

**BOARD OF ZONING APPEALS  
MINUTES  
SEPTEMBER 11, 2014**

The Board of Zoning Appeals met on Thursday, September 11, 2014, at 5:15 p.m. in the Council Chambers, 45 E. Broad Street, Cookeville, Tennessee.

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

**STAFF PRESENT:** James Mills, Jayne Barns, and Ken Young.

**OTHERS PRESENT:** Yutaka & Teresa Maeda, Dave Roland, Kevin Hayes, Wayne Cravens, Laura Militana, Martin Ing, and Chad Gilbert.

**CONSIDER FOR APPROVAL THE MINUTES OF AUGUST 14, 2014.** Sid Gilbreath made the motion to approve the minutes of August 14, 2014. Paul Bonner seconded the motion and the motion carried unanimously. **APPROVED.**

**CONSIDER A REQUEST FOR A VARIANCE TO REDUCE THE FRONT YARD SETBACK REQUIREMENTS ON TERRACE HILL ROAD FROM 30' TO 20' FOR A TOTAL VARIANCE OF UP TO 10' TO ALLOW FOR THE CONSTRUCTION OF A 3 CAR GARAGE ON THE PROPERTY LOCATED AT 708 WOODLAWN DRIVE. REQUEST SUBMITTED BY WAYNE & NICOLE CRAVENS.** James Mills stated that Mr. Wayne Cravens has submitted a request for a variance to reduce the minimum front yard setback requirements for his property located at 708 Woodlawn Drive.

The subject property is identified as Parcel 7.00 on Tax Map 40N, Group L and is zoned as RS-15, Single Family Residential. The parcel is a corner lot located at the northwest intersection of Woodlawn Drive and Terrace Hill Road. The property consists of approximately 33,640 square feet with a lot width of approximately 150 feet along Woodlawn Drive and a lot depth of approximately 214 feet along Terrace Hill Road. A single family residential dwelling is currently located on the parcel.

The minimum front or street side yard setback requirement in the RS-15 district is 30 feet. The submitted request is for a reduction of the required setback by approximately 10 feet to allow for the construction of a detached garage between the dwelling and Terrace Hill Road. A submitted site plan indicates that the proposed garage would consist of 864 square feet with a width of 36 feet and a depth of 24 feet. The site plan depicts an angled encroachment within the setback at a maximum of approximately 6.13 feet.

It would appear, based upon the site plan, that there are options which would allow the construction of a garage without the need for a variance. One option would be to relocate the structure to the west and north. Mr. Cravens indicates that due to topographic issues

between the house and the western property line it would be difficult to place the proposed garage in another location.

A second option would be to reduce the size of the garage so that it accommodates two (2) vehicles instead of three (3). Mr. Cravens indicates that the proposed three (3) car garage would be more appropriate for his neighborhood.

While there may be options the encroachment depicted on the site plan is, in the opinion of the Planning Department, minimal. A reduction of the setback for the proposed area would not appear to be detrimental to the public welfare or injurious to other property in the area. Mr. Craven has submitted letters from adjacent and nearby property owners supporting a reduction of the setback requirement.

There is some confusion regarding the amount of the reduction being requested. In Mr. Cravens' petition for the variance he requests a reduction of 10 feet, the submitted site plan depicts a reduction of 6.13 feet, and the letters supporting the variance reference a reduction of 8 feet. If a variance is approved it should be the minimum necessary to allow a reasonable use of the property.

Staff recommended approval of variance as depicted on the submitted site plan with a maximum reduction of the setback of no more than seven (7) feet for a width no greater than as depicted on the submitted site plan.

Jane Flatt asked Mr. Cravens if he could reduce the size of the garage and still meet the setback requirements.

Wayne Cravens responded that he needed the three car garage because he was putting in an apartment in the garage area for his mother and that there would be a breezeway between the house and the garage. Mr. Cravens added that it would be hard to move the garage further back due to the drainage and the location of his retaining wall along the back of his property.

James Mills stated that Mr. Cravens would not be able to put an apartment in the new garage because it is not allowed in a single family zone to have two residences on one lot and separate utility meters.

Sid Gilbreath made the motion to approve reducing the front yard setback requirements on Terrace Hills Road from 30' to no less than 23' for a total Variance of no more than 7' for a width no greater than as depicted on the submitted site plan. Paul Bonner seconded the motion and the motion carried unanimously. **APPROVED A VARIANCE OF NO MORE THAN 7' IN THE FRONT YARD SETBACK FOR A WIDTH NO GREATER THAN AS DEPICTED ON THE SUBMITTED SITE PLAN.**

After the Board voted, Mr. Cravens stated that his builder, Martin Ing, asked him if the overhang of the roof had to be in the setback that was approved.

James Mills replied that the leading edge of the overhang of the roof had to be in the setback that was approved.

Mr. Cravens asked if the Board could change the variance to accommodate the overhang.

James Mills replied that since the Board has already acted on the motion, that they would have to submit plans and a new application and then bring it back to the Board.

**CONSIDER A REQUEST FOR A SPECIAL EXCEPTION TO ALLOW AN ELECTRONIC MESSAGE CENTER TO BE ATTACHED TO A FREESTANDING SIGN LOCATED IN THE CN (NEIGHBORHOOD COMMERCIAL DISTRICT) AT 620 E. 10<sup>TH</sup> STREET. REQUEST SUBMITTED BY DAVE ROLAND ON BEHALF OF KEVIN & SANDRA HAYES.** James Mills stated that Sandra Hayes has submitted a request for a special exception to allow the addition of an electronic message center to an existing freestanding sign located at 620 East 10<sup>th</sup> Street.

An electronic message center is defined in the Cookeville Zoning Code as: “Any sign or portion of a sign that uses changing lights to form a sign message or messages in text form wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes.” An electronic message center is restricted to text only. An electronic display screen is defined in the Cookeville Zoning Code as: “A sign, or portion of a sign, that displays an electronic image or video, which may or may not include text. This definition includes television screens, plasma screens, digital screens, flat screens, LED screens, video boards, and holographic displays. Electronic display screens are not allowed as on premise signs.

The Hayes’ have a dental practice located on the subject property which is identified as Parcel 4.00 on Tax Map 40N, Group C. The property is zoned as CN, Neighborhood Commercial. Section 207.6E (15) of the Cookeville Zoning Code stipulates that in the CN zoning district an electronic message center may be attached to a freestanding sign upon appeal to the Board of Zoning Appeals and subject to certain specific conditions. These conditions are as follows:

- The freestanding sign on which the electronic message center or reader board is to be attached is located on a street of at least minor collector status.
- The freestanding sign on which the electronic message center or reader board is to be attached shall not be located closer than fifty (50) feet from any single or two-family residential structure located on contiguous property. The distance shall be measured from the edge of the sign face closest to a wall of the residential structure.
- The total sign face area of the freestanding sign and the attached electronic message center/reader board shall not exceed fifty (50) square feet.
- Each message displayed on an electronic message center shall be static or depicted for a minimum of six (6) seconds. The continuous scrolling of messages is prohibited.

- The hours of operation for electronic message centers shall be limited to between 6:00 a.m. and 11:00 p.m.

Staff recommended approval of request subject to compliance with the applicable provisions of the Zoning Code.

Staff reported that they had 1 call in opposition to the request, but that person did not leave their name.

James Mills added that the petitioner asked if the time and temperature could remain on the sign. Mr. Mills informed the petitioner that the time and temperature was grandfathered in.

Kay Detwiler asked which part of the sign was being replaced, because it was not noted on the photographs, and there was no site plan submitted.

Dave Roland stated that they were replacing the top portion of the sign that now has Hayes Family Dentistry 526-1614 on it.

Mr. Mills reiterated the specific conditions for adding an electronic message center to a freestanding sign in a CN (Commercial Neighborhood District) to Dave Roland and Dr. Kevin Hayes. Mr. Mill added that they cannot advertise any off-premise businesses.

Paul Bonner made the motion to allow an electronic message center (Displaying Text Only) to be attached to a freestanding sign located in the CN (Neighborhood Commercial District), subject to compliance with the applicable provisions of the Zoning Code. Sid Gilbreath seconded the motion and the motion carried unanimously. **APPROVED ELECTRONIC MESSAGE CENTER DISPLAYING TEXT ONLY AND SUBJECT TO COMPLIANCE WITH THE APPLICABLE PROVISIONS OF THE ZONING CODE.**

**CONSIDER A REQUEST FOR A VARIANCE TO REDUCE THE REAR YARD SETBACK REQUIREMENTS FROM 10' TO 5' FOR A FOR A TOTAL VARIANCE OF 5'; AND A REQUEST FOR A VARIANCE TO REDUCE THE LANDSCAPE YARD REQUIREMENTS FROM 10' TO 5' FOR A TOTAL VARIANCE OF 5' ON NORTH WASHINGTON AVENUE AND EAST JERE WHITSON ROAD ON THE PROPERTY LOCATED AT 1836 NORTH WASHINGTON AVENUE. REQUEST SUBMITTED BY CHAD GILBERT ON BEHALF OF M & S PROPERTIES.** James Mills stated that Mr. Chad Gilbert, on behalf of property owner M&S Properties, has submitted requests for variances to reduce the minimum rear yard setback and minimum landscape yard width requirements for property located at 1836 North Washington Avenue.

The subject property is identified as Parcel 33.00 on Tax Map 40F, Group H and it is zoned as CL, Local Commercial. It is a corner lot with frontage on North Washington Avenue and East Jere Whitson Road. North Washington Avenue is a classified as a major

street which requires a front setback of 50 feet. The setback requirement off East Jere Whitson Road is 30 feet. It appears that portions of the parcel may have been acquired by the Tennessee Department of Transportation as part of improvements North Washington Avenue completed a few years ago.

According to a submitted survey the parcel consists of approximately 12,410 square feet. The survey indicates that the lot is approximately 88 feet wide and 160 feet deep. A single family dwelling and detached shed are currently located on the property. Based on the survey the principal dwelling is nonconforming to the required setback off East Jere Whitson Road.

The purpose of the request is to allow the construction of a four (4) unit townhouse development. In the CL district townhouses are a use permitted upon approval of a subdivision plat by the Planning Commission and meeting certain specific conditions. The minimum lot area requirement is 3,000 square feet per dwelling unit.

The site plan depicts the fronts of the proposed townhouses as being oriented to East Jere Whitson Road. The minimum rear yard setback requirement of the CL district is 10 feet. The submitted request is for a reduction of the requirement by a maximum of five (5) along the parcel's southern property line. Due to the relative narrowness of the lot, approximately 88 feet, nearly half (40 feet) would be utilized to comply with setback requirements.

The minimum landscape yard requirement along all street frontages is 10 feet. The submitted request is for a reduction of the requirement by a maximum of five (5) feet along a majority of the parcel's street frontage. Based on the submitted site plan, a landscape yard of greater than 10 feet in width from the back of the proposed and existing sidewalks to the proposed parking area would still be provided.

It appears that the subject project has particular conditions that could be considered hardships which would justify a modification of the requested requirements. These conditions include the impact of setbacks off two (2) streets, including a major street; the past reduction of the lot for improvements to North Washington Avenue; the relative narrowness of the lot; and the location of an existing nonconforming structure on the property.

In the opinion of the Planning Department approval of the requested variances would not be detrimental to the public welfare or injurious to other property in the area. The variances also appear to be the minimum necessary to allow a reasonable use of the property.

Staff recommended approval of reduction of rear yard setback and landscape width requirements as depicted on the submitted site plan.

Martin Ing stated that he was with Putnam Properties and the representative for the property owner, but he didn't have any comments at this time.

Yutaka Maeda, adjacent property owner at 361 E. Jere Whitson asked the following questions:

- Is the townhouses one story or two?
- Where are the air conditioners going to be placed on the property?
- Who is going to upkeep the property?
- Is there going to be a privacy fence?
- Is there going to be separate water meters for each?

Martin Ing replied that the townhouses would be two stories, that the air conditioners would be placed on the south side of the townhouses, that their company Putnam Properties will upkeep the property, that there will not be a privacy fence and that they will have separate water meters for each townhouse.

Tereasa Maeda, property owner at 361 E. Jere Whitson, stated that they were concerned about what was going to be developed next to their home, which is adjacent to the request. In the past, she said, there has been a lot of trash left outside, they have had rats, and water run-off from that property onto their property. They were also concerned about noise next to their home, and vehicles shining their car lights in their bedroom windows.

Tereasa Maeda had a letter from the adjacent property owner at 1826 North Washington Avenue, who was also opposed to the variance request. Roy & James Hart grew up in the house at 1826 North Washington Avenue and they did not want the development closer to their property line.

Mrs. Maeda was speaking, when Chad Gilbert arrived late to the meeting.

Kay Detwiler made the motion to deny the 5' variance in the rear yard setback requirements and to grant the variance of 5' for the landscape yard requirements on North Washington Avenue and East Jere Whitson Road, as depicted on the submitted site plan. Sid Gilbreath seconded the motion. The Chairman asked for further questions from the Board.

James Mills recommended that the fence, following the outline of the buildings on the submitted site plan, be required as a condition for approving the requested variances.

The motion had been made and seconded when Chad Gilbert questioned why the Board could not grant him some kind of setback variance.

Jane Flatt told Chad Gilbert that the 5' variance request was a reduction by 50% was excessive and that they could not approve that large of a setback variance because it would set a precedent for future requests.

After much discussion, Kay Detwiler and Sid Gilbreath agreed to revise their motion.

Kay Detwiler made the motion to deny reducing the rear yard setback requirements from 10' to 5' for a total variance of 5', but to approve a 1' variance in the rear yard setback requirements; and to approve reducing the landscape yard requirements on North Washington Avenue and East Jere Whitson Road from 10' to 5' for a total variance of 5', as shown on the submitted site plan. Both variances were subject to the installation of a privacy fence on the western and southern property lines and following the outline of the buildings on the submitted site plan. Sid Gilbreath seconded the motion and the motion carried unanimously. **APPROVED 1' REAR YARD SETBACK VARIANCE AND 5' VARIANCE IN THE LANDSCAPE YARD REQUIREMENTS ON NORTH WASHINGTON AVENUE AND EAST JERE WHITSON ROAD, SUBJECT TO THE INSTALLATION OF A PRIVACY FENCE ON THE WESTERN AND SOUTHERN PROPERTY LINES AND FOLLOWING THE OUTLINE OF THE BUILDINGS ON THE SUBMITTED SITE PLAN.**

**STAFF REPORT:** James Mills stated that he wanted to give an update on what has transpired since the Board denied the Administrative Appeal to operate a commercial residential care home in a RS10 (Single Family Residential) District on the property located at 885 Fireside Drive on April 10, 2014. It was determined that any person or entity seeking to establish such a facility in any RS location in Cookeville would be required to prove to the City by clear and convincing evidence that the facility meets the requirements of TCA 13-204-101 thru 104 in that it serves disabled individuals as defined and that the business is not operating on a commercial basis.

Mr. Mills added that he has met with Chris Garrett of Cardinal Care and his attorney twice since last month. They have submitted their application to the IRS for their 501 (c) (3) tax exempt status, but the City Attorney is requiring that they produce additional information to prove that they meet the conditions as set forth by the State of Tennessee. The additional information has not been submitted as of this date.

**ADJOURNMENT: 6:28 P.M.**

**SUBMITTED FOR APPROVAL**

**SUBMITTED FOR RECORDING**

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**JAYNE BARNS CPS  
PLANNING ASSISTANT**

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