according to the reduction of the square footage. Mr. Horton asked if the State of Tennessee had agreed to the size of this play area. Ms. Holland said yes. Ms. Holland said she had been in this business for 15 years.

Board member Barbara Clark asked if this was also an irregular-shaped lot. Ms. Holland said yes. Ms. Holland said they were using the back of the parking lot and it was level. Ms. Holland said Ms. Clark was probably talking about the front part and it was a little irregular. Ms. Holland said the back side was leveled off. Ms. Clark said the entire lot was an irregular-shaped lot. Ms. Holland said yes.

Mr. Van Beke said he was happy to see a quality daycare facility going in this neighborhood. Mr. Van Beke said he thought it was really great for the neighborhood, the 100 children, and the parents who go to work. Ms. Holland said they were excited and they just had a parent meeting in which 95% of their parents attended the meeting. Ms. Holland said that was extraordinary. Ms. Holland said that was the first time that they had that large percentage of the parents to show up for a parent meeting.

No opposition was present at the meeting.

Board member Charlie Van Beke made a motion to APPROVE the two requests and it was seconded by Board member Kristin Grove. **The Board voted 5-0 to APPROVE the two requests. Ms. Grove clarified that the second request was approved to 12 feet.**

File: 1-E-15-VA
Applicant: Anthony Capiello
Address: 5400 Kingston Pike **Parcel ID: 107NJ001**
Zoning: C-3 (General Commercial) District
2nd Council District

Variance Request:

Reduce the minimum required front yard setback on Homberg Drive from 25 feet to 0 feet per Article 4, Section 2.2.6.E.1.

As per the submitted plan to permit an addition to an existing non-conforming commercial building in a C-3 (General Commercial) District.

Mr. Horton said the applicant had requested this item be POSTPONED to the February 19, 2015 meeting.

File: 1-F-15-VA
Applicant: The Tombras Group
Address: 630 S. Concord Street **Parcel ID: 108BB008**

**Zoning: O-1 / C-6 (Office, Medical and Related Services / General Commercial Park) Districts
6th Council District**

Variance Request:

Reduce the minimum number of required parking spaces from 62 spaces to 50 spaces per Article 5, Section 7.A.3.a. Table.

As per the submitted plan to permit the vertical expansion of an existing office building in an O-1 (Office, Medical and Related Services) and C-6 (General Commercial Park) Districts.

Scott Elder, Zoning Chief, said there were no staff comments.

John Sanders, 514 W. Jackson Avenue, Suite 102, said he was bringing a variance request before the Board for a hardship mainly because of the lot size they were dealt with. Mr. Sanders said they had an existing business that had been thriving since 1985 in its current location. Mr. Sanders said as the Board could see from the aerial view it was a very small, irregular-shaped lot. Mr. Sanders said currently the building required 48 spaces but they were currently providing 50 spaces. Mr. Sanders said they wished to add some new usable square footage to the building and add a third story to it. Mr. Sanders said that sounded a little far-fetched in most of their worlds but this building was built very well out of materials that were able to actually build the third story on top of. Mr. Sanders said the variance that they were seeking was to alleviate the parking requirement by 12 spaces. Mr. Sanders said they were providing 50 spaces currently and the alleviation would be 12 spaces. Mr. Sanders said they were currently working with some of the neighbors and the neighboring property owners who were very much in support of this variance request to allow them to park the vehicles off-site. Mr. Sanders said he knew there was no such thing as off-site parking but that was the solution for this.

Board member Charlie Van Beke asked how many additional parking spaces was Mr. Sanders looking to secure from the neighbors. Mr. Sanders said he thought they had another 25 spaces that they were able to secure in the very near term. Mr. Sanders said this was a long-term project and this could happen this year or next year. Mr. Sanders said they were actively looking to buy the parking way before that. Mr. Sanders said they were trying to solve their solution because they did not want to go and buy a bunch of new parking if they could not build the building. Mr. Sanders said that was why he was before the Board first.

Board Chairman Don Horton said the addition would add more people to the building. Mr. Sanders said it was about a 3800 square-foot addition to the roof of the building and it was a reallocation of some current office spaces. Mr. Sanders said it was also the creation of new conferencing space. Mr. Sanders said there was not a lot of conference spaces in the building currently. Mr. Sanders said that has been their biggest need. Mr. Sanders said there were a lot of people in this current building now but they did not have a whole lot of spaces to meet. Mr. Sanders said a lot of the 3,800 square feet on the new top floor would be allocated for conference space for people already in the building. Mr. Van Beke said it would be for guests also. Mr. Sanders said there would be some new desks up there and a reallocation of space. Mr. Sanders said it was not a 100% pure work space in that sense with new bodies. Mr. Van Beke said judging from the aerial view photograph with the current parking, it looked like the company would need to buy the trucking terminal down the road. Mr. Sanders said he thought it was already under contract.

Board member Kristin Grove said that the site plan noted 63 spaces were required and the application said 62 spaces. Mr. Sanders said that was correct. Mr. Sanders said they needed 62.1 spaces and they rounded up to 63 spaces. Mr. Sanders said Mark Johnson, City Engineering, had allowed them to round down to 62 spaces. Ms. Grove said it would be 62 and a difference of 12 spaces. Ms. Grove said the plans were showing 24 seats on the long tables and asked if the tables were conference tables or desk space. Mr. Sanders said those would be new office support space.

Board member Charlie Van Beke said the people in the building now parked on the property plus along the driveway and asked where else. Mr. Sanders said at the Tyson School. Mr. Sanders said they actually had people that rented space in Tyson School as well. Mr. Sanders said they were trying to consolidate back to the building as well and that was some of the initiative for this project. Mr. Sanders said the off-site parking they were trying to acquire would alleviate both the new impact that they were proposing as well as the current need as the Board saw in the aerial shot. Mr. Sanders said they were solving the current problem and they would have enough spaces to park the new people with the new proposed addition. Mr. Sanders said they were solving both problems with the new acquisition that they were working towards. Mr. Sanders said they knew they could not keep operating with the way it sat today regardless of the addition so they were working towards a solution for both.

Board Chairman Don Horton said he was glad to see the renovation of the building. Mr. Sanders said they had been working on it for about 5 years now. Mr. Sanders said the company could not move out so they had to keep them there in the building and there has been constant improvement. Mr. Sanders said the company has beautified the neighborhood and it was a great asset for the area.

No opposition was present at the meeting.

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

File: 1-G-15-VA
Applicant: Aaron McClain
Address: 6 Emory Place **Parcel ID: 094DM008**
Zoning: C-3 (General Commercial) District
6th Council District

Variance Request:

Reduce the minimum number of required parking spaces from 20 spaces to 0 spaces per Article 5, Section 7.A.3.a. Table.

As per the submitted plan to permit an eating and drinking establishment in a C-3 (General Commercial) District.

Scott Elder, Zoning Chief, said there were no staff comments.

Aaron McClain, 729 Morgan Street, said he wanted to put a small brewery in this spot. Mr. McClain said the entire lot was the building. Mr. McClain said the request was to go from 20 spaces to 0 spaces and the reason was because of the abundance of available city parking. Mr. McClain said given the nature of their business they would not be opening until 5:00 p.m. Mr. McClain said every other business in Emory Place was an office or retail shop and closes at 5:00 p.m. Mr. McClain said directly in front of the building there were 20 spots and it also curved around for a total of 60 available city parking spots on Emory Place. Mr. McClain said there were also about 10 spots down Central Street. Mr. McClain said they were actually located directly next to the Fourth and Gill area. Mr. McClain said they anticipate that most of their clients would be walking or bicycling. Mr. McClain said he has talked to Kelly Seegers and received a grant to get a 12-spot bike rack installed. Mr. McClain said he did not believe a lack of parking would be an issue whatsoever. Board member Charlie Van Beke asked who owned the vacant lot next door. Mr. McClain said it was Bart Brody and he had no problem with them using the lot.

No opposition was present at the meeting.

Mr. Van Beke asked what was behind the building. Mr. McClain said it was a city alleyway directly behind the building and then another small vacant lot behind the building as well

Crista Cuccaro, Law Department, asked Mr. McClain is this would be a brewery or a brew pub. Mr. McClain said it would be a brew pub.

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

OTHER BUSINESS

Election of Board Chairman for Year 2015

Board member Charlie Van Beke nominated Don Horton and it was seconded by Board member Daniel Odle. **The Board voted 4-0 to elect Don Horton as the Board chairman for 2015.**

ADJOURNMENT

The meeting was adjourned at 4:49 p.m.

Respectively submitted,

Deborah Brooks, Board Secretary