

BOARD OF ZONING APPEALS

MINUTES

February 21, 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 February 21, 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, Charlie Van Beke, David Dupree and Don Horton.

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

MINUTES

Member Daniel Odle made a motion to approve the January 17, 2019 minutes. It was seconded by member Don Horton. The Board voted 5-0 to **APPROVE**.

OLD BUSINESS

None

NEW BUSINESS

File: 02-A-19-VA
Applicant: Matthew Dawson
Address: 3147 Whitney Pl.
Zoning: R-1 (Low Density Residential) District

Parcel ID: 070IE009
4th Council District

Variance Request:

1) Reduce the front yard setback on Boright Dr. from 25 ft. to 7 ft. (Article 4, Section 2.1.1.E.1.a)

As per plan submitted to construct a new detached house in the R-1 (Low Density Residential) District.

Scott Elder advised it was a legally existing small lot of record.

Matthew Dawson the applicant was present. The applicant was working on behalf of Knoxville Habitat and stated it was an existing small lot of record and they were reducing the double frontage setback to allow development.

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

File: 02-B-19-VA
Applicant: Zachary Young
Address: 3111 McClure Ln.
Zoning: I-4 (Heavy Industrial and F-1 (Floodway) Districts

Parcel ID: 095MD001
1st Council District

Variance Request:

1) Allow all electrical equipment and wiring to be elevated or flood-proofed to 1 ft. above the 100 year floodplain elevation (Elevated to 825.2') instead of 1 foot above the 500 year floodplain elevation (832.4') (Chapter 12. Article III, Section 12-52.2)

As per plan submitted for Ergon Terminaling to add power to a jib crane, gangway, lighting and update existing electrical infrastructure in the I-4 (Heavy Industrial) and F-1 (Floodway) Districts.

David McGinley advised it was an application by Ergon Terminaling to switch out some electrical and elevate it higher than it was existing. Ergon receives product by barge, the piers that they were requesting the variance for are in the river. David McGinley advised the variance was needed in order to continue business and the City was in support of the variance request.

Zachary Young the applicant was present. The applicant provided supporting documentation to be added to the application packet. The applicant advised they were trying to make

improvements to the existing Ergon dock which has been there for 50 years in operation. The electrical infrastructure for safety reasons needed to be upgraded and elevated, adding a crane and gangway to increase safety.

Chairman Kristin Grove made a motion to approve based on the City's comfort level with the request. It was seconded by member Daniel Odle. The Board voted 5-0 to **APPROVE**.

File: 02-C-19-VA
Applicant: Rainier Services, LLC
Address: 2921 Pershing St.
Zoning: I-3 (General Industrial) District

Parcel ID: 081CM001
5th Council District

Variance Request:

- 1) Reduce north side yard setback at railroad from 25 ft. to 7 ft. (Article 4, Section 2.3.2.E.3)
- 2) Reduce south side yard setback from 25 ft. to 5 ft. (Article 4, Section 2.3.2.E.3) and 3) Reduce rear setback from 25 ft. to 6 ft. (Article 4, Section 2.3.2.E.4)

As per plan submitted to construct a 4,800 sq. ft. warehouse and office space in the I-3 (General Industrial) District.

Scott Elder advised it was a vacant lot and the applicant was proposing a 4,800 sq. ft. warehouse to be constructed, bound at the north by the railroad and on Pershing St. to the east.

David Drozhzhon the applicant was present and advised the lot was small and the I-3 zoning limited what could be built. Current limits would allow for a 2,500 sq. ft. warehouse which would be too small and inadequate for the applicant's needs.

Member Charlie Van Beke asked if the applicant's facility was associated with any other facilities in the area. The applicant advised it was not and that they would be storing contractor equipment and supplies indoors.

Chairman Kristin Grove stated that she did not see a hardship; the property did not have anything unusual about it and the applicant just wanted to build a building bigger than what would fit on the property. The applicant advised they would not be able to conduct business in a 2,500 sq. ft. warehouse. Chairman Kristin Grove advised that that did not fall under a true legal hardship which would mean not being able to use the property for any use. Member Charlie Van Beke stated that the applicant bought a property too small for the facility they wanted to put on it. The applicant advised he did not want to rezone the property.

Peter Ahrens read the standards for variances. Member David Dupree asked if the applicant had an agreement with the owner of the neighboring property for a mutual ingress/egress. The applicant advised there was no relationship with the neighboring property owner. The only relationship was with the property owner on the northeast when the applicant allowed him to store his trailers for a short period of time and he was no longer using the property. Member Charlie Van Beke asked how big the property was. The applicant advised it was 11,000 sq. ft. and that it was fairly flat. Member Don Horton asked City staff if the square footage of the

building would fit within the allowable lot coverage. Peter Ahrens advised in I-3 one would be allowed to cover 80% of the lot. Member Don Horton asked if the applicant was able to reconfigure the plans to get within or closer to the setbacks. The applicant advised he had tried but the issue was parking spaces, required bicycle parking and the required 6 ft. parking lot setback.

Member David Dupree suggested that the applicant postpone the application.

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

File: 02-D-19-VA
Applicant: Hugh Edward Mayes
Address: 5016 McIntyre Rd.
Zoning: R-1 (Low Density Residential) District

Parcel ID: 071AJ012
4th Council District

Variance Request:

1) Reduce the minimum required side yard setback from 5 ft. to 3.36 ft. (Article 5, Section 6.D.6)

As per plan submitted to obtain appeals permit in the R-1 (Low Density Residential) District, 4th Council District.

Peter Ahrens advised the structure was located there with no record of any permits pulled or any record of the Plans Review and Inspections department having interaction with the applicant. There was a sinkhole in the southeast portion of the property and the City had been working with the owner for several months to try to move forward with trying to get it permitted so it could be legalized.

Hugh Edward Mayes the applicant was present and advised he purchased the lot in 2010. The original plot submitted in 1988 indicated no impressions. The applicant bought the lot and moved the house on the property without gaining a permit first and hired his own structural engineers who designed a Footer and submitted it to Codes. The applicant was told that he infringed the 3 ft. setback so he went to the MPC and they advised he could get a variance or a waiver. He submitted plans to the MPC and they granted him a setback to the 3.6 setback. There was misunderstanding in the interpretation of the setback. The variance granted was for the utility setback so the applicant applied for the BZA variance to gain the setback.

Member Daniel Odle asked if the applicant obtained a permit to put the house on the current location. The applicant said he did not obtain a permit. Chairman Kristin Grove clarified that the BZA's responsibility was only to hear the variance request in front of them and advised that the sinkhole is technically the hardship. Member Don Horton asked if the applicant had engineering drawings that said the house should be located that far from the sinkhole and the definition of the sinkhole.

Chairman Kristin Grove stated that the request was for a small request of a distance, it was also marked as a small lot and the actual information in front of the Board was not atypical to what the Board has seen in the past. Chairman Kristin Grove made a motion to approve. It was seconded by member Don Horton. The Board voted 4-1 to **APPROVE**. Member Daniel Odle was opposed.

File: 02-E-19-VA **Parcel ID:** 095OA03102
Applicant: Brian Ewers 1st Council District
Address: 1901 Foggy Bottom St.
Zoning: FD (Form District) SW-2 (River Road, Goose Creek ROW and Island Home Avenue) Districts

Variance Request:

1) Decrease the minimum distance, on a corner lot, between a driveway and the intersecting street from 50 ft. to 48.86 ft. (Article V, Section 7.H.2.a Table 5)

As per plan submitted to construct a new, 14 unit residential rental townhouse development in the FD (Form District) SW-2 (River Road, Goose Creek ROW and Island Home Avenue) Districts, 1st Council District.

Scott Elder advised it was a new multi-family development proposed on a vacant lot.

Brian Ewers the applicant was present and advised the request was a variance of a little over a foot, the restriction for 50 ft. from Phillips Ave. to the driveway entrance to the development. The applicant advised that the topography on the backside was steep, there was a south waterfront requirement for buildings to be set close to the front property line and several efforts had been made to put the development into compliance.

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

File: 02-F-19-VA **Parcel ID:** 094DH005
Applicant: Dover Development Corporation 4th Council District
Address: 101 E. Fifth Ave.
Zoning: C-2 (Central Business) / H-1 (Historic Overlay) Districts

Variance Request:

1) Decrease the minimum distance, on a corner lot, between a driveway and the intersecting street from 100 ft. to 56 ft. (Article V, Section 7.H.2.a Table 5)

As per plan submitted for additional parking at a senior living facility in the C-2 (Central Business) / H-1 (Historic Overlay) Districts.

Peter Ahrens advised the project went to the Historic Zoning Commission that morning to obtain a Certificate of Appropriateness and it did receive one. There were several conditions that the Commission placed on it associated with landscaping and materials but not related to the dimensions.

Rick Dover the applicant was present and advised the need to organize and straighten out the parking in front of Knoxville High. There was a driveway and parking on the property that dated back to the early 1900's and when the recent City streetscape project improvements went through where the intersections were made with bump outs, bike lanes and landscaping, the property lost access to the paved driveway and parking space. The applicant determined parking could be accessed off of Lamar St. on the eastern boundary as opposed to the two, odd, non-conforming angled driveway entrances on the corner of 5th/Central and 5th/Lamar. TDOT designated E. Fifth Ave. as an arterial which means a BZA variance request is required within 100 ft. of the driveline. The applicant did not have that much real estate so Lamar was the most appropriate point of access.

Member Daniel Odle stated that he had spoken with the applicant prior to the application being submitted, regarding what constitutes a hardship and structural questions about making an application.

Member Charlie Van Beke stated that Lamar St. was the only suitable place for access. Chairman Kristin Grove made a motion to approve based on the fact that the property was constrained by four streets and there was no available parking. It was seconded by member Daniel Odle. The Board voted 5-0 to **APPROVE**.

File: 02-G-19-VA
Applicant: 1410 Boyd, LLC
Address: 1410 Boyd St.
Zoning: R-1A (Low Density Residential) District

Parcel ID: 094FP018
6th Council District

Variance Request:

- 1) Reduce front yard setback from 25 ft. to 10 ft. 1 in. (Article 4, Section 2.1.2.D.1.a)
- 2) Reduce the minimum number of required parking spaces from 2 to 0 (Article 5, Section 7.D.1 Table 1)

As per plan submitted to construct a new detached house in the R-1A (Low Density Residential) District.

Scott Elder advised it was a house rehabilitation that started out at certain level of general repair and expanded considerably to the point where the Plans Review and Inspections Department determined that it was no longer a home. The applicant was told to start over as new construction and to do that the applicant had to clean up the plat and get setbacks to build the house where they wanted to. The setbacks in the application were requested to clear up the plat and place the house with a parking reduction as well.

Robert Bentley Marlow the applicant was present and advised it was an old, small lot approximately 33.5 ft. wide by 98 ft. according a new survey and was too narrow to put a house and a driveway. There was also a 4.5 ft. grade difference between sidewalk level and the level of the yard with an old retaining wall. The project started out with general repairs, the pier system was collapsing and the applicant decided to demolish the whole house and suspend the roof, mistakenly believing that the roof suspension would preserve the footprint for building without a need for a variance. When construction was stopped by the City, the new footers were already poured directly under the original roof line. Based on the applicant's measurements he needed 10 ft. 1 in. Based on the new survey it needs to be reduced to 8.5 ft. on the front setback. The applicant thought the request had already been modified by City Staff based on previous email communication. Because the change in request was for an increase, the Board was unable to hear the application.

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

File: 02-H-19-VA **Parcel ID:** 094MD022, 25, 24,18
Applicant: Cogent Bay, Inc. 6th Council District
Address: 1015 Locust St.
Zoning: C-2 (Central Business) / D-1 (Downtown Design Overlay) Districts

Variance Request:

1) Decrease the minimum drive aisle width for 90 degree parking from 26 ft. to 24 ft. for the entire parking garage (Article V, Section 7.E.1.d Table 3)

As per plan submitted to construct a new, multi-family residential structure with a parking garage in the C-2 (Central Business) / D-1 (Downtown Design Overlay) Districts.

Scott Elder advised it was a new multi-family development with a parking garage in need of internal parking reductions.

Brad Salsbury the applicant was present and advised the request was for drive-aisle widths with hardships of topography and lot configurations due to TDOT right-of-way acquisitions.

Member Daniel Odle acknowledged that the lot had topographical challenges. Chairman Kristin Grove confirmed with Joshua Frerichs that there were no concerns with the 24 ft. width. Member Don Horton asked if it was a public parking situation. The applicant advised that there was a piece that was un-gated but it wouldn't be for public parking. The applicant advised that there were 6 levels to the parking garage so the geometry of the garage would repeat itself 6 times on up.

Chairman Kristin Grove made a motion to approve based on the stated hardship and lack of concern from Engineering. It was seconded by member Charlie Van Beke. The Board voted 5-0 to **APPROVE**.

ADJOURNMENT

The meeting adjourned at 4:53p.m.

OTHER BUSINESS

The next BZA meeting was re-scheduled to March 26, 2019.