



BOARD OF ZONING APPEALS

MINUTES

August 15, 2019

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 August 15, 2019 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

Chairman Kristin Grove called the meeting to order at 4:00p.m.

ROLL CALL

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

Others in attendance were Peter Ahrens, Building Official; DeAnn Bogus, Building Official; Scott Elder, Zoning Chief ; Christina Magrans, Staff Attorney; Joshua Frerichs, Stormwater Engineering; Amy Brooks, Knoxville-Knox County Planning Services Manager and Juliana LeClair, Board Secretary.

MINUTES

Member David Dupree made a motion to approve the July 18, 2019 meeting minutes. It was seconded by member Don Horton. Member Charlie Van Beke abstained. The Board voted 4-0 to **APPROVE**.

OLD BUSINESS

File: 07-A-19-VA
Applicant: Long Sisters, LLC
Address: 2804/2806 Painter Ave.
Zoning: R-2 (General Residential) District

Parcel ID: 108BE014
2nd Council District

Variance Request:

1) Increase the maximum number of driveways for a duplex with less than 150 feet of frontage from 1 driveway to 2 driveways (Article V Section 7.H.1.a. Table 4)

As per plan submitted to construct a new two family townhouse style condominium dwelling in the R-2 (General Residential) District.

DeAnn Bogus advised staff had worked with the applicant on the placement of the two requested driveways and staff was in support of the request.

Applicant Christopher Bush was present. Chairman Kristin Grove confirmed the details were the same as discussed in the July meeting. There was no Board discussion.

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

NEW BUSINESS

Chairman Kristin Grove made a motion to move 8-A-19-VA in the new business up to the next item since 8-A-19-VA had the same applicant as 7-A-19-VA. It was seconded by member Daniel Odle. The Board voted 5-0 to **APPROVE** the motion to move the item up on the agenda.

File: 08-A-19-VA
Applicant: Long Sisters, LLC
Address: 2301 E. Fifth Ave.

Parcel ID: 082JS029
6th Council District

Zoning: R-1A (Low Density Residential) District

Variance Request:

1) Reduce the minimum required front yard setback on N. Olive St. from 25' to 7' (Article 4, Section 2.1.2.D.1.a)

2) Request to allow an alley to be the primary means of vehicular egress and ingress in an R-1A zone (Article 5, Section 6.D.9)

As per plan submitted to construct a new, single family residence in the R-1A (Low Density Residential) District.

DeAnn Bogus advised that variance #1 was a small lot of record and the Code did not provide any relief for corner front yard setbacks for small lots of record. On variance #2 the staff identified six other houses on the block that accessed parking from the alley.

Applicant Christopher Bush was present and advised they were requesting that the driveway be placed on the alley which was common for the neighborhood and allowed a better aesthetic from the front. Mr. Bush advised it was a corner lot with a side setback of 25 feet which would render a 12 foot wide with the 12 foot total setbacks which would render the lot useless.

Neighbor David Nix was present and advised there were a lot of similar lots in the neighborhood and he was in favor of the variance requests.

Neighbor Kennie Riffey was present and asked for clarification if the 7 feet were from the inside of the sidewalk or if the 7 feet included the sidewalk. Joshua Frerichs advised the lot line was setback from the all of the sidewalks so it would 7 feet inside the lot line.

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

File: 06-B-19-VA
Applicant: NURSEFirst, LLC
Address: 124 Perimeter Park Rd., Ste. 101, 102, 103
Zoning: PC-2 (Retail & Distribution Park) District

Parcel ID: 131EC00101
2nd Council District

Variance Request:

1) Reduce the minimum required setback for a detached sign in the PC-2 zone from 10' from Right-of-Way to 3.1'. (Article 8, Section 7.1.a)

As per plan submitted to place a sign in an existing brick column in a median in the PC-2 (Retail & Distribution Park) District.

Applicant Rhonda Dunn was present and advised she had purchased an office with three suites. There was an existing brick stand at the entrance of the parking lot and they wanted to put a sign in the L-shaped brick stand which had been there for twenty years.

Member David Dupree asked for confirmation that the stand had been there for twenty years.

The applicant advised they had the property surveyed which confirmed the sign had been there since the property was built twenty years ago.

Member Charlie Van Beke asked how big the sign would be and the applicant advised the sign would be the same size as the opening.

Chairman Kristin Grove asked for an explanation of hardship. The applicant advised the sign would provide greater visibility for their business and to allow their business to be easily located by visitors.

Member David Dupree asked if the original sign had been approved by the City when it was originally built. The applicant did not know if the sign had been originally approved. Peter Ahrens advised there were no records in the City database of permits to approve a sign in that location. The applicant advised the building was in both the City and the County.

Member David Dupree confirmed that the sign structure did not comport with current sign codes. The applicant advised she did not know what the Code requirements were when the sign was built.

Member Daniel Odle asked what signage the applicant could have on the building and on the lot. Scott Elder advised the applicant could have wall signage and that they were entitled to a ground sign. Member Daniel Odle stated that in looking at the lot, he wasn't sure where a ground sign would go. Scott Elder advised they would most likely have to reduce the drive aisle, push it back 10 ft. and it would alter the parking lot. Scott Elder was unsure as to if they would be able to reduce the drive aisle. Member Daniel Odle stated that the condition on the property appeared to prevent any ground sign anywhere.

Member Don Horton referred to Google Maps and said it appeared there were similar monument signs along that street. The applicant submitted a picture of another sign across the street which was the same, blank brick mold in which a sign was recently placed.

Peter Ahrens advised there was room to shift in the terminal island so it was a matter of allowing the existing structure to be re-used or not or if it needed to be relocated to an appropriate location. KGIS showed a checkerboard of City vs. County so there was a good likely hood that the sign in question was originally located in the County.

Member Daniel Odle made a motion to approve. Christina Magrans suggested that if there were special circumstances he was considering in making the motion, that he made those reflected in the record. Member Daniel Odle stated there was a drive aisle easement to the north, there was existing parking in place, the neighborhood setup couldn't be changed, he did not see a viable place for another free-standing sign to be located on the site and the overall condition of the property was enough to convince that a variance was warranted so they could re-use what was there rather than rebuilding. The motion was seconded by Member Charlie Van Beke. Chairman Kirstin Grove opposed. The Board voted 4-1 to **APPROVE**.

File: 08-B-19-VA
Applicant: Lacy Mellon
Address: 916 Phillips Ave.
Zoning: FD-SW-1 (South Waterfront Form) District

Parcel ID: 095OA028
1st Council District

Variance Request:

- 1) Increase the maximum building coverage in a FD-SW-1 zone from 1491.45 square feet (30%) to 1669.5 square feet (33.58%) (Article 4, Section 4.1.3.B.4 table.)
- 2) Reduce the required minimum side yard setback in a FD-SW-1 zone from 5' to 3.4' (Article 4, Section 4.1.3.B.4 table.)

As per plan submitted to extend a front porch on a single family residence in the FD-SW-1 (South Waterfront Form) District.

DeAnn Bogus advised variance #2 was for an existing condition.

Applicant Lacy Mellon was present and advised she had already worked with the City to close the alley which was a paper alley that was never used. The applicant's intention was to extend the front porch to the left and the right, not further out, and to create as much outdoor space as possible in the back.

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

File: 08-C-19-VA
Applicant: Douglas Brett Honeycutt
Address: 4524 Old Kingston Pike
Zoning: C-3 (General Commercial) District

Parcel ID: 107NE005
2nd Council District

Variance Request:

- 1) Reduce the minimum required number of parking spaces from 24 spaces to 4 spaces (Article 5, Section 7.D Table)

As per plan submitted to reduce required number of parking spaces in the C-3 (General Commercial) District.

DeAnn Bogus advised the applicant submitted documentation that the owner of the property had an offsite parking agreement with a neighboring shopping center. The City had a chance to review that briefly and found that it was not in accordance with Article 5, Section 7F which was the shared parking plan. The parking lease agreement would have to be a 5 year agreement and would have to specify the number of parking spaces. City staff would honor a shared parking plan that met the requirements of Article 5, Section 7F.

Applicant Brett Honeycutt was present and advised Bearden Beer Market was putting a small accessory brewery into the building they had which put them into a change of occupancy which required additional parking. The facility had been used in the same way for the past 8 or 9 years and there was no way for onsite parking.

Member Daniel Odle asked what would happen if the applicant were to achieve a 5 year lease and the same landlord wouldn't renew the parking lease after the 5 years. Peter Ahrens advised the City would get involved if a complaint were filed or if anything happened on the lot which required a re-evaluation of parking such as an expansion or change of use. If the lease agreement was not renewed in 5 years and people were prohibited from parking in the adjacent lots, there could potentially be a problem that the City would address at that time.

Member Don Horton confirmed that if a variance was granted then it would go with the property unless there was a change in use. Peter Ahrens advised when the business first went in it was more of a retail use. It morphed over time and it became appropriate to re-evaluate not only because of expansion of gross floor area to be used for the business but also because it had morphed into an eating and drinking establishment over time. Member Don Horton confirmed anything else that was to go into that location as an eating and drinking establishment would not constitute a change. Peter Ahrens advised that was correct.

Chairman Kristin Grove asked the applicant if they were aware that the agreements they had in place did not meet the City standard. The applicant advised they were not aware.

Christina Magrans advised there were two ways to look at the situation. Number one was to get the Zoning administrator's approval on a shared parking plan with five year parking agreements which would be approved internally. The variance request was something different which would require the applicant to show a hardship. If the applicant was to have the agreements in place and postpone the variance then the City would be able to approve it internally and not have to pursue the variance.

Applicant Mark Hamron was present and advised they did have an indefinitely renewable lease agreement with a requirement of written notice to cancel. Christina Magrans confirmed that their lease agreement could be terminated by either party with or without cause on thirty day notice which was another aspect that gave the City some pause as far as the ordinance was concerned. Mr. Hamron advised the capacity of the use wasn't going to change. It wasn't going to be an additional eating or drinking area, the change would be for production, adding one employee who would be the brewer.

Chairman Kristin Grove acknowledged that while the applicant's business use was not going to change, the variance would stand with that property. If the applicant was to vacate and another Restaurateur were to occupy the property, they may not have the same agreement as the current applicant which could cause problems for the neighborhood.

Christina Magrans advised the ordinance did allow for the applicant to submit a shared parking plan where the City could make sure that the shared parking agreement would provide an appropriate amount of spaces given the area. The agreement would need to be for five years and in writing. The variance would stay with the property.

Member Daniel Odle stated that he couldn't see a restaurant wanting to occupy that property in the future because of the lay out, they would have to completely tear down and rebuild a very small building which would require its own set of variances to make it work.

Chairman Kristin Grove asked why the new plan showed that some of the parking was being taken away and the applicant advised it was being taken away because it was non-compliant.

Member Charlie Van Beke asked where the current employees parked. The applicant advised the employees parked across the street, across Kingston Pike in the Western Plaza lot and there were two spots dedicated for employee parking on site.

Chairman Kristin Grove asked that the applicant work through the shared parking agreement with the City so that it would be on file and appropriate.

Member Daniel Odle made a motion to approve. It was seconded by member Don Horton. Member David Dupree opposed. The Board voted 4-1 to **APPROVE**.

File: 08-D-19-VA
Applicant: ION Media Networks
Address: 601 Sharps Ridge Memorial Park Dr.
Zoning: RP-1 (Planned Residential) District

Parcel ID: 069OA028
5th Council District

Variance Request:

- 1) Reduce the required minimum periphery boundary setback in the RP-1 zone from 25' to 15' for two (2) new satellite dishes (Article 4, Section 3.1.D.2)

As per plan submitted to install two new satellite dishes in the RP-1 (Planned Residential) District.

DeAnn Bogus advised that Knoxville Knox County planning approved a plan that did not require a variance.

Applicant representative Karl Yoker from ION Media Networks was present to represent WPXK. As a result of the FCC mandated re-channel of the UHF television station band, they signed a lease with WBIR and they were moving properties down the ridge. Part of the technical build out of the television station was to use two satellite dishes. The only part of the property that was sufficient to place two satellite dishes was the western side of the property. When the applicant applied for the permit he was informed that the foundation was in violation of the setback and they were requesting the variance so they could have two satellite dishes on the ridge. If they were not able to place two satellite dishes on the ridge they would be forced to maintain another commercial property in the city and would be forced to relay their signal up to the ridge causing additional operating costs, personnel etc.

Chairman Kristin Grove reiterated DeAnn Bogus' statement that Knoxville Knox County planning approved a plan that did not require a variance. The applicant asked if that meant that his request to place the dishes where they wanted was approved.

Scott Elder clarified that there was some confusion in which plans and which setbacks were being requested. The foundation would need to be at 25 ft. setback, the applicant's BZA application showed a 15 ft. setback but Knoxville Knox Planning had reviewed and approved a plan from the applicant's organization that showed a 25 ft. setback. The applicant clarified that they had submitted a plan for a 25 ft. setback, that plan was approved and a permit was issued for a 25 ft. setback. He then submitted a variance application to the BZA to request a reduction in the 25 ft. setback, to reduce to 15 ft. The 15 ft. variance was needed because the operational ability of the satellites would be hindered if they were too close together. When one satellite would turn, the other satellite would block its line of site so they would need to be at least 15 ft. from each other to avoid interference. The applicant advised they weren't moving anything further out on the property

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

ADJOURNMENT

The meeting adjourned at 4:56p.m.

OTHER BUSINESS

The next BZA meeting is September 19, 2019.