



BOARD OF ZONING APPEALS

MINUTES

September 19, 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 September 19, 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 Charlie Van Beke made a motion to approve the August 15, 2019 meeting minutes. It was seconded by member David Dupree. The Board voted 5-0 to **APPROVE**.

OLD BUSINESS

None

NEW BUSINESS

File: 09-A-19-VA
Applicant: Matthew J. Dawson
Address: 2501 Hoitt Ave.

Parcel ID: 082BE031
4th Council District

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

Variance Request:

1) Reduce the required minimum front yard setback in an R-1A zone on Crockett St. from 25' to 7' (Article 4, Section 2.1.2.D.1.a)

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

Applicant Matthew Dawson was present and advised it was an existing small lot of record with double frontage. In order to make an acceptable building envelope they were requesting a reduction in the building setback along Crockett.

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

File: 09-B-19-VA
Applicant: McKenzie Construction & Management
Address: 5425 Lynnette Rd.

Parcel ID: 058IH010
4th Council District

Zoning: EN-1 (Established Neighborhood) District

Variance Request:

- 1) Reduce the minimum required front yard setback on Lynnette Rd. in an EN-1 zone from 45.5' to 36' (Article 4, Section 2.1.4.E.table.)
- 2) Reduce the minimum required side yard setback - adjacent to street on Bonita Dr. in an EN-1 zone from 45' to 34' (Article 4, Section 2.1.4.E.table.)
- 3) Increase the maximum allowed continuous wall in a front facade elevation from 24 feet in length to 28 feet in length. (Article 4,Section 2.1.4.F.5.b.)

As per plan submitted for an addition to a single family residence in the EN-1 (Established Neighborhood) District.

DeAnn Bogus advised Knox Planning did not support the application. Knox Planning wasn't allowed to vary the requirements and if BZA granted the variance then Knox Planning would have to approve it.

Applicant representative Michael McKenzie was present and advised it was a one-bedroom addition to an existing structure. Applicant Jennifer Simmons was present and advised she was the homeowner who purchased in the area with the purpose of adding on to the side and three of the neighboring houses had setbacks that did not fall within the set parameters.

Ms. Simmons advised the bedroom addition would add value to the property and increase comps in the neighborhood, all of the neighbors were in favor of the project and the addition would balance out the front of the house and look much better.

Member David Dupree asked if any of the neighboring houses that were not in compliance were granted variances as well. Ms. Simmons stated she did not know because any additions in the neighborhood were built many years before she moved in.

Chairman Kristin Grove noted it appeared that the third variance was not needed. Ms. Simmons explained that the continuous wall would not be 28ft. It would balance out the presentment of the house. Chairman Kristin Grove asked City staff if the third variance was needed. Peter Ahrens advised that was a true statement.

Based on the fact that it was a lot with two front yards, member Daniel Odle made a motion to approve items #1 and #2 and not item #3. It was seconded by member Don Horton. The Board voted 5-0 to **APPROVE** items #1 and #2.

File: 09-C-19-VA
Applicant: Knoxville TVA Employees Credit Union
Address: 1974 Town Center Blvd.

Parcel ID: 15409809
2nd Council District

Zoning: PC-1 (Retail and Office Park) District

Variance Request:

1) Decrease the minimum drive through width from 10 feet to 9 feet (Article V, Section 7.B.4)

As per plan submitted to construct a prototype building in the PC-1 (Retail and Office Park) District.

Peter Ahrens advised City Engineering evaluated it and didn't see it to be a dangerous situation. Chairman Kristin Grove advised she was contacted by the developer of the adjacent property who advised they were in favor of the project. Chairman Grove stopped that conversation and directed them to Scott Elder.

The applicant Louis Cortina was present. Member David Dupree noted that most of the hardship conditions seemed to apply to the land itself and he asked how that impacted the need for a reduction from 10' to 9'. Mr. Cortina advised there was a potential sinkhole to the west of the proposed building footprint and they were trying to stay out of that sinkhole. TVA had 20 locations with 9' drive-thru lanes with no issues on any of those. They were pushing the building to the east to try to stay out of the sinkhole and there was a slope to the west.

Member Don Horton confirmed that they were changing each of the drive-thru lanes from 10' to 9'. Mr. Cortina advised that was correct. Chairman Kristin Grove asked if there was anything that documented the sinkhole. Mr. Cortina said it was on the survey and the sinkhole was at the top left corner of the plans. Peter Ahrens asked Joshua Frerichs if he was aware of a sinkhole at that location. Joshua Frerichs said he was not aware because he was not involved in the plans review. Mr. Cortina advised the sinkhole did not show up on KGIS but he thought it was platted as a sinkhole. Member Don Horton asked if it was possible to shift the entire building, site and parking to the east. Mr. Cortina advised they could shift it a little bit but setbacks were a consideration. Chairman Kristin Grove advised the applicant had not shown a legal hardship and suggested that the applicant postpone to the next meeting to show the sinkhole which would count as a hardship. Member Daniel Odle confirmed that the site was sitting up on a hill and asked how many parking spaces the applicant was required to have. Mr. Cortina advised they were at maximum parking spaces for the ordinance which meant they met the parking requirement with that plan. Member Daniel Odle stated that based on the topography, the layout and multiple front yards the variance was justified. Joshua Frerichs advised he had looked up the plat and confirmed that there was a sinkhole and a platted buffer. Member Daniel Odle made a motion to approve. It was seconded by member Charlie Van Beke. The Board voted 5-0 to **APPROVE**.

_File: 09-D-19-VA
Applicant: John Holmes
Address: 1601 Forest Ave.

Parcel ID: 094ND015
1st Council District

Zoning: R-3 (High Density Residential) / NC-1 (Neighborhood conservation overlay)
Districts

Variance Request:

- 1) Reduce the minimum required front yard setback on Sixteenth St. (East portion of lot) from 25' to 3.5' (Article IV, Section 2.1.7.D.1.a)
- 2) Reduce the minimum required side yard setback (North portion of lot) from 5' to 4.8' (Article V, Section 6.D.6)
- 3) Reduce the minimum required side yard setback (West portion of lot) from 5' to 2.6' (Article V, Section 6.D.6)
- 4) Increase the maximum building coverage in an R-3/NC-1 zone from 1,046 square feet (30%) to 1551 square feet (44.5%) (Article IV, Section 2.1.7.D.6 table.)
- 5) Reduce required parking for a duplex from 4 spaces to 0 spaces (Article V, Section 7.D.1 table.)
- 6) Reduce the minimum lot size for a duplex in an R-3/NC-1 zone from 5,000 square feet to 3,485 square feet (Article IV, Section 2.1.7.D.4.b)

As per plan submitted to tear down and rebuild the rear section of a house in the R-3 (High Density Residential) / NC-1 (Neighborhood conservation overlay) Districts.

Peter Ahrens advised the last legal use of the property was a single family dwelling. Mr. Ahrens advised the Fort Sanders neighborhood was experiencing a parking shortage, City administration was looking into how to address the parking shortage and the City felt it was inappropriate to request a variance from required parking down to zero.

Applicant John Holmes was present and advised they had other requests aside from just parking and that it was originally a legal triplex. Peter Ahrens advised the City records showed the last legal use was a single-family dwelling. Mr. Holmes advised when they bought it he thought it was a triplex and that it was going to a duplex. They were asking to reconstruct the back third of the house. They tried to salvage it in place but the framing was unsafe and they couldn't save it. Member Charlie Van Beke asked if a certain section at the back of the house was going to be removed. Mr. Holmes confirmed that it would be removed. Member Charlie Van Beke asked if that would provide two parking places. Mr. Holmes said no, they had a parking lot that was two houses down with 18 available spaces. They wanted to reconstruct the

back section to what was already there; they just couldn't salvage the framing in that section. The entire foundation had been replaced all the way around in the rest of the house to make it structurally stable. Member Charlie Van Beke confirmed that the applicant owned the two houses next door as well as the vacant lot for parking and asked if the applicant was going to somehow legally commit that that would be parking for those three houses and not come back to say he wanted to build a house there next year. Mr. Holmes advised they definitely wanted to keep that lot as parking and that they wanted to reduce the setbacks to match what was previously built so they can rebuild, safely, what was already there.

Member Charlie Van Beke asked if the back section of the house was an add-on. Mr. Holmes advised it was an addition, they couldn't figure how far back it was but they did have a COA already in place from HZC showing the reconstruction and how that would need to be done, the window locations, where the apartment division would be between the two. Member Charlie Van Beke asked if the house in question was identical to the two other houses next door. Mr. Holmes advised the house in question was different from the other two which has porches on the back and were different. Mr. Holmes advised the first two-thirds of the house was already complete, slab and firewall was already done and it would be much more complicated to undo.

Member Don Horton asked if the work was permitted for a renovation and then the applicant decided that the back part of the structure had to be torn down. Mr. Holmes advised that was correct, about one-third had to be torn off, they couldn't salvage it. They had an engineer look at it who gave a recommendation as to how to repair it and he signed a letter for them to repair it that way. There was also a 2 inch encroachment at the rear so they had to re-plat to give a little bit more space in the back to reconstruct it and that had already been done. Mr. Holmes advised they were in a "Catch 22" because they couldn't build across the property line and when they started taking off the roof and siding to try and repair it, it was all pieced together and wasn't safe to work on.

Member Charlie Van Beke asked if it was necessary for it to be duplex and not a single family residence or if it was just a personal preference. Mr. Holmes advised that from an investment standpoint it absolutely was, to be cost effective, and that it would be very difficult to switch back to a single unit now that the fire partition had been built, the framing was done, the inside of the first unit was ready to hang drywall in the next week.

Member Charlie Van Beke confirmed with Mr. Holmes that they had done all that work before they decided they needed variances. Mr. Holmes advised they had a permit to rebuild apartment one and apartment two. Member Don Horton asked if it was an interior renovation. Mr. Holmes advised it was to repair everything including the foundation.

Chairman Kristin Grove asked City staff if there was a process or paperwork that could be done to have offsite parking for a facility. Peter Ahrens confirmed that was correct but before he went down that road he wanted to verify that that process would be appropriate for residential. Chairman Kristin Grove noted that the applicant's variances were all tied to the parking variance and if the parking variance was not approved it wouldn't help the applicant with anything else. Chairman Kristin Grove suggested that there may be a way for the applicant to postpone and possibly get the paperwork done to provide parking for the units and come back.

Mr. Holmes asked City staff to look up the last use of the property because he was told it was 2 to 4, it was in the tax map as 2 to 4 commercial, they had the original permits already approving

the duplex. Peter Ahrens advised the original permits were repair permits which did not involve a plan review. Mr. Holmes said there was a plan review.

Member Daniel Odle asked Scott Elder to confirm that there was a difference between a repair permit and a building permit. Scott Elder advised a general repair permit could be obtained for a general interior repair, moving a wall or remodeling a bathroom, which would not affect the outside or expand the footprint. Scott Elder advised his understanding was that Mr. Holmes' original permit was to repair the existing structure onsite, to repair the interior. That wouldn't necessarily mean that it would legalize the occupancy as a duplex.

Mr. Holmes advised there were two permits, BU19-2078 and 2079 for apartment one and apartment two.

Member Daniel Odle asked City staff if plans were reviewed as a part of a repair permit or if someone would just come in to ask for a repair permit. Scott Elder advised an applicant could just come in to ask for a general repair permit however the City was changing policies. Member Daniel Odle asked Scott Elder if someone was required to submit plans for a repair permit. Scott Elder advised that he thought plans had to be provided now but in the past it was an over the counter permit. Peter Ahrens advised if it was for a repair and the use wasn't going to be changed then the only review would be to make sure it was structurally sound, it wouldn't go through Zoning or Engineering.

Peter Ahrens advised that he had answer on offsite parking and confirmed that it was vacant land, which would be considered a parking lot which would not be permitted in that zoning district, so the answer was no. Chairman Kristin Grove confirmed that it was currently not a permitted use that was happening on that property. Peter Ahrens confirmed that was correct.

Chairman Kristin Grove asked Mr. Holmes if he knew that the space was not allowed to be parking. Mr. Holmes advised it had been parking for probably 50 years.

Scott Elder advised that since the World's Fair came, there were a lot of houses that closed the door and called the space apartment one and apartment two but that didn't necessarily transfer the occupancy to that. Even though there might be a record of something that is called an apartment that doesn't necessarily mean that it fits that description. Scott Elder advised it was the same thing with the parking for the situation in question. There was a gravel lot and at some point someone had dumped graveled, leveled it out and maybe even a curb cut or that was an old house but that still didn't legalize it as a principal use under the City's Engineering standards.

Member David Dupree asked if the lot was a vacant lot and wasn't set up to be a parking lot. Mr. Holmes advised it was graveled and spaced off. Member Daniel Odle noted that it wasn't permitted to be that and they couldn't permit it to be that. Don Horton said he had seen other parking lots in the area that were striped and asphalted and asked how they were different. Scott Elder advised those were in a different zone and it would take a rezone of the property in question to allow that parking.

Chairman Kristin Grove stated that what was in front of the Board was a series of variances that were basically dependent on the parking reduction and taking it to zero was something she was not comfortable with. Chairman Kristin Grove made a motion to deny. It was seconded by member David Dupree.

Mr. Holmes stated he looked up the property tax records and it was listed as property class 305, 5-10 family commercial. The Board voted 5-0 to **DENY**.

File: 09-E-19-VA
Applicant: Tim Harris
Address: 5006 N. Broadway St.

Parcel ID: 058LJ033
4th Council District

Zoning: C-6 (General Commercial Park) District

Variance Request:

1) Request to appeal the interpretation of the Chief Building Official in regard to the criteria for the primary elevation measurement for attached signage for a building with a chamfered corner entrance (Article 8, Section 6.4.a)

As per plan submitted for signage in the C-6 (General Commercial Park) District.

Peter Ahrens advised that the Zoning Code doesn't address every single perspective or option that could be constructed so a strict interpretation of the Code would say their primary building elevation was a very narrow chamfered corner and calculate signage based on that one wall. Peter Ahrens stated the City recognized that wasn't the reality of how it functioned and the City understood it would be inappropriate to allow the applicant the benefit to have all of the west wall and all of the south wall. The ideal was to reduce signage so that the applicant could gain the benefit of half of the west wall and half of the south wall, thereby averaging the two because it functioned for both of those but without giving the applicant the full benefit.

Applicant representative Wayne Kline was present and advised he was representing on behalf of Walgreens. Mr. Kline advised the reason for the appeal was for all of the buildings in hopes of coming to terms with the way the ordinance should be interpreted and that it would pretermite the other two variances that had been requested.

Mr. Kline advised there were two sections of the ordinance that they were talking about and that they were talking about a strict interpretation of an ordinance. Mr. Kline advised of a partnership between Kroger and Walgreens which was a store within a store concept which needed directional signage for three different components: Walgreens, Kroger Express and Kroger Pick-up. Mr. Kline stated that Peter Ahrens calculated corner lots with chamfered corner entrances as 10% of half the area of the two walls that met the chamfered corner. Mr. Kline stated there was no mention of chamfered corners in the commercial and industrial zone districts and primary elevation ordinance components and that there was no mention that a chamfered corner should be the primary source of square footage calculation. Mr. Kline stated it talked about attached signs with a total allowed sign area equal to 10% of the wall area of the primary building elevations and such sign area may be used on any elevation in the building. Mr. Kline stated that for purposes of determining maximum allowed sign area for attached

signs, Section 6.4 said the primary building elevation shall be any elevation which faced onto a street right of way to which the parcel had street frontage. The applicant's interpretation of the sign ordinance was that the property owner's involved were allowed 10% of each one of the primary elevations that faced the street.

Mr. Kline stated if they were to proceed with Peter Ahrens' interpretation, the signage would be diminished so that the applicant couldn't create the necessary signs to direct traffic and be visible from the street. The applicant was proposing that they take the signs off from the back of the building and take the largest of the two walls that came together to create the chamfered and use that for the square footage calculation.

Joyce Feld, President of Scenic Knoxville, was present to speak in opposition. Ms. Feld stated that Scenic Knoxville had an unusually high number of members of the community as well as elected officials who contacted Scenic Knoxville to express concerns about the three variances requested. Ms. Feld stated that as a member of the sign taskforce she wrote parts of the ordinance and was well aware of the intent of the sign ordinance. The task force looked at 5 years of archival data and the average request of an attached sign was actually 7% of the area of the primary façade. Ms. Feld had argued for the standard to be set at 7%, however other members of the task force wanted it to be set at 10% and so it was. None of the task force members advocated for anything greater than 10%. Ms. Feld stated that there was no hardship and the applicant was not being denied reasonable use of the property.

Chairman Kristin Grove asked Mr. Kline if he would like two minutes for rebuttal. Mr. Kline stated that it was not a request for variance; it was an appeal of the interpretation of the ordinance.

Member Charlie Van Beke asked Mr. Kline for clarification on various points previously discussed and Member David Dupree asked if there was any written documentation on Peter Ahrens' decision. Christina Magrans advised that written documentation of Peter Ahrens' decision was provided in the email to the applicant, referenced in the Exhibit A attachment. Mr. Kline quoted from Exhibit A where Scott Elder indicated that the Chief Building official calculates corner lots with chamfered corner entrances as "10% of half the area of the two walls that meet at the chamfered corner."

Member Daniel Odle stated that Peter Ahrens' decision would make sense to him if it was on a corner with two primary roads but he questioned why that decision was made for a building with a chamfered corner with a primary road and a parking lot. Member Daniel Odle stated it seemed that Peter Ahrens was trying to create a policy for a chamfered corner. Peter Ahrens advised that was an accurate statement because it works; it was something that could be done on a consistent basis to provide clarity for the customer and it was close to the intent.

Chairman Kristin Grove asked for clarification on the difference between what had been proposed for the chamfered corner versus what the primary elevation would provide. The Board heard 287 and 150 and Chairman Kristin Grove asked for clarity. Peter Ahrens advised the West wall was less than 120 linear feet, it would be assumed that the elevations were the same height and the south wall was about 150.

Member Charlie Van Beke stated that he did not feel Mr. Kline's proposal was a strict interpretation and Mr. Kline advised he did not feel that Peter Ahrens determination was a strict interpretation so there was ambiguity in the process. Member Charlie Van Beke stated that the

strict interpretation was the west wall. Peter Ahrens stated that from his perspective a single set of doors could not be an entrance for two different walls.

Chairman Kristin Grove made a motion to allow the applicant an additional speaker. It was seconded by Member David Dupree. The Board voted 5-0 to allow an additional speaker. Walgreens representative Michelle Russe advised it was one of 14 locations that would be opened in Knoxville with the Kroger partnership. Ms. Russe advised there were 10 other locations that did have the entrance on two right-of-ways. Walgreens was proposing to use the longest elevation which was on the right-of-way at the other locations which would grant them additional square footage but was still under the amount they currently had on all of their buildings so they were making a reduction in signage. Walgreens was also reducing the types of signage they had on the building, going with more of a clean look with just Walgreens and Kroger Express and no additional signage.

Member David Dupree made a motion to deny the appeal. It was seconded by member Don Horton. Members Kristin Grove, David Dupree and Don Horton voted to deny. Members Daniel Odle and Charlie Van Beke opposed the denial. The Board voted 3-2 to **DENY**.

File: 09-F-19-VA
Applicant: Tim Harris
Address: 4001 Chapman Hwy.

Parcel ID: 109PG008
1st Council District

Zoning: C-3 (General Commercial) District

Variance Request:

1) Increase the maximum allowed square footage of wall signage in a C-3 zone from 240 (10%) to 523.18 (21.76%) (Article 8, Section 11.6.a.2)

As per plan submitted for signage in the C-3 (General Commercial) District.

Applicant representative Wayne Kline advised it was a variance request for the Chapman Highway store. Mr. Kline advised it was a partnership between Walgreens and Kroger, a store within a store concept with a Kroger Pick-up, Kroger Express and Walgreens all under one roof. Walgreens needed to update the exterior signage at the store with larger signage on the north elevation due to several trees that were blocking the signage. Mr. Kline stated a safety hardship which could be remedied by larger signage on the north elevation.

Joyce Feld, President of Scenic Knoxville, was present to speak in opposition. Ms. Feld advised there were no trees on Chapman Hwy, there were three widely spaced trees on West Moody Ave. that did not obscure the signage on that façade. There was a large, detached sign

at the corner of Chapman Hwy and West Moody Ave. and a large iconic building design which made the location easy for motorists to identify with more than enough time to turn into one of several entrances. Ms. Feld stated that in her experience corporations often had standard signage in terms of sizes, however in this instance, standards were not set by corporations they were set by the City of Knoxville. City of Knoxville sign standards were deliberated at length and set through the legislative process. Ms. Feld stated that the long term intention was for the size of signage to decrease, all of the signs were installed under a previous sign ordinance. Ms. Feld stated there was no valid hardship and the applicant was in no way being denied reasonable use of the property.

Mr. Kline spoke in rebuttal and stated they were not using standard signage and they were reducing square footage.

Chairman Kristin Grove asked Mr. Kline to verify which location he was referring to. Mr. Kline advised he was referring to the north elevation as Moody Ave.

Member Don Horton pointed out that there was a large, ground mount sign up in the air which identified the property; he did not see why people wouldn't be able to identify the building just from that and he did not see a need for the signage as requested. Chairman Kristin Grove agreed and stated that she felt the ground mount sign was incredibly visible and she didn't believe the safety hardship was applicable.

Member Charlie Van Beke stated that the issue seemed to be how to identify the choices once you pull onto the property and the safety they were talking about was safety within the property. Member Don Horton advised a large sign up on the building when you pull at eye level was not the most visible and effective way to route people.

Scott Elder advised each entrance was allowed by right, an exit and entrance sign in addition to what they had. There were also opportunities with the Pick-up sign that they could label in the lot.

Chairman Kristin Grove made a motion to allow an additional rebuttal. It was seconded by member Daniel Odle.

Walgreens representative Michelle Russe advised the key was that they were offering another service which was Kroger Express and Kroger Pick-up, both new to the Knoxville area. There were over 30 stores within Knoxville proper and Walgreen's was doing the store within a store concept in 15 of those stores. The Pylon sign was a Walgreen's sign, not a Walgreen's/Kroger Express or a Walgreen's/Kroger Pick-up.

Member Don Horton asked how much smaller the signage would be to conform to the current code. Ms. Russe advised it would be half from what they currently had on the building. Chairman Kristin Grove advised 240 was allowed and 523 was what they were asking for.

Member Charlie Van Beke made a motion to approve. There was no second so the motion failed. Chairman Kristin Grove made a motion to deny. It was seconded by member Don

Horton. Members Kristin Grove, Daniel Odle, Don Horton and David Dupree voted to deny. Member Charlie Van Beke opposed the denial. The Board voted 4-1 to **DENY**.

File: 09-G-19-VA

Applicant: Tim Harris

Address: 121 N. Northshore Dr.

Parcel ID: 107PC01501

2nd Council District

Zoning: C-4 (Highway and Arterial Commercial) District

Variance Request:

1) Increase the maximum allowed square footage of wall signage in a C-4 zone from 306 (10%) to 523.18 (17%) (Article 8, Section 11.6.a.2)

As per plan submitted for signage in the C-4 (Highway and Arterial Commercial) District.

Applicant representative Wayne Kline was present and requested a postponement to the October 17, 2019 meeting.

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

File: 09-H-19-VA

Applicant: Smee + Busby Architects

Address: 531 Vanosdale Rd.

Parcel ID: 120BD008

2nd Council District

Zoning: R-1E (Low Density Exclusive Residential) District

Variance Request:

1) Permit the extension and erection of an additional building for a pre-existing non-conforming use (Article 6.A.)

2) Reduce the minimum parking lot setback from the street line (property line) from 25 feet to 10 feet (Article V Section 7.C.2)

As per plan submitted for an extension of a pre-existing non-conforming use to build an additional structure in the R-1E (Low Density Exclusive Residential) District.

Peter Ahrens advised it was unique situation with a pre-existing, non-conforming use of a former childcare facility in an R-1A which was not a permitted use on review. The non-conforming section of the Zoning Code allowed for the applicant to go before the BZA and expand a non-conforming use on their property. There were eight items that the applicant had to prove they could meet, a list of the items were included in the Board member's packets. One of the eight items had to do with the architectural style being similar to that which exists in the area. Knox Planning would do a lot of that but there are guidelines. In the absence of guidelines it would be a matter of looking at what the applicant had to present and using best judgment.

Applicant representative Gregor Smee was present and advised it was a unique property with several challenges. The building appeared to have Lap Siding but it was actually concrete block that had been formed to look like Lap Siding. The building had been in consistent use as a day care until it closed its doors in bankruptcy a few months prior. The building had always run with 6-8 parking spaces and the applicant was challenged with jumping from 6-8 to 28 minimum parking spaces which was what the current zoning was.

Mr. Smee advised one of the hardships was the giant easement that ran diagonally through the property which was a KUB owned high pressure gas line. KUB originally told the applicant that they couldn't cross or pave over the easement then they changed their mind and said the applicant could pave over it and park on it as long as they were willing to dig it up whenever KUB had to make changes.

Mr. Smee explained that when parents drop their children off at the facility they have to park their car to check their child in, so the need for parking spaces near the front entry was paramount and that was a problem because of the 25 ft. front parking setback. Because the building was already there it meant that the front parking needed to be within that setback.

Mr. Smee advised they planned to put a front entry, kitchen and office all in the front addition on the property and they provided a landscape plan with a buffer up against an adjacent property.

Member Daniel Odle inquired about the zoning in the area and where the use would be allowed. Mr. Smee advised any zone except and R1-E which said it was exclusive so it wouldn't allow it. Member Daniel Odle asked if it was possible to re-zone the property. Peter Ahrens advised this was a cheaper option and it provided the same path, there was a path in the Zoning Code.

Chairman Kristin Grove asked for an explanation of legal hardship. Peter Ahrens advised the application didn't need a hardship because they weren't varying. Christina Magrans explained it was an expansion of a non-conformity and referred to a document that had been included in the application packet which listed factors that needed to be found as opposed to a hardship.

Member Daniel Odle asked for clarification on a non-conforming use and what the Code allowed for. Christina Magrans advised it allowed for the use and the existing building, both of which were non-conforming and quoted a section of the Code.

Scott Elder advised it didn't allow to structurally create any more hardships. The setbacks had to be met and as long as they stayed within the area regulations it allowed the authority to get bigger.

Member Don Horton asked if there was any issue with the ingress and egress drives being more compressed. Joshua Frerichs advised the 10 ft. was the typical setback from right-of-way if you had a parking lot larger than 20,000 sq. ft. The 25 ft. setback was specifically for when there was a use that shares frontage with a residential property.

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

File: 09-I-19-VA
Applicant: Logan Higgins
Address: 610 Caswell Ave.

Parcel ID: 081MN003
4th Council District

Zoning: R-1A (Low Density Residential) / H-1 (Historic Overlay) Districts

Variance Request:

1) Increase the maximum square footage allowed in an R-1A/H-1 zone from 1,197 square feet (30%) to 1,654 (42%) (Article 4, Section 2.1.2.D.6.a)

As per plans submitted for an addition to a single family residence in the R-1A (Low Density Residential) / H-1 (Historic Overlay) Districts.

Peter Ahrens advised when the property was platted it would be a small lot of record. It would go through the Historic Zoning commission but that had no bearing on what the Board would be hearing in the meeting.

Applicant Logan Higgins was present and advised it did go through Historic Zoning and did have a COA for the proposed addition. The plan was to extend the master bathroom and closet to be more comparable to the other houses in the neighborhood. Mr. Higgins advised that the percentage seemed like a large jump but when you looked at the size of the lot and the other houses in the neighborhood it was a normal jump in percentage.

Chairman Kristin Grove asked Mr. Higgins to define the legal hardship. Mr. Higgins advised the house was small relative to the other houses in the neighborhood and had an upstairs which was not original to the house. The upstairs space was tight with a lot of limitations so to make it more appropriate for modern living, they needed a slightly larger square footage in that space.

Mr. Higgins advised the closet and the master were a minimal part of the coverage, there was also a deck and a porch that they wanted to add to make the house more livable.

Member Daniel Odle noted that it was in keeping with a lot of other houses in the neighborhood with small lots and would be in line with what the Board had approved in the past.

Member David Dupree disagreed and noted that it wasn't a build up from the ground up, it was different in that it was an existing structure that was already complete and a hardship didn't apply.

Mr. Higgins advised the planned improvements were significantly minimal in comparison to the size of the other houses in the neighborhood, it wouldn't harm the quality of the neighborhood and had already been approved by the Historic Zoning Commission.

Member Charlie Van Beke confirmed that the addition would be on the rear end of the house.

Member Charlie Van Beke made a motion to approve. It was seconded by Member Daniel Odle. Members Charlie Van Beke, Daniel Odle and Don Horton voted to approve. Members Kristin Grove and David Dupree voted to oppose. The Board voted 3-2 to **APPROVE**.

File: 09-J-19-VA
Applicant: Logan Higgins
Address: 707 Luttrell St.

Parcel ID: 094DE008
4th Council District

Zoning: R-1A (Low Density Residential) / H-1 (Historical Overlay) Districts

Variance Request:

1) Increase the maximum square footage allowed in an R-1A / H-1 zone from 1881.4 square feet (30%) to 2,291 (36.5%) (Article 4, Section 2.1.2.D.6.a.)

2) Decrease the minimum rear yard setback from 25' to 21' (Article 4, Section 2.1.2.D.3.a.)

As per plan submitted for an addition to a single family residence in the R-1A (Low Density Residential) / H-1 (Historical Overlay) Districts.

Peter Ahrens advised of the same staff comments as application 9-I-19-VA. It was a small lot of record. It had gone through Historic Zoning but one did not affect the other.

Applicant Logan Higgins was present and advised it was similar to application 9-I-19-VA, the lot was a bit bigger, the addition was a bedroom to the back to become a three-bedroom house. Mr. Higgins advised most of the houses on the block were 3-5 bedrooms and the addition had already gone through the Historic Zoning Commission and received a Certificate of Appropriateness. Mr. Higgins advised there used be a shed in the back of the property but it collapsed due to significant structural damage and was removed. Lot coverage had already been taken off so in a sense the owners were just replacing the amount of lot coverage that was there. Mr. Higgins advised the rear set back was requested for 21 ft. and they wanted to request for 20 ft. Chairman Kristin Grove advised it would be appropriate to reduce the request.

Chairman Kristin Grove asked for an explanation of the hardship. Mr. Higgins advised that from a home owner's standpoint, it would help to give the house value and contribute to the neighborhood.

Member Daniel Odle stated that the result of not allowing renovation of this type of property would be eventual demolition because it would fall into disrepair and the result would be a plat map of small lots. Member Daniel Odle stated that granting these types of variances allowed the preservation of the character of the historic neighborhood.

Peter Ahrens asked for clarification on the proposed 20 foot, rear yard setback. Chairman Kristin Grove advised it was going from 25 to 20. Peter Ahrens stated that would be a greater variance. Chairman Kristin Grove stated that while it was a lower number it was a greater variance and the variance request could only be reduced at the same meeting.

Member Daniel Odle made a motion to approve. It was seconded by member Charlie Van Beke. Member Daniel Odle, Charlie Van Beke, Don Horton and David Dupree voted to approve. Chairman Kristin Grove voted to oppose. The Board voted 4-1 to **APPROVE**.

File: 09-K-19-VA
Applicant: Bill Andrews
Address: 3819 Oakhurst Dr.

Parcel ID: 107ME030
2nd Council District

Zoning: R-1 (Low Density Residential) District

Variance Request:

1) Increase the maximum allowed building height of an accessory structure in an R-1 zone from 15' to 17'8" (Article IV, Section 2.1.1.F)

As per plan submitted to alter an existing detached garage in the R-1 (Low Density Residential) District.

Applicant Bill Andrews was present and advised it was a request to build a painting studio with a sloped roof above a garage. Mr. Andrews advised they could build the building and meet the zoning requirements but they were proposing a sloped roof for historical context and the sloped roof came out a bit above what was allowed. Mr. Andrews advised they lowered the roof pitch as much as possible.

Member Charlie Van Beke confirmed that the roof above the garage would still be below the elevation of the house. Mr. Andrews advised the big house was probably 30-35% higher than the proposed garage roof and pointed out existing landscape blockage between the neighboring houses.

Chairman Kristin Grove asked for an explanation of hardship and Mr. Andrews advised historical context.

Member Charlie Van Beke made a motion to approve. It was seconded by member David Dupree. Members Charlie Van Beke, Daniel Odle, Don Horton and David Dupree voted to approve. Chairman Kristin Grove voted to oppose. The Board voted 4-1 to **APPROVE**.

ADJOURNMENT

The meeting adjourned at 5:44p.m.

OTHER BUSINESS

The next BZA meeting is October 17, 2019.