



BOARD OF ZONING APPEALS

MINUTES

October 19, 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 October 19, 2017, meeting at 4:00 pm in the Main 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, Daniel Odle and Charlie Van Beke. Member Don Horton was absent.

Others in attendance were Peter Ahrens, Building Official; Crista Cuccaro, Staff Attorney; Scott Elder, Zoning Chief; Brandon Littlejohn, Zoning Inspector; Adam Kohntopp, Stormwater Engineering; Mike Brusseau, MPC Senior Planner; and Angelia Rooks, Board Secretary.

MINUTES

Member Charlie Van Beke made a motion to approve the minutes from September 21, 2017. It was seconded by member Daniel Odle. The Board voted 4-0 to **APPROVE** the motion.

AGENDA ORDER

Member David Dupree made a motion to hear file 10-K-17-VA before file 10-J-17-VA. It was seconded by member Charlie Van Beke. The Board voted 4-0 to **APPROVE** the motion.

OLD BUSINESS

File:	9-C-17-VA	Parcel ID: 094MF025
Applicant:	Amy Cathey	6 th Council District
Address:	913 Henley Street	
Zoning:	C-2/D-1 (Central Business/Downtown Design Overlay)	

Variance Request:

Increase the maximum number of permitted detached ground signs from 2 to 3 per Article 8, Section 11.6.b.1., as per plan submitted showing additional signage in a C-2/D-1 District.

Amy Cathey, the applicant, was present. Since the last meeting, they reduced the variance request to 3 signs. The proposed sign at Main Street and Old Broadway was eliminated and replaced with a directional sign. They proposed to alter the base of the existing sign at Main Street and Henley Street. The total area for the 3 proposed signs was 64 sf, which met the requirement of the sign ordinance.

In opposition, Joyce Feld of Scenic Knoxville was present. She stated that the sign ordinance allowed more signage under Section 8.4 *Incidental Signs for Large Sites*. Brandon Littlejohn clarified that Section 8.4 did not apply because the proposed signs were too tall and too large. They would still need variances for the increased height and size. Ms. Feld asked the Board to condition any approval so that it applied only to the proposed signs as submitted.

Member Daniel Odle stated that the size of the property, topography, and high traffic volumes in the area were justifiable hardships. However, he preferred that the applicant reduce the size of a least one of the signs.

Board member Charlie Van Beke made a motion to approve the request as submitted. It was seconded by member David Dupree. The Board voted 3-1 to **APPROVE** the request. Chairman Kristin Grove voted against the motion.

File: 9-F-17-VA
Applicant: Schaad Brown
Address: 2209 N. Central Street
Zoning: C-3 (General Commercial)

Parcel ID: 081KA015-017
5th Council District

Variance Request:

Reduce the minimum required number of parking spaces from 37 to 30 per Article 5, Section 7.A.3.a.Table., as per plan submitted to permit the construction of a new 7,490 sf Dollar General store in a C-3 District.

The request was **WITHDRAWN** by the applicant.

File: 9-G-17-VA
Applicant: Schaad Brown
Address: 7407 Middlebrook Pike
Zoning: C-1 (Neighborhood Commercial)

Parcel ID: 106JD032
3rd Council District

Variance Request:

Reduce the minimum required number of parking spaces from 37 to 32 per Article 5, Section 7.A.3.a.Table., as per plan submitted to permit the construction of a new 7,490 sf Dollar General store in a C-1 District.

Arthur Seymour, Jr. and Tim Dunaway, representing the applicant, were present. The hardship was the slope of the property. A topography map was provided to the Board.

Member David Dupree made a motion to approve the request. It was seconded by member Charlie Van Beke. The Board voted 4-0 to **APPROVE** the request.

File: 9-H-17-VA
Applicant: Schaad Brown
Address: 3812 Boyds Bridge Pike
Zoning: C-1 (Neighborhood Commercial)

Parcel ID: 083IE010
6th Council District

Variance Request:

Reduce the minimum required number of parking spaces from 47 to 31 per Article 5, Section 7.A.3.a.Table., as per plan submitted to permit construction of a new 9,435 sf Dollar General store in a C-1 District.

The staff received several opposition letters and one in favor of the variance.

Arthur Seymour, Jr. and Tim Dunaway, representing the applicant, were present. The hardships were a utility easement and the slope of the property. A topography map was provided to the Board. The letters received in opposition were related to the use of the property, and not the variance.

In support:

- Bill Dockery was present. He was in favor of putting the property to use. It was unique to the area; within walking distance for residents; and would not require as much parking.

In opposition:

- Chad Boetger was present. The applicant had not demonstrated a hardship, and the proposed store was too large for the property. They should have chosen a more appropriate site.
- Whitney North was present. She opposed the entire project. The variance sign for the April meeting was not visible. Many residents in the area were surprised by the development of this project. The applicant should find another location for this store. This was a brown field site. She asked the developer what type of soil sampling had been performed; and what remediation would follow.

In rebuttal, Mr. Dunaway said they had performed geo tech testing. They had no confirmation that this was a brown field site. It was fill dirt. The site would be improved by this project, and they would comply with City standards. Peter Ahrens stated that he did not know if this was a brown field site. The City would ensure compliance with all City codes and ordinances during the permit process.

Member David Dupree stated that a smaller store would be a better fit for the character of the neighborhood, but the parking demand should not be a problem for this area. Mr. Dunaway replied that there was a smaller store model, but the Dollar General corporate office had determined which size to build based on their marketing research. Even with the smaller store model, they would still need a parking variance.

Member Daniel Odle stated that he was sensitive to the neighborhood opposition, but the Board was not considering the use of the property, only the parking variance. The applicant had a valid hardship, and he made a motion to approve the request. It was seconded by member David Dupree. The Board voted 4-0 to **APPROVE** the request.

NEW BUSINESS

File: 10-A-17-VA
Applicant: Jim Fox
Address: 4508 W. Martin Mill Pike
Zoning: R-1A (Low Density Residential)

Parcel ID: 123AF048
1st Council District

Variance Request:

Permit an alley to serve as the primary means of vehicle access per Article 5, Section 6.D.9., as per plan submitted to permit the construction of a detached dwelling in an R-1A District.

Jim Fox, the applicant, was present. The hardship was the slope and shape of the property. There would be no vehicle access from W. Martin Mill Pike.

Member Charlie Van Beke stated that the adjacent property owners appeared to use the alley, and the topography was a hardship. He made a motion to approve the request. It was seconded by member Daniel Odle. The Board voted 4-0 to **APPROVE** the request.

File: 10-B-17-VA
Applicant: Batson, Himes, Norvell and Poe
Address: 7305 Lorimar Place
Zoning: R-1 (Low Density Residential)

Parcel ID: 133DL012
2nd Council District

Variance Request:

Reduce the minimum required rear setback for an accessory building from 5 ft to 0.7 ft per Article 4 Section 2.1.1.E.3.b., as per plan submitted to permit the replatting of the lot in an R-1 District.

Scott Elder noted that these were existing structures. The variance was required to correct the violations.

John King, representing the owner, was present. The hardships were the existing accessory building and existing fence. The deck and pool house were built too close to the property line in 1990 and 1991. The fence, which was later installed by the adjacent school, followed the terrain and the tree line instead of the property line. The result was that part of the county's property was located on the wrong side of the fence. The Knox County School Board had already approved an easement, and the matter will go to the County Commission next.

Member Charlie Van Beke made a motion to approve the request based on the existing structures, the topography and the agreement with Knox County. It was seconded by member Daniel Odle. The Board voted 4-0 to **APPROVE** the request.

File: 10-D-17-VA
Applicant: MK/Jim McMichael Signs
Address: 1415 Old Weisgarber Road
Zoning: O-3 (Office Park)

Parcel ID: 106DA00822
3rd Council District

Variance Request:

Increase the maximum area for a wall sign from 24 sf to 63 sf per Article 8, Section 11.5.1., as per plan submitted to permit the installation of a new wall sign in an O-3 District.

Jaime Adkins, representing Faculty Physicians, was present. The hardship was that the new signage should match the existing signage on other buildings. Variances were granted in 2009 under the old sign ordinance to increase the size of the other signs based on the height and position of the building.

In opposition, Joyce Feld was present. The applicant did not have a hardship.

Chairman Kristin Grove requested scaled drawings. Member Daniel Odle agreed and suggested postponing the request. There were previous variances for signage, and the scaled drawings may give the Board more context to consider the request. The applicant agreed.

Member David Dupree made a motion to postpone the request to the next meeting. It was seconded by member Daniel Odle. The Board voted 4-0 to **POSTPONE** the request until the November 16, 2017 meeting.

File: 10-E-17-VA
Applicant: Christopoulos and Kennedy
Address: 4960 Kingston Pike
Zoning: C-3 (General Commercial)

Parcel ID: 107NB00401
2nd Council District

Variance Requests:

1. Reduce the minimum required drive aisle width from 26 ft to 22.7 ft per Article 5, Section 7.A.4.a.2.Table.
2. Reduce the minimum required parking space width from 9 ft to 8.8 ft per Article 5, Section 7.A.4.a.2.Table.

As per plan submitted showing as-built survey with deficiencies identified in a C-3 District.

Scott Elder noted that these were existing conditions. The violations were discovered during an inspection. The variances were required to get the bond released.

Christos Christopoulos, the applicant, was present. The hardships were the existing conditions and the shape of the property. Only a small portion of the drive aisle was out of compliance.

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

File: 10-F-17-VA
Applicant: 501 Arthur, LLC
Address: 501 Arthur Street
Zoning: C-1/H-1 (Neighborhood Commercial/Historic Overlay)

Parcel ID: 094FH01101
6th Council District

Variance Requests:

1. Reduce the minimum required front yard setback on Arthur Street from 25 ft to 0 ft per Article 4, Section 2.2.4.D.1.
2. Reduce the minimum required front yard setback along McGhee Street from 25 ft to 0 ft per Article 4, Section 2.2.4.D.1.
3. Reduce the minimum required north side yard setback from 20 ft to 0 ft per Article 4, Section 2.2.4.D.2.c.
4. Reduce the minimum west side yard setback from 20 ft to 14.3 ft per Article 4, Section 2.2.4.D.2.c.
5. Increase the maximum permitted lot coverage from 35% to 59.27% per Article 4, Section 2.2.4.D.4.

As per plan submitted to permit the recording of a plat for the property in a C-1/H-1 Districts.

The staff received a letter in opposition to the requests. Crista Cuccaro clarified that the opposition was related to an ownership dispute between neighbors, and was not relevant to the variance request.

Christopher Black, representing the applicant, was present. The hardship was existing conditions. The structure was built to the lot line 108 years ago. The variances were needed to replat the property before getting a building permit to renovate the interior.

Member Daniel Odle made a motion to approve the requests based on the size of the lot and the historic building. It was seconded by member Charlie Van Beke. The Board voted 4-0 to **APPROVE** the requests.

File: 10-G-17-VA
Applicant: Brian P. Krebs
Address: 3842 Shipwatch Lane
Zoning: RP-1 (Planned Residential)

Parcel ID: 147IB042
 1st Council District

Variance Request:

Reduce the minimum required peripheral boundary setback from 25 ft to 19.2 ft per Article 4, Section 3.1.D.2., as per plan submitted proposing a detached dwelling unit in an RP-1 District.

Brian Krebs, the applicant, was present. The hardship was the small lot size of .3 acres and neighborhood restrictions on square footage. The size restriction for a single story house was a minimum of 2400 sf; or a minimum of 2700 sf for a two-story house. It was difficult to find a house-plan that size that would also fit on the lot. The alternative was to have the plans redrawn, which would cost about \$2,000 and change the look of the house.

Member Daniel Odle stated that there was no hardship; plans could be redrawn. He made a motion to deny the request. It was seconded by member David Dupree. The Board voted 3-1 to **DENY** the request. Member Charlie Van Beke voted against the motion.

File: 10-H-17-VA
Applicant: Larry Hickey and Alice Kachelries
Address: 6112 Creekhead Drive
Zoning: R-1 (Low Density Residential)-pending

Parcel ID: 106BA02101
 3rd Council District

Variance Requests:

1. Reduce the minimum required north side yard setback from 8 ft to 6.7 ft per Article 4, Section 2.1.1.E.2.a.
2. Reduce the minimum required front yard setback from 25 ft to 5.8 ft per Article 4, Section 2.1.1.E.1.a.

As per plan submitted showing a proposed subdivision to create two lots with a detached dwelling on each in an R-1 (pending) District.

Scott Elder noted that these were existing conditions. The houses were built close together.

Matthew Dawson, the surveyor representing the applicant, was present. The hardship was existing conditions.

Chairman Kristin Grove made a motion to approve the requests. It was seconded by member Daniel Odle. The Board voted 4-0 to **APPROVE** the requests.

File: 10-I-17-VA
Applicant: Larry Hickey and Alice Kachelries
Address: 6114 Creekhead Drive
Zoning: R-1 (Low Density Residential)-pending

Parcel ID: 106BA02101
3rd Council District

Variance Request:

Reduce the minimum required south side yard setback from 8 ft to 6.7 ft per Article 4, Section 2.1.1.E.2.a., as per plan submitted showing a proposed subdivision to create two lots with a detached dwelling on each in an R-1 (pending) District.

Matthew Dawson, the surveyor representing the applicant, was present. The hardship was existing conditions.

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

File: 10-J-17-VA
Applicant: Keith Percic / Barber McMurray Architects
Address: 3804 Kenilworth Drive
Zoning: R-1 (Low Density Residential)

Parcel ID: 107ME028
2nd Council District

Appeal of the Building Official’s determination that the Oakhurst Street frontage represents a front yard and therefore prohibits the location of an accessory structure per Article 4, Section 2.1.1.E.1.a., as per plan submitted proposing a new detached garage in an R-1 District.

Peter Ahrens advised the Board that a memo was submitted explaining how he arrived at his determination.

Keith Percic and Shannon Harper, the applicants, were present. This house was built in the 1930’s; it faced Kenilworth Drive; and was bordered by Oakhurst Street. All the houses along

Oakhurst faced another road; and the yards on the Oakhurst were consistently used as side or rear yards. They proposed building a 700 sf garage in the yard facing Oakhurst. To meet the setback requirement, they would lose the use of the rear yard. The area was wooded along Oakhurst, and the garage would be behind the house when viewed from Kenilworth. Granting the appeal would meet the intent of the ordinance. It would not be in anyone's best interests to add a driveway to the Oakhurst side. Mr. Harper discussed the proposal with his neighbors, and they were in support of the project. He argued that the ordinance required a front yard setback, but did not specifically say that the side yard "becomes" a front yard.

Member Charlie Van Beke asked how they used the existing garage. Mr. Harper replied that it was used for storage, and they parked their vehicles outside. He also confirmed that they purchased the house in July 2017.

Peter Ahrens clarified that the appeal was for his determination that the ordinance prohibited accessory structures in the front yard. The garage cannot be built between the primary structure and the street. If the Board granted the appeal, the decision would reach City wide, and affect more than setback requirements. It would affect front yard parking as well.

Member David Dupree made a motion to deny the request. It was seconded by member Charlie Van Beke. The Board voted 4-0 to **DENY** the request, upholding the Building Official's determination.

File: 10-K-17-VA
Applicant: Sunil Patel
Address: 5317 Pratt Road
Zoning: C-4 (Highway & Arterial Commercial)

Parcel ID: 068EE00302
5th Council District

Variance Requests:

1. Increase maximum height of detached ground sign from 10 ft to 40 ft per Article 8, Section 11.6.c.Table.
2. Increase the maximum sign area of detached ground sign from 100 sf to 180 sf per Article 8, Section 11.6.d.Table.

As per plan submitted proposing a sign face replacement in a C-4 District.

Keith Pankey, owner of SignCo Inc., was present. The hardship was the corporate requirement for new signage and the hotel's distance from the interstate, about 2 ½ blocks. Best Western hotels were rebranding and no longer permitted the use of the old signage. They also did not allow re-facing of the old signs, which were a different shape. He proposed replacing the sign head on the existing sign structure, and submitted additional site photos.

In opposition, Joyce Feld of Scenic Knoxville was present. The hotel had other signage, and no valid hardship.

Board members commented that this request exemplified the purpose of the new sign ordinance, which was to reduce the amount and size of signage over time. Best Western's corporate office made the decision to prohibit franchise owners from re-facing the existing signage. They were aware of the types of challenges that decision would create.

Member Daniel Odle stated that there was no hardship, and made a motion to deny the request. It was seconded by Chairman Kristin Grove. The Board voted 4-0 to **DENY** the request.

File: 10-L-17-VA
Applicant: Keith Percic / Barber McMurray Architects
Address: 3804 Kenilworth Drive
Zoning: R-1 (Low Density Residential)

Parcel ID: 107ME028
2nd Council District

Variance Request:

Reduce the minimum required side yard setback for buildings on corner lots from 25 ft to 8 ft per Article 5, Section 6.D.3 & Article 4, Section 2.1.1.E.1.a., as per plan submitted proposing a new detached garage in an R-1 District.

Keith Percic and Shannon Harper, the applicants, were present. Board members advised them to postpone the request, pending their appeal of the Board's decision to deny 10-J-17-VA. If the the Board's decision was overturned by City Council, then they could return for this variance request. The applicants agreed to postpone the request.

Chairman Kristin Grove made a motion to postpone the request for 60 days, until the 12/21/17 meeting. It was seconded by member Daniel Odle. The Board voted 4-0 to **POSTPONE** the request until the December 21, 2017 meeting.

OTHER BUSINESS

Crista Cuccaro advised the Board of a training session scheduled on December 14, 2017.

The next BZA meeting is November 16, 2017.

ADJOURNMENT

The meeting adjourned at 5:30 pm.