

**BOARD OF ZONING APPEALS
MINUTES
SEPTEMBER 9, 2010**

The Board of Zoning Appeals met on Thursday, September 9, 2010, at 5:15 p.m. in the Council Chambers, 45 E. Broad Street, Cookeville, Tennessee.

MEMBERS PRESENT: Paul Bonner, Kay Detwiler, Jane Flatt, and Sid Gilbreath.

MEMBER ABSENT: Tracy Cody.

STAFF PRESENT: Jayne Barns, and Ken Young.

STAFF ABSENT: James Mills.

OTHERS PRESENT: Mr. & Mrs. Dale Hughes, Heather Hayes, Jerry Hayes, Tony Kennedy, Nyoka Foister, and Carla Gilliam.

CONSIDER FOR APPROVAL THE MINUTES OF AUGUST 12, 2010. Paul Bonner made the motion to approve the minutes of August 12, 2010. Sid Gilbreath seconded the motion and the motion carried unanimously. **APPROVED.**

CONSIDER A REQUEST FOR A VARIANCE TO REDUCE THE MINIMUM LOT SIZE REQUIREMENTS FROM 15,000 SQ. FT. TO 14,000 SQ. FT. TO ALLOW A 5TH UNIT ON THE PROPERTY LOCATED AT 236 SOUTH FRANKLIN AVENUE. REQUEST SUBMITTED BY TONY KENNEDY ON BEHALF OF PETER GRIMA. Ken Young stated Mr. Tony Kennedy with Soard Properties, on behalf of owner Peter Grima, has submitted for consideration a request for a variance in the minimum lot size requirement for property located in the CL, Local Commercial District at 236 South Franklin Avenue. The property is further identified on Tax Map 053I Group B as Parcel 023.00 and is approximately 14,000 square feet in area. The right-of-way width of this segment of South Franklin Avenue is forty (40) feet and the surface width is eighteen (18) feet. All properties adjacent to the subject property are also zoned CL.

The petitioner indicated on their application that they would like to construct a five (5) unit (two bedrooms per unit) multi-family residential development on the site. The minimum lot size requirement in the CL District is 3,000 square feet per dwelling unit for multi-family use where sewer access is available. The Water Quality Control Department has confirmed that the property has access to the sewer. Therefore, the proposed project would require a total of 15,000 square feet. The petitioner is requesting a reduction of the total amount of land area required to 14,000 total square feet which is 2,800 square feet per dwelling unit. The requested reduction is less than a seven (7) percent decrease of the minimum lot size requirement. Multi-family residential structures, including accessory structures in the CL District are limited to 35% maximum lot coverage. This maximum coverage would not be affected by a reduction in the lot size required per dwelling. The minimum number of parking spaces required for a multi-family development under fifty (50) units is calculated by multiplying the number of bedrooms by 1.25. It should be

noted that the Zoning Code specifies that four (4) is the maximum number of bedrooms allowed in a “dwelling unit”. As proposed by the petitioner, thirteen (13) parking spaces would be the minimum required for ten (10) bedrooms. By comparison, four (4) dwelling units of four (4) bedrooms per unit would result in sixteen (16) bedrooms and a total of twenty (20) minimum parking spaces.

Neighborhood residents have expressed concerns regarding existing drainage issues in the area. Photographs have been submitted showing standing water in the vicinity of the intersection of S. Franklin Avenue and Short Street. The Public Works Department reports that the drainage system in the area appears to be functioning properly, but is not uncommon during intense rain events for water levels to rise in this vicinity. The TTU sinkhole study shows that a sinkhole is located on three properties immediately south of the subject property but the subject property itself is not located within the sinkhole floodplain. Sinkhole flooding occurs when the rate of water entering the sinkhole exceeds the rate of water draining from it. An increase in the amount of impervious surfaces (such as paved driveways, parking lots and rooftops) reduces the area available for natural groundwater absorption. Consequently, this increases the amount of excess runoff and elevates the risk of sinkhole flooding. However, city codes require that post development storm water runoff cannot exceed pre-development conditions. This may necessitate on-site retention and/or detention drainage facilities designed to assure no net increase in storm water runoff. Developers are required to submit engineered drainage plans that must be approved by the Public Works Department before site development can begin.

Although the subject property and adjacent properties are all within the CL zoning district, buffering and screening requirements are determined by the actual uses of the property. In this instance, all properties adjacent to the subject property are used for single family residential purposes. The Zoning Code requires that multi-family residential uses that are adjacent to single family residential uses must maintain a Type 2 buffer/screen along the common property boundaries. A Type 2 buffer/screen must provide a buffer yard twenty (20) feet in width and the screening shall be completely opaque from the ground to a height of three (3) feet, with intermittent visual obstruction above to a height of at least ten (10) feet. The Zoning Code contains a provision that the developer may submit a request to the Building Official that the buffer yard be reduced from twenty (20) feet to ten (10) feet provided the screening requirements of the Type 3 screen/buffer yard are met.

Finally, the particular physical surroundings, shape and topographic conditions of the property do not appear to present any particular hardship for the proposed use of the property. The petitioner has simply indicated that they would like to site an additional multi-family dwelling on the lot. Section 233.9D of the Zoning Code lists the “General Standards for Variances” on page 233-10. Standard IV of the section states that “financial returns alone shall not be considered as basis for granting a variance.”

Staff recommended denial of request due to a lack of hardship inherent in the subject property. However, if the Board wishes to approve the request staff recommends that it be done subject to the development being limited to a maximum of two (2) bedrooms per

unit, no reduction in the width of the buffer yard, compliance with all applicable sections of the Zoning Code and completion of the project within twelve (12) months.

Heather Hayes, 397 Short Street, stated that due to storm water runoff, flooding is an existing issue for property owners located in the South Franklin Avenue/Short Street vicinity. Consuming the currently vacant lot located at 236 South Franklin Avenue with asphalt, concrete, and an oversized structural dwelling will eliminate natural resources current property owners rely on for storm water absorption. Construction and earthwork of this extent will cause flood levels to rise and jeopardize existing structures in the vicinity.

Ms. Hayes also submitted a petition from property owners in opposition to the variance request and urged the Board to deny the variance.

Paul Bonner made the motion to deny the variance request at 236 South Franklin Avenue. Sid Gilbreath 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. This item was postponed until all of the members are present.

ADJOURNMENT: 5:36 P.M.

SUBMITTED FOR APPROVAL

SUBMITTED FOR RECORDING

**JAYNE BARNS CPS
PLANNING ASSISTANT**

**JANE FLATT, CHAIRMAN
BOARD OF ZONING APPEALS**