

**BOARD OF ZONING APPEALS
MINUTES
JULY 8, 2010**

The Board of Zoning Appeals met on Thursday, July 8, 2010, at 5:15 p.m. in the Council Chambers, 45 E. Broad Street, Cookeville, Tennessee.

MEMBERS PRESENT: Paul Bonner, Tracy Cody, and Sid Gilbreath.

MEMBER ABSENT: Kay Detwiler and Jane Flatt.

STAFF PRESENT: Jayne Barns, and Ken Young.

STAFF ABSENT: James Mills.

OTHERS PRESENT: Larry Wiley, Edna Lois Boyd Horsley, Teresa Bostic, Marjorie Bonner, Alton Roark, Ken Oakley, Jerry & Sue Boyd, Fred Bussell, and Davis Watts.

CONSIDER FOR APPROVAL THE MINUTES OF APRIL 22, 2010. Paul Bonner made the motion to approve the minutes of April 22, 2010. Tracy Cody seconded the motion and the motion carried unanimously. **APPROVED.**

CONSIDER A REQUEST FOR AN ADMINISTRATIVE REVIEW APPEALING THE DECISION OF THE BUILDING OFFICIAL THAT AN AUTO WRECKER SERVICE IS NOT AN ACCESSORY USE TO AN AUTO REPAIR ESTABLISHMENT ON THE PROPERTY LOCATED AT 3330 OLD SPARTA ROAD. REQUEST SUBMITTED BY LARRY WILEY. Ken Young stated that Mr. Larry Wiley has submitted a request for an administrative review of the Building Official's decision that an auto wrecker service storage yard is not an accessory use to an auto repair establishment. Jeff Littrell, Building Official for the City of Cookeville, wrote a letter explaining the differences between auto repair services and auto wrecker services.

Mr. Wiley owns property located at 3330 Old Sparta Road identified as Parcel 71.00 on Tax Map 83. The property is zoned as CI, Commercial-Industrial Mixed Use and has been used as a tractor and equipment sales and repair establishment. In March 2010, Mr. Wiley contacted the Codes Department regarding converting the use of the property to an auto repair and auto wrecker service to include the storage of towed vehicles, for the purpose of allowing him to be placed on the wrecker service rotation list used by the Cookeville Police Department. Mr. Wiley was informed that auto wrecker service storage yards were not permitted in the CI District.

Wrecker service storage yards are allowed as special exceptions in the LM, Light Manufacturing zone and are permitted uses in the HM, Heavy Manufacturing zone. Mr. Wiley subsequently applied for rezoning of the property at 3330 Old Sparta Road to LM. The request was denied by the Planning Commission at its meeting on April 22, 2010.

In this appeal, Mr. Wiley is requesting that the Board of Zoning Appeals determine that an auto wrecker service storage yard be classified as an accessory use to an auto repair establishment. Auto repair establishments are allowed to temporarily store up to ten (10) inoperable vehicles subject to certain restrictions as specified in Section 206.15H of the Zoning Code.

The Building Official has informed Mr. Wiley that he may operate a wrecker service with the auto repair service but that it cannot be classified as an auto wrecker service storage yard, which is necessary to be placed on the wrecker service rotation list. The vehicles towed to the auto repair establishment must be towed there to be repaired by that establishment in a timely fashion, and not to be stored for long periods. The Police Department requires that wrecker service storage yards be available for vehicles that may have to be stored for extended periods due to legal or other reasons.

The Planning Department concurred with the decision of the Building Official.

Kent Oakley, resident of Hidden Cove, drives by this property every day and he was concerned about the upkeep and maintenance of a wrecker storage lot.

Alton Roark, representative for Trinity Assembly Church, was also concerned about the long term effect that a wrecker storage lot would have on the neighborhood.

Lois Boyd Horsley stated that she can see this property from her home and that she did not want to see a storage lot. She added that Mr. Wiley is already storing vehicles there for over 60 days.

Jerry Boyd adjoining property to Mr. Wiley requested that the Board deny the request to allow an auto wrecker storage lot.

Mr. Wiley stated that he could be on the County and State Towing List if he got a zoning confirmation letter from the City. Mr. Wiley added that he wanted to help his employees.

Tracy Cody made the motion to uphold the decision of the Building Official that an auto wrecker service storage yard was not an accessory use to an auto repair establishment and deny the auto wrecker service storage yard at 3330 Old Sparta Road. Paul Bonner seconded the motion and the motion carried unanimously. **UPHELD DECISION OF THE BUILDING OFFICIAL.**

CONSIDER A REQUEST FOR A SIGN VARIANCE TO ALLOW A SECOND SIGN ON THE PROPERTY LOCATED AT 1330 NEAL STREET. REQUEST SUBMITTED BY TERESA BOSTIC OF BILBREY SIGNS ON BEHALF OF LARRY MASON. Ken Young stated that Ms. Teresa Bostic of Bilbrey Signs, on behalf of property owner Larry Mason, has submitted a request for a variance to allow a second freestanding sign at property located at 1330 Neal Street. The subject property is identified as parcel 20.00 on Tax Map 53M, Group B and is zoned as CR, Regional Commercial.

The regulations for signs in commercial zoning districts are provided in Section 207.6 of the Zoning Code. The requirements for freestanding signs are addressed in Section 207.6B, which states as follows:

“Each commercial and industrial premise with less than 400 feet of frontage on any one (1) public street, regardless of the number of commercial or industrial establishments on such premise, shall be allowed one (1) on-premise freestanding business sign structure per public street frontage, but in no case shall more than two (2) freestanding sign structures be permitted on any premise regardless of the number of street frontages.”

One (1) multi-tenant freestanding sign is currently located on the subject property. According to the information submitted by the petitioner, the parcel has frontage of approximately 265 feet on Neal Street, which is 135 feet, or more than 30 percent, less than the minimum frontage necessary to have two (2) freestanding signs. Also according to information submitted, the existing sign is set back approximately 36 feet from the right-of-way on the northern side of the parcel and is approximately 60 square feet in size.

The petitioner indicates that the proposed second sign would be solely for one (1) tenant located in the front of the structure and that it would be a monument type sign approximately 70 square feet in size. Information submitted indicates that the second sign would be located near the center of the subject property with the leading edge 15 feet from the street right-of-way. The petitioner indicates that the second sign is necessary because of the orientation of the existing sign and the entrances to the property.

In the opinion of the Planning Department the criteria necessary for the approval of a variance are not met in this request. There appear to be no conditions that would result in a particular hardship as distinguished from a mere inconvenience. Additionally the petitioner has other options available. These would include removal of the existing sign and construction of a new sign located more to the center of the property and the provision of additional wall signage.

There is also some concern that the proposed location of the new sign would place it within the right-of-way of the Neal Street. The setback measurements submitted by the petitioner for the existing and proposed signs appear to have been taken from the back of the street curb. While the exact location of the street right-of-way cannot be determined without a survey, the city’s GIS data indicates that the street right-of-way extends several feet from the street curb. This is likely the reason the existing sign is setback 36 feet from the street curb.

Staff recommended denial of the request.

Teresa Bostic stated that they did not realize that the location of the new sign was located in the right-of-way and that she understood the decision for denial.

Paul Bonner made the motion to deny the request for a sign variance at 1330 Neal Street. Tracy Cody seconded the motion and the motion carried unanimously. **DENIED.**

CONSIDER FOR ACTION AMENDMENT TO THE BYLAWS PERTAINING TO TIME OF MEETING. REQUEST SUBMITTED BY BOARD OF ZONING APPEALS. Sid Gilbreath suggested that this item be postponed until the next regular scheduled meeting since two of the members were absent.

Paul Bonner made the motion to postpone this item until the next scheduled meeting. Tracy Cody seconded the motion and the motion carried unanimously. **POSTPONED.**

ADJOURNMENT: 5:52 P.M.

SUBMITTED FOR APPROVAL

SUBMITTED FOR RECORDING

**JAYNE BARNS CPS
PLANNING ASSISTANT**

**SID GILBREATH
ACTING CHAIRMAN
BOARD OF ZONING APPEALS**