

## BOARD OF ZONING APPEALS

### MINUTES

December 21, 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 December 21, 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, Don Horton, Daniel Odle and Charlie Van Beke.

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

### MINUTES

Member Daniel Odle made a motion to approve the minutes from November 16, 2017. It was seconded by member Charlie Van Beke. The Board voted 5-0 to **APPROVE**.

### OLD BUSINESS

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

**Parcel ID:** 107ME028  
2<sup>nd</sup> 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 and Article 4, Section 2.1.1.E.1.a., as per plan submitted proposing a new detached garage in the R-1 District.

Shannon Harper, the property owner, was present. Plans were revised to attach the garage to the house. The variance is for the front yard facing Oakhurst Drive. The hardship was the size of the existing garage, which was too small for a modern SUV. Without the variance, they

would have to turn the garage to face Oakhurst Drive, cut down about 5 mature trees, and build a retaining wall and second driveway.

Sandy Gillespie, representing the Kingston Pike Sequoyah Hills Association, stated that he did not wish to speak for or against the variance. He only wanted to observe the process.

Member Daniel Odle made a motion to approve based on the slope and the intent of the ordinance. It was seconded by member Charlie Van Beke. The Board voted 5-0 to **APPROVE**.

**File:** 11-A-17-VA  
**Applicant:** Oak Leaf Construction  
**Address:** 1524 Jefferson Avenue  
**Zoning:** I-3 (General Industrial)

**Parcel ID:** 082PE003  
6<sup>th</sup> Council District

**Variance Requests:**

1. Reduce the minimum required side yard setback from 25 ft to 10 ft per Article 4, Section 2.3.2.E.3.
2. Reduce the minimum required rear yard setback on an alley from 25 ft to 5 ft per Article 4, Section 2.3.2.E.4.

As per plan submitted to construct a new metal building intended to be used as storage only in the I-3 District.

City staff received a revised site plan, but did not have time to review it before the meeting. Peter Ahrens recommended postponing to January.

Member Charlie Van Beke made a motion to postpone to January. It was seconded by member Daniel Odle. The Board voted 5-0 to **POSTPONE** to the January 18, 2018 meeting.

**File:** 11-B-17-VA  
**Applicant:** Michael Brady, Inc.  
**Address:** 4214 Greenway Drive  
**Zoning:** I-3 (General Industrial)

**Parcel ID:** 059JB005  
4<sup>th</sup> Council District

**Variance Requests:**

1. Reduce the minimum required east side yard setback from 25 ft to 4 ft per Article 4, Section 2.3.2.E.3.
2. Increase the maximum number of driveways from 2 to 3 per Article 5, Section 7.H.1.a.Table4.
3. Increase the maximum width of a driveway from 30 ft to 75 ft per Article 5, Section 7.H.3.c.Table7.
4. Decrease the minimum distance between driveways from 75.5 ft (width of wider driveway) to 14 ft per Article 5, Section 7.H.2.c.
5. Decrease the width of the west side parking lot perimeter screening area from 5 ft to 0 ft per Article 5, Section 7.J.2.c.3.

As per plan submitted to record a final plat in the I-3 District.

Scott Elder stated that the gravel parking lot was paved without a permit; and they needed to record a plat. Joshua Frerichs advised the Board that access was not clearly defined on the submitted site plan.

Jeremy Puckett, the applicant, was present. The hardship was existing conditions. He asked the Board to vote on the variances separately. The east entrance was a one-way access for parking, the center driveway was a two-way entrance/exit for customer parking, and the west driveway was for truck entrance. The far right driveway would be exit only. They would use signage and pavement marking to define the various entrances.

Member Daniel Odle stated that the presentation did not match the site plan. Chairman Kristin Grove recommended revising the site plan. The applicant requested to postpone.

Chairman Kristin Grove made a motion to postpone to January. It was seconded by member Charlie Van Beke. The Board voted 5-0 to **POSTPONE** to the January 18, 2018 meeting.

### **NEW BUSINESS**

**File:** 12-A-17-VA  
**Applicant:** David Kerns  
**Address:** 1955 Woodbine Avenue  
**Zoning:** R-1A (Low Density Residential)

**Parcel ID:** 082OA026  
6<sup>th</sup> Council District

#### **Variance Requests:**

1. Increase the maximum permitted lot coverage from 30% to 40.3% per Article 4, Section 2.1.2.D.6.a.
2. Reduce the minimum required west side yard setback for a detached accessory structure from 8 ft to 5 ft per Article 4, Section 2.1.2.D.2.b.

As per plan submitted to construct an accessory structure in the R-1A District.

David Kerns, the applicant, was present. The property was small lot of record, and the requests were consistent with the area. The proposed house was 1100 sf.

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

**File:** 12-B-17-VA  
**Applicant:** Andrew Edens, Smoky Mountain Vintage Lumber  
**Address:** 1700 N. Central Street  
**Zoning:** C-3 (General Commercial) / IH-1 (Infill Housing Overlay)

**Parcel ID:** 081KJ034  
5<sup>th</sup> Council District

#### **Variance Requests:**

1. Reduce the minimum required setback for outdoor storage along E. Emerald Avenue from 25 ft to 0 ft per Article 4, Section 2.2.6.B.21.a.
2. Increase the maximum permitted height of a privacy fence from 42 in. to 6 ft per Article 5, Section 6.C.2.

As per plan submitted to construct a privacy fence in the C-3/IH-1 District.

Andrew Edens, the applicant, was present. The hardship was existing conditions. Compliance with the code would require a new fence placed in the middle of the storage area; and he would not be able to conduct business. Moving the existing fence would be a financial hardship. With variance approval, he could leave the fence as is.

Member Daniel Odle made a motion to approve item 1 with the condition of reducing the setback to 2 feet. Peter Ahrens explained that would create non-compliance with screening requirements for outdoor storage. The motion was withdrawn.

Member Don Horton suggested adding landscape screening behind the existing fence. The fabric could be removed; the fence could remain in place; and it would improve the view.

Member Don Horton made a motion to approve with the condition of a 2-foot landscape buffer. It was seconded by member Charlie Van Beke. The Board voted 3-2 to **APPROVE with the CONDITION** of a 2-foot opaque landscape buffer behind the existing fence. Members David Dupree and Daniel Odle voted against the motion.

**File:** 12-C-17-VA  
**Applicant:** Kathie Weaver  
**Address:** 3207 South Haven Road  
**Zoning:** C-1 (Neighborhood Commercial)

**Parcel ID:** 109FB016  
1<sup>st</sup> Council District

**Variance Request:**

Reduce the minimum required number of parking spaces from 4 to 0 per Article 5, Section 7.D.1.Table1., as per plan submitted to construct a second story on an existing building in the C-1 District.

Len Johnson, representing the applicant, was present. The hardships were topography, a substandard lot, and a blue line stream. There was no turn-around space to park on the side. The building footprint would not change.

Chairman Kristin Grove requested a revised site plan. The applicant agreed to postpone.

Chairman Kristin Grove made a motion to postpone to January. It was seconded by member David Dupree. The Board voted 5-0 to **POSTPONE** to the January 18, 2018 meeting.

**File:** 12-D-17-VA  
**Applicant:** Colin Hoffman  
**Address:** 215 Bearden Place  
**Zoning:** O-1 (Office, Medical & Related Services)

**Parcel ID:** 081MQ00401  
4<sup>th</sup> Council District

**Variance Requests:**

1. Increase the maximum permitted area of an attached wall sign on the north building elevation from 24 sf to 84 sf per Article 8, Section 11.5.b.1.
2. Increase the maximum permitted area of an attached wall sign on the south building elevation from 24 sf to 84 sf per Article 8, Section 11.5.b.1.

As per plan submitted to install two wall signs on an existing building in the O-1 District.

Tim Howell, the tenant, was present. The hardships were visibility and elderly clients. Per Brandon Littlejohn, the total signage would not exceed the 5% maximum of 234 sf.

Member Charlie Van Beke made a motion to approve based on the size of the building. It was seconded by member Don Horton. The Board voted 4-0 to **APPROVE**. Member David Dupree abstained.

**File:** 12-E-17-VA  
**Applicant:** Tim Cormier, Cormier Construction  
**Address:** 2039 Cherokee Blvd  
**Zoning:** R-1 (Low Density Residential)

**Parcel ID:** 122HA035  
2<sup>nd</sup> Council District

**Variance Request:**

Reduce the minimum required side yard setback for a one-story house addition from 8 ft to 0.51 ft per Article 4, Section 2.1.1.E.2.a., as per plan submitted to construct an addition to an existing residence in the R-1 District.

Ryan McNally, the owner, was present. The hardships were topography, the slope, lot shape, and the existing house and retaining wall. He submitted new drawings earlier in the week.

Peter Ahrens stated that the new drawings submitted did not match the variance application, and had not been evaluated. The new drawings were for an attached garage with storage area, not a carport. The variances as written did not apply. He recommended postponing so the staff could review the new drawings and amend the variance application.

Member Daniel Odle made motion to postpone to the next meeting. It was seconded by Chairman Kristin Grove. The Board voted 5-0 to **POSTPONE** to the January 18, 2018 meeting.

**File:** 12-F-17-VA  
**Applicant:** Sara Martin  
**Address:** 911 Luttrell Street  
**Zoning:** R-1A / H-1 (Low Density Residential / Historic Overlay)

**Parcel ID:** 081MN009  
4<sup>th</sup> Council District

**Variance Requests:**

1. Increase the maximum allowable lot coverage from 30% to 37% per Article 4, Section 2.1.2.D.6.a.
2. Reduce the minimum required side yard setback for a two-story dwelling on a small lot of record from 5 ft to 4 ft 2 inches per Article 5, Section 6.D.6.

As per plan submitted to construct an addition to an existing residence in the R-1A/H-1 District.

Peter Ahrens advised the Board that variance item 2 (side yard setback) was not required. The applicant had also received a COA from the Historic Zoning Commission for this project.

Sara Martin, the applicant, was present. The hardship was the small lot of record. Item 2 was withdrawn.

Member Daniel Odle made a motion to approve item 1. It was seconded by Chairman Kristin Grove. The Board voted 5-0 to **APPROVE** item 1.

**File:** 12-G-17-VA  
**Applicant:** S & ME  
**Address:** 6751 Wilbanks Road  
**Zoning:** C-6 (General Commercial Park)

**Parcel ID:** 068BC001 & 002  
3<sup>rd</sup> Council District

**Variance Request:**

Reduce the minimum required landscaped front yard setback from 25 ft to 5 ft per Article 4, Section 2.2.9.E.1., as per plan submitted to improve the site and reuse the existing building for a car dealership in the C-6 District.

Peter Ahrens explained that the space was for merchandise display, not vehicle use.

Brad Salsbury, representing the applicant, was present. The hardships were the ROW width, lot size, and narrow shape. The display area was fenced.

Member Charlie Van Beke made a motion to approve. It was seconded by member Daniel Odle based on the lot shape and 2 front yards. The Board voted 5-0 to **APPROVE**.

**File:** 12-H-17-VA  
**Applicant:** John L. Sanders, Sanders Pace Architecture  
**Address:** 3825, 3829 & 3831 Martin Mill Pike  
**Zoning:** C-3 (General Commercial)

**Parcel ID:** 109PL014-016  
1<sup>st</sup> Council District

**Variance Requests:**

1. Reduce the minimum required front yard setback from 25 ft to 5 ft per Article 4, Section 2.2.6.E.1.
2. Reduce the minimum required front yard setback for a parking lot from 6 ft to 0 ft per Article 5, Section 7.C.3.

As per plan submitted to construct a new 2-story, multi-dwelling building and parking lot in the C-3 District.

Aaron Pennington and John Sanders, the applicants, were present. The hardships were topography, lot shape, the creek and wide ROW. The variance request was a supplement to their UOR application. He explained that a different site plan was submitted to MPC to show that it could be completed without a variance. The alternate plan with the variances was a better solution.

Peter Ahrens stated that the site plan submitted to MPC showed that variances were not required. However, Engineering supported the variances because it moved the building and parking lot away from the creek. Joshua Frerichs explained that the parking lot extended into the creek riparian buffer, which required alternate compliance. A lesser setback required lesser mitigation of the buffer zone.

Mike Brusseau clarified that MPC would sometimes grant approvals that were contingent on approval from other Boards, such as BZA. It was their preference to request alternate plans at the same time in case the other Boards did not grant approvals.

Member Daniel Odle made a motion to approve based on the slope and topography. It was seconded by member Don Horton. The Board voted 5-0 to **APPROVE**.

**File:** 12-I-17-VA  
**Applicant:** Len Johnson  
**Address:** 6410 Chapman Hwy  
**Zoning:** C-4 (Highway & Arterial Commercial)

**Parcel ID:** 124IC012  
1<sup>st</sup> Council District

**Variance Requests:**

1. Reduce the minimum front yard setback from 50 ft to 25 ft per Article 4, Section 2.2.7.E.2.
2. Reduce the minimum east side yard setback from 12 ft to 0 ft per Article 4, Section 2.2.7.E.3.

As per plan submitted to construct an additional, temporary building for a car dealership in a C-4 District.

Peter Ahrens commented that building plans had not been submitted, yet.

Len Johnson and Patti Beam were present. The hardships were topography, existing conditions and a water quality easement. Compliance with the setbacks hinders property development. He confirmed that the proposed new building had not been designed, yet, but would be permanent. Board members were concerned about granting a setback variance to zero without submitted plans.

Member David Dupree made a motion to approve the request. There was no second. The motion failed.

Member Daniel Odle requested a revised site plan and suggested postponement. The presentation did not match the request, and the site plan needed more architectural definition. The applicant decided not to postpone.

Member Charlie Van Beke made a motion to approve item 1 (front yard setback) and deny item 2 (side yard setback). It was seconded by member Daniel Odle. The Board voted 5-0 to **APPROVE** item 1 and **DENY** item 2.

**OTHER BUSINESS**

The next BZA meeting is January 18, 2018.

**ADJOURNMENT**

The meeting adjourned at 5:37 pm.