

BOARD OF ZONING APPEALS

MINUTES

January 17, 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 January 17, 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 4:03p.m.

ROLL CALL

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

Others in attendance were Peter Ahrens, 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.

SPECIAL BUSINESS

Board member Charlie Van Beke made a motion to nominate member Kristin Grove as the 2019 Board Chairman. It was seconded by member Charlie Van Beke and accepted by member Kristin Grove. The Board voted 5-0 to elect member Kristin Grove as the 2019 board Chairman.

MINUTES

Member David Dupree made a motion to approve the December 20, 2018 minutes. It was seconded by member Charlie Van Beke. The Board voted 5-0 to **APPROVE**.

OLD BUSINESS

File: 11-G-18-VA
Applicant: NLA Kingston, LLC
Address: 7621 Kingston Pike
Zoning: C-3 (General Commercial) District

Parcel ID: 120GB01101
2nd Council District

Variance Request:

- 1) Increase maximum height of secondary detached sign from 8' to 62' (Article 8, Section 11.6.b.3)
- 2) Increase maximum sign area of a secondary detached sign from 32 sq. ft. to 200 sq. ft. (Article 8, Section 11.6.b.3)
- 3) Decrease the minimum setback of a detached sign from 10' to 0.2' (Article 8, Section 7.1.b)

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

Scott Elder advised the application had been postponed from November and was regarding a proposed development with variance requests to use an existing foundation for a secondary sign.

John Shirley, the applicant, was present and advised the request was to erect a secondary interstate high-rise sign to meet the code as it was written. The Board previously voted that the applicant did not have frontage on the interstate and that the applicant should return to ask for a variance. The applicant advised that the existing sign was now inside of the parking field and would be demolished.

President of Scenic Knoxville, Joyce Feld, was present to speak in opposition and asked for clarification on the variances being requested. Peter Ahrens advised that there were three variances for one secondary sign and the request was for an increase in height, an increase in area and a decrease in setback. All of the variance requests were related to a secondary sign which was limited to 8 ft. and 32 sq. ft. Ms. Feld advised that Scenic Knoxville was in opposition to the variance requests and that the applicant was not being denied reasonable use of his property. The applicant would be allowed a 20 ft. sign and a secondary sign of 8 ft. and 32 sq. ft. Ms. Feld advised of many parcels along Kingston Pike that meet the criteria of having a road in between the parcel and the interstate and if the variance were to be granted it would set a significant precedent where all of the properties that have the intervening road could go before the Board and submit similar requests. Ms. Feld stated that the sign heights, number of signs allowed and whether or not they front the interstate was carefully considered by the sign task force and by City Council 2 ½ years ago and the sign ordinance was very clear about the restrictions.

The Applicant clarified that the code read 35 ft. from the interstate elevation and that the property was in a hole at the interstate. Member Don Horton asked if that measurement was based on the property being considered adjacent to the interstate. The Applicant advised that

the measurement was taken from the DOT's topo designation of elevation of where the sign is today in relation to the elevation of the interstate.

Christina Magrans advised that the requested height area and the reduction in the setback were all in accordance with what would be allowed if the property were considered adjacent. All three requests were requested as a variance so there would need to be a hardship. The issue of adjacency was not in the application.

Scott Elder confirmed that a secondary sign would be 8 ft. tall from the ground not the interstate. If it were adjacent then it would be measured 30 ft. from the top of the interstate if it were adjacent but the variances in the application were pertaining to a secondary sign, 8 ft. from ground level.

Member Charlie Van Beke advised that since it was not adjacent he was concerned about setting a precedent. Member Daniel Odle noted that there was no hardship.

Chairman Kristin Grove made a motion to deny based on the way the application was written. It was seconded by member Daniel Odle. The Board voted 5-0 to **DENY**.

File: 12-F-18-VA
Applicant: Long Sisters, LLC/Chris Bush
Address: 2806 Painter Ave.
Zoning: R-2 (General Residential) District

Parcel ID: 108BE014
2nd Council District

Variance Request:

1) Reduce minimum lot size required for duplex from 9,000 sq.ft. to 8,575 sq.ft (Article 4, Section 2.1.6.D.5.b)

As per plan submitted to build a two-unit condo building in the R-2 (General Residential) District.

Scott Elder advised the applicant was proposing to construct a duplex on the property.

Chris Bush, the applicant was present and advised the house on the property had been demolished and was being turned into 2-unit condominiums not a duplex.

Member David Dupree asked what the footprint was of the previous house. The applicant advised it was one story house, approximately 900 sq. ft. Member Don Horton asked if the new footprint would be more than 900 sq. ft. The applicant advised the footprint would be similar since the proposed construction would be going up instead of out. Each unit would be approximately 900 sq. ft over the course of two stories so the first floor would have a similar footprint as to what previously existed on the lot.

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

NEW BUSINESS

File: 01-A-19-VA **Parcel ID:** 108AK002
Applicant: Nick Barron 6th Council District
Address: 2924 Sutherland Ave.
Zoning: I-2 (Restricted Manufacturing and Warehousing) District

Variance Request:

1) Reduce the minimum required number of parking spaces from 26 spaces to 14 spaces (Article 5, Section 7.D.1.Table 1)

As per plan submitted to open a microbrewery in the I-2 (Restricted Manufacturing and Warehousing) District.

Scott Elder advised it was a proposed brewery with a tasting room on a combined lot.

Nick Barron, the applicant, was present and advised there were 14 parking spaces, some parallel along the property, some along the south-most portion and a couple of spaces between the brewery building and the beer garden.

The applicant submitted landscape drawings to be added to the application file.

Member Daniel Odle asked if there were other parking options in the neighborhood. The applicant advised the nearby Third Creek Coffee shop would close at 6pm so there would be an opportunity to share some parking spaces with them since the brewery would operate 4:00pm – 8:00pm on week-days. Two nearby businesses would possibly close at end of business day.

The applicant advised an estimated half of brewery sales would come from off-premise, retail sales at the end of the commuter day. The tasting room would be approximately 1,000 sq. ft. with an occupancy load of 67 but seating of approximately 24. There would be 3 employees total, parking in two of the 14 parking spots.

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

File: 01-B-19-VA
Applicant: Cantrell Engineering & Surveying, LLC
Address: 405 Black Oak Dr.
Zoning: R-1 (Low Density Residential) District

Parcel ID: 068FA021
5th Council District

Variance Request:

1) Reduce the minimum required front yard setback for a parking lot with common frontage in the same block with residentially zoned property from 25 ft to 10 ft (Article 5, Section 7.C.2)

As per plan submitted to combine acreage of a church in the R-1 (Low Density Residential) District.

Scott Elder advised it was an existing church looking to expand their parking lot. The variance was needed because it was in an R-1 zone and it would need approval from the Planning Commission as a Use on Review.

Applicant representative Donna Cantrell was present and advised that her company was hired to help the church with a combined plat and additional lot that was purchased in order to expand the parking lot. The variance would be required in order to have a loop parking and to maximize the parking needed. The maximum parking allowed would be 425 and if the variance were to be approved they would be at a total of 367 including handicapped spaces.

The plan would do away with 11 old spaces and would add 50 new spaces and add enhanced landscaping throughout the site. The new spaces would be added on the northeast corner. There used to be an existing house on the lot that was acquired. The house was demolished with a gravel half-moon driveway. The other green space on the plan was part of the detention span and a playground with rubber cushioning was demolished as well. That would be a green space with infiltration and possible underground detention so that it could meet the current code. Member Don Horton asked if there was any real detention in the current photograph and Ms. Cantrell advised that it was very small. Member Don Horton asked if they could direct to the new location and Ms. Cantrell advised it would be directed, it naturally drained that way, there were some issues with some of the pipes, some upgrades needed to be done and the civil plan would address issues throughout the property. Chairman Kristin Grove asked if they planned to add Green Islands in some of the big asphalt areas. Ms. Cantrell advised they did not currently have that but it was a possibility if needed for infiltration spots. Chairman Kristin Grove asked if that would not be a requirement and Peter Ahrens advised the way the ordinance is written, if they were not touching the existing, the existing would not need to comply unless they reached a 50 percent threshold of redevelopment which they would not reach with this project. Member Don Horton asked if the parking would take away some of the storm water collection currently there and Ms. Cantrell advised it would not infringe but that they would be taking away Green space that was part of the old lot and a triangular section. Infiltration would be an addition as far as the civil upgrade to the site and the site would have to be upgraded to the modern code. Ms. Cantrell advised the engineering list was long of things that had to be satisfied and that an actual calculation would have to be done of Green space to

paved areas with possible additional requirements in order to bring the project to compliance. Ms. Cantrell advised that with the 25 foot front setback, parking that would be added would have to have an awkward, dead-end turn around instead of a loop which would be safer.

Member Don Horton asked if the parking was necessary and Ms. Cantrell said that according to the church it was needed.

Member Charlie Van Beke noted that the application did not state a hardship and the applicant would need to clarify the hardship. Chairman Kristin Grove mentioned postponement and Ms. Cantrell advised the reason for moving ahead was the pending paid and postponed Use on Review, then the Engineering plans would need to be finalized and platting would have to have special easements for drainage and they didn't want to record a plat and then have to come back and record another plat with the easements.

Scott Elder advised that the parking count would be considerably less than what was allowed by code and that they were not asking for anything more than what would be allowed by code.

Member David Dupree made a motion to approve contingent upon Use on Review approval by the Knox County Planning Commission. It was seconded by Chairman Kristin Grove.

Member Daniel Odle asked if there was a variance on this before they were given reduced parking and asked how they got to that number originally. Amy Brooks advised there was a previous Use on Review, possibly in 1990.

Members Kristin Grove, David Dupree and Daniel Odle voted in favor. Members Charlie Van Beke and Don Horton voted in opposition. The Board voted 3-2 to **APPROVE**.

ADJOURNMENT

The meeting adjourned at 4:46p.m.

OTHER BUSINESS

The next BZA meeting is on March 21, 2019.