

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

The Board of Zoning Appeals met on Thursday, December 11, 2014, at 5:15 p.m. in the Community Meeting Room of the Cookeville Municipal Building located at 45 E. Broad Street, Cookeville, Tennessee.

**MEMBERS PRESENT:** Paul Bonner, Jane Flatt, and James Dial.

**MEMBER ABSENT:** Kay Detwiler and Sid Gilbreath.

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

**OTHERS PRESENT:** Marjorie Bonner and Dr. Jason Clopton.

**CONSIDER FOR APPROVAL THE MINUTES OF OCTOBER 9, 2014.** Paul Bonner made the motion to approve the minutes of October 9, 2014. James Dial seconded the motion and the motion carried unanimously. **APPROVED.**

**CONSIDER A REQUEST FOR AN ADMINISTRATIVE REVIEW FOR INTERPRETATION OF BZA CONDITIONS ESTABLISHED ON 12/13/12 FOR CONVERSION OF NONCONFORMING USE AT 1445 EAST 10TH STREET. REQUEST SUBMITTED BY DR. JASON CLOPTON.** James Mills stated that Dr. Jason Clopton has submitted a request for an administrative review to determine whether the proposed expansion of his optometry practice located at 1445 East 10<sup>th</sup> Street is allowed under the conditions established for the subject property by the Board of Zoning Appeals in 2012.

The subject property is zoned as RS-10, Single Family Residential and is currently the location of Dr. Clopton's optometry practice, Center of Vision. This use is a nonconforming use. A nonconforming use is a use that legally existed prior to the adoption or amendment of a zoning regulation to which the use does not conform. Such uses are allowed to remain in perpetuity; however, changes in the use are restricted. Nonconformities are addressed in Section 201.8 of the Cookeville Zoning Code.

The Board of Zoning Appeals has twice approved conversions of the structure at 1445 East 10<sup>th</sup> Street from one nonconforming use to another nonconforming use of the same use classification. In April of 2010, the Board approved the conversion of a previous nonconforming use of the subject property, a communication business, to a construction company office. This approval was based on the determination that the uses were of the same use classification, that being general office, and was subject to several conditions. In December of 2012 the Board approved the conversion of the construction company office to the current optometry office. Again the approval was based on the determination that the uses were of the same use classification, that being general office, and was subject to several conditions. The conditions established in 2012 were as follows:

- Site limited to general office uses operating normal business hours. (i.e. attorney, accountant, insurance, real estate, optometry practice, etc.) Building cannot be used for retail sales (other than as an accessory use), bar, restaurant, etc.

- Future changes of ownership or proposed uses come back before BZA.
- Hours of operation limited to usual/normal office business hours (i.e. 7 AM to 7 PM).
- No pole mounted security lighting permitted.
- Business signs on face of building limited as described by owner/developer at 4/8 & 4/22 meetings. No freestanding sign permitted.
- Any additions onto the existing building now or in the future must conform to current applicable zoning setbacks.

The last condition, that any additions onto the existing building now or in the future must conform to current applicable zoning setbacks, is what the Board must determine will be met to allow the proposed expansion. The structure located at 1445 East 10<sup>th</sup> Street is not only nonconforming in regards to use but also in regards to setback. East 10<sup>th</sup> Street is classified as a Major Street and as such a minimum 50 foot building setback is required. The existing structure is located well within the required setback.

A primary concern for compliance with setbacks at this particular location is the potential widening of East 10<sup>th</sup> Street. Additional right-of-way will be required to accommodate this widening which will potentially mean the acquisition of a portion of the subject property. Further encroachments in the setback would potentially increase the cost for acquiring the necessary right-of-way and create additional traffic hazards.

Dr. Clopton is specifically requesting that he be allowed to enclose a roofed patio or carport area attached to the existing structure. The portion of the structure proposed for enclosure, while further back than the majority of the structure, is located within the required setback area. It should be noted that the carport or covered porch is already walled on two sides. In the opinion of the Planning Department the proposed enclosure does not constitute an addition and, therefore, complies with the conditions established by the BZA.

Staff recommended that the proposed addition complies with conditions established by the BZA.

Dr. Jason Clopton stated that the addition is 868 sq. ft. and will include a common area and 2 eye exam rooms so that they can provide more services for their patients.

Paul Bonner made the motion to grant approval of the Administrative Review that the proposed addition located at 1445 East 10<sup>th</sup> Street complies with the conditions established by the BZA on December 13, 2012. James Dial seconded the motion and the motion carried unanimously. **APPROVED ADMINISTRATIVE REVIEW.**

**ADJOURNMENT: 5:32 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**