

**BOARD OF ZONING APPEALS
MINUTES
JUNE 11, 2015**

The Board of Zoning Appeals met on Thursday, June 11, 2015, at 5:15 p.m. in the Council Chambers, 45 E. Broad Street, Cookeville, Tennessee.

MEMBERS PRESENT: James Dial, Elwood Ervin, Jane Flatt, Sid Gilbreath, and Jon Ward.

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

OTHERS PRESENT: Earl Thrasher, Lorene Reed, Ricky Reed, Margo Phillips, Kevin Sergeant, Josh Gravelle, Larry Self, David Robertson, Nancy Roberson, James M. Roberson, Andrea Langley, Rujesh Patel, Chris Sham, Nick Patel, David Owsley, Alicia Simmons, Bob Vick, Delores Ford, and Laura Militana.

CONSIDER FOR APPROVAL THE MINUTES OF MAY 14, 2015. James Dial made the motion to approve the minutes of May 14, 2015. Jon Ward seconded the motion and the motion carried unanimously. **APPROVED.**

CONSIDER A REQUEST FOR A VARIANCE TO REDUCE THE MINIMUM LOT AREA PER DWELLING UNIT REQUIREMENT FROM 5,000 SQ. FT. TO 4,810 SQ. FT FOR A TOTAL VARIANCE OF 190 SQ. FT. TO ALLOW 3RD DWELLING UNIT ON A VACANT LOT (TAX MAP #40G-C-27.01) LOCATED TO THE WEST OF 230 WEST JERE WHITSON ROAD. REQUEST SUBMITTED BY ALICIA F. SIMMONS. James Mills stated that Ms. Alicia F. Simmons has submitted a request for a variance to reduce the minimum lot area requirement per dwelling unit for her property located on West Jere Whitson Road.

The subject property is identified as Parcel 27.01 on Tax Map 40G, Group C and is zoned as RM-8, Multi-Family Residential. It is contiguous with properties zoned as RM-8 on all sides. The property is currently undeveloped.

The minimum lot area requirement in the RM-8 District is 5,000 square feet per dwelling unit. A submitted survey indicates that the subject property consists of approximately 0.34 acres or 14,810 square feet. Based on this land area, a total of two (2) dwelling units could be located on the subject property. According to the survey, the parcel is approximately 190 square feet, or 4 percent, less than necessary to allow the construction of a third dwelling unit. Ms. Simmons is requesting a variance to allow the construction of three dwelling units on the property.

Historically, in similar requests, the Board has generally approved reductions in the minimum lot area requirement of up to ten (10) percent. In the opinion of the Planning Department the submitted request is the minimum necessary to allow a reasonable use of the property and approval of the request will not be detrimental to the public welfare or injurious to other property in the area.

Staff recommended approval of the request subject to compliance with all other applicable requirements of the Zoning Code

Alicia Simmons was present in case the Board had questions.

Margo Phillips, representing Harvey & Joyce Phillips, stated that they were concerned about the lightning in the parking lot, how close to their property line will the units be, and how many residents will be allowed to live in the units.

James Mills responded that those questions will be addressed during the site plan review process.

Ricky Reed was representing his mom who owns the lot next to the request. He stated that their concerns were about problems that they have been having with sewer in the area and that there was a sinkhole in the southwest corner of the lot in question.

James Mills stated that the developer will not be allowed to build in the sinkhole area, and that the Water Quality Control Department may limit sewer capacity depending on their services in the area.

Jane Flatt made the motion to approve the 190 sq. ft. variance to allow 3rd dwelling unit on a vacant lot located on West Jere Whitson Road (Tax Map # 40G-C-27.01). Elwood Ervin seconded the motion and the motion carried unanimously. **APPROVED 190 SQ. FT. VARIANCE.**

CONSIDER A REQUEST FOR A VARIANCE TO REDUCE THE REAR YARD SETBACK REQUIREMENTS FROM 30' TO 20' FOR A TOTAL VARIANCE OF 10' TO ALLOW FOR THE CONSTRUCTION OF A 24' X 32' DETACHED GARAGE ON THE PROPERTY LOCATED AT 55 ROYAL OAK DRIVE. REQUEST SUBMITTED BY EARL THRASHER. James Mills stated that Mr. Earl Thrasher has submitted a request for a variance to reduce the minimum rear yard setback requirement for his property located at 55 Royal Oak Drive.

The subject property is identified as Parcel 5.00 on Tax Map 39N, Group A and is zoned as RS-20, Single Family Residential. It is contiguous with properties zoned as RS-20 on all sides. A single family detached dwelling is located on the parcel.

A submitted survey indicates that the parcel is approximately 100 feet in width and has a depth of approximately 138 feet. At approximately 13,800 square feet the parcel is significantly smaller than the 20,000 square feet minimum lot size of the RS-20 district. Mr. Thrasher does own the parcels to the north and south of the subject property. The survey indicates that field lines for Mr. Thrasher's septic system are located on the parcel to the south.

The minimum rear yard setback requirement in the RS-20 District is 30 feet. Mr. Thrasher is requesting a reduction in this requirement to 20 feet to allow the construction

of detached garage. The proposed garage is indicated as being 768 square feet having a width of 24 feet and a depth of 32 feet.

According to information submitted by Mr. Thrasher, placing the garage in compliance with the required setback of 30 feet would place it on top of his existing septic system. Public sewer is not currently available and the Planning Department is not aware of any plans to immediately provide the service to the area.

In the opinion of the Planning Department the submitted request is the minimum necessary to allow a reasonable use of the property and approval of the request will not be detrimental to the public welfare or injurious to other property in the area.

Staff recommended approval of the request.

Earl Thrasher was present in case the Board had questions.

Elwood Ervin made the motion to approve reducing the rear yard setback requirements from 30' to 20' for a total variance of 10' to allow for the construction of a 24' x 32' detached garage on the property located at 55 Royal Oak Drive. James Dial seconded the motion and the motion carried unanimously. **APPROVED 10' VARIANCE IN THE REAR YARD SETBACK REQUIREMENTS.**

CONSIDER A REQUEST FOR A VARIANCE TO REDUCE THE FRONT SETBACK REQUIREMENTS ON A MAJOR STREET FROM 50' TO 43' FOR A TOTAL VARIANCE OF 7' ON THE PROPERTY LOCATED AT 601 SOUTH JEFFERSON AVENUE. REQUEST SUBMITTED BY BOB VICK ON BEHALF OF CHRIS SHAH & RAJ PATEL. James Mills stated that Mr. Chris Shah and Mr. Raj Patel have submitted a request for a variance to reduce the minimum setback requirement on a Major Street for property located at 601 South Jefferson Avenue.

The subject property is identified as Parcel 7.00 on Tax Map 66B, Group G and is zoned as CG, General Commercial. It is contiguous with properties zoned as CG on all sides. Located on the property is a vacant commercial structure that was previously utilized as Dunn Tire Company. The petitioners have purchased the property and intend to convert the structure for the purpose of operating a retail liquor, tobacco and beer store.

South Jefferson Avenue is classified as a Major Street and as such a building setback of 50 feet from the right-of-way is required by the Zoning Code. According to a submitted survey the front wall of the existing structure is setback exactly 50 feet from the street right-of-way. The structure also has a covered walkway that extends five (5) into the required setback off South Jefferson Avenue. As a part of the renovations, the property owners will be completing significant improvements to the structure's façade. The proposed improvements are to include a covered walkway at the front of the structure with a width of seven (7) feet, or two (2) feet more than currently exists. The petitioners are requesting a reduction in the setback requirement off South Jefferson Avenue from 50 feet to 43 feet to allow them to construct the covered walkway.

As noted, the existing structure with its covered walkway is located approximately five (5) feet within the required setback. From an analysis of other nearby existing structures located on the same side of South Jefferson Avenue, it appears that a number of these buildings are located further within the required setback area than the subject structure. It should also be pointed out that the existing structure has corrugated metal siding and does not conform to the Architectural Design Standards of the Zoning Code. A submitted front elevation indicates that the front façade will be re-sided with a material complying with these standards.

In the opinion of the Planning Department approval of the request will not be detrimental to the public welfare or injurious to other property in the area.

Staff recommended approval of the request.

Bob Vick was present and stated that they will need another variance when they add onto the existing building.

Sid Gilbreath stated that they would have to submit a separate application for any additional variance requests on that property to be considered at a separate meeting. The Board can only review tonight what has been submitted with the original application.

Jane Flatt made the motion to approve reducing the front setback requirements on a major street from 50' to 43' for a total variance of 7' on the property located at 601 South Jefferson Avenue. Elwood Ervin seconded the motion and the motion carried unanimously. **APPROVED 7' VARIANCE IN THE FRONT YARD SETBACK REQUIREMENTS.**

CONSIDER A REQUEST FOR A VARIANCE TO REDUCE THE PARKING SPACE REQUIREMENTS FOR MULTI-FAMILY RESIDENTIAL FROM 173 TO 156 FOR A TOTAL PARKING SPACE VARIANCE OF 17 ON THE PROPERTY LOCATED 60 WEST DAVIS ROAD. REQUEST SUBMITTED BY TREY COGGLE OF REA VENTURES ON BEHALF OF J. KEVIN SERGENT.

James Mills stated that Mr. Trey Coggle of Rea Ventures LLC, on behalf of property owner Kevin Sergent has submitted a request for a variance to reduce the minimum off-street parking requirement for property located at 60 West Davis Road.

The request has been modified from the original submittal to reduce the total number of dwelling units from 56 to 48 and the required off-street parking from 173 to 140. The total the variance request remains at a ten (10) percent reduction in the off-street parking requirement.

The subject property is identified as Parcel 89.01 on Tax Map 66 and is zoned as CG, General Commercial. It is contiguous with properties zoned as CG on all sides. According to a submitted site plan the site consists of approximately 5.36 acres. The property is currently undeveloped. A vacant commercial structure formerly used as a trucking terminal is located to the east; the Cookeville Electric Department is located to

the south; an auto repair establishment, church, and construction company are located to the west; and to the north is a single family structure.

Rea Ventures has been approved for a THDA Low Income Housing Tax Credit to construct 48 multi-family dwelling units on the subject property. Discussions with the engineering company that prepared the submitted site plan indicated that the 48 units would be comprised of 21 3-bedroom units, 22 2-bedroom units and five (5) 1-bedroom units. The site plan indicates that 126 parking spaces will be provided for the 48 dwelling units containing a total of 112 bedrooms.

Section 205.8B (3) of the Zoning Code specifies that the minimum off-street parking requirement for multi-family dwellings is 1.25 spaces per bedroom per dwelling unit for the first 50 dwelling units and 2 spaces per dwelling unit for every unit exceeding 50. A development of 48 units with 112 bedrooms would require 140 parking spaces. The proposed 126 parking spaces are 14 spaces, or ten (10) percent, less than required.

The subject property is significantly impacted by the location of a sinkhole floodplain area that encompasses approximately 2.3 acres of the northern portion of the parcel. This floodplain greatly limits the development of the property. The submitted site plan indicates that no portion of the development, including parking, would be located within the floodplain.

In the opinion of the Planning Department the submitted request is the minimum necessary to allow a reasonable use of the property and approval of the request will not be detrimental to the public welfare or injurious to other property in the area.

Staff recommended approval of the request.

Andrea Langley was present on behalf of Rea Ventures in case the Board had additional questions.

Larry Self was present on behalf of Kim England, who is the current Director of the Rescue Mission. He stated that they wanted to be good neighbors and they wanted to let the developers know that there is a rescue mission across the street from this development. Mr. Self added that they have surveillance cameras and that they don't anticipate any problems.

Jon Ward made the motion to approve the variance to reduce the parking space requirements for multi-family residential from 140 to 126 for a total parking space variance of 14 on the property located at 60 West Davis Road. Elwood Erwin seconded the motion and the motion carried unanimously. **APPROVED VARIANCE FOR 14 PARKING SPACES.**

CONSIDER A REQUEST FOR AN ADMINISTRATIVE REVIEW CONCERNING DENIAL OF BILLBOARD PERMIT APPLICATION DUE TO SPACING REQUIREMENTS FOR AN OFF-PREMISE SIGN ON THE PROPERTY OWNED BY XI INVESTMENTS LLC AND LOCATED AT 465

UNIVERSAL DRIVE. REQUEST SUBMITTED BY RON GRAVES OF LAMAR TENNESSEE LLC ON BEHALF OF JOHN D. STITES OF XI INVESTMENTS LLC. James Mills stated that Mr. Ron Graves of Lamar Tennessee, LLC, on behalf of John D. Stites of XI Properties, LLC, has requested that this item be postponed until the July meeting.

James Dial made the motion to postpone the administrative review until the July meeting. Elwood Ervin seconded the motion and the motion carried unanimously. **POSTPONED UNTIL JULY'S MEETING.**

CONSIDER A REQUEST FOR A VARIANCE TO REDUCE THE SIDE YARD SETBACK REQUIREMENTS ALONG THE NORTHERN PROPERTY LINE FROM 10' TO 1-2' FOR A TOTAL VARIANCE OF 8-9' ON THE PROPERTY LOCATED AT 327 NORTH CEDAR AVENUE. REQUEST SUBMITTED BY SESCO PROPERTIES LLC. James Mills stated that Sesco Properties, LLC has submitted a request for a variance to reduce the minimum side yard setback requirement for property located 327 North Cedar Avenue.

The subject property is identified as Parcel 8.00 on Tax Map 53B, Group J and is zoned as MS, Medical Services. A submitted site plan indicates that the property is approximately 100 feet wide and 200 feet deep consisting of approximately 20,000 square feet. The parcel is a double frontage lot with frontage on both North Cedar and North Peachtree Avenues. There are two (2) structures located on the subject property, a dental office facing North Cedar Avenue and a single family dwelling facing North Peachtree Avenue. The Cookeville Regional Dental Association intends to remove the existing structures and construct a new 4,642 square foot dental office. At the March 12, 2015 meeting, the Board of Zoning Appeals approved a request for a reduction of the required landscape yard width along North Peachtree Avenue from the required ten (10) feet to approximately three (3) feet as depicted on a submitted site plan.

The minimum side yard setback requirement in the MS district is 10 feet. Additionally, uses in the MS district must provide a Type 2 Screen and Buffer Yard when adjacent to properties used for single family residential purposes. A buffer yard 20 feet in width is required with a Type 2 Screen and Buffer Yard. Adjoining parcels to the north and south of the subject property are used for single family residential purposes. Section 208.6F of the Zoning Code provides with the written and notarized approval of the owners of adjacent residential properties the Building Official may approve the reduction of the buffer yard width to no less than one (1) foot.

The petitioner is requesting a reduction of the side yard setback requirement along the northern side property line from the required ten (10) feet to five (5) feet as depicted on the site plan. (The original request was for a reduction to between one (1) and two (2) feet). They indicate that the double frontage of the parcel with the corresponding front yard setbacks creates a hardship which limits the ability to locate the structure on the parcel and provide adequate parking. The submitted site plan indicates that the proposed development would now comply with the landscape yard width requirements along North Peachtree Avenue for which a variance was granted in March 2015.

Staff recommended approval of reduction of side yard setback to five (5) feet along the northern property line as depicted on the submitted site plan subject to the following:

1. Voiding of the variance approved in March 2015 for the reduction of the landscape yard width requirement along North Peachtree Avenue
2. Submittal of written and notarized approval of the owners of adjacent residential properties for the reduction of the buffer yard width
3. Compliance with all other applicable requirements of the Zoning Code.

Josh Gravelle was present in case the Board had any questions.

James Dial made the motion to approve reducing the side yard setback requirements along the northern property line from 10' to 5' for a total variance of 5' on the property located at 327 North Cedar Avenue, subject to the conditions that were recommended by Staff. Elwood Ervin seconded the motion and the motion carried unanimously. **APPROVED 5' VARIANCE IN THE SIDE YARD SEBACK ON THE NORTHERN PROPERTY LINE, SUBJECT TO STAFF'S RECOMMENDATION.**

CONSIDER A REQUEST TO RESCHEDULE THE JULY MEETING. REQUEST SUBMITTED BY STAFF. James Mills stated that due to a conflict, the BZA meeting for July needs to be rescheduled from Thursday, July 9th to Tuesday, July 14th.

Jon Ward made the motion to approve rescheduling the July meeting from July 9th to July 14th. James Dial seconded the motion and the motion carried unanimously. **APPROVED RESCHEDULING THE JULY MEETING FROM JULY 9TH TO JULY 14TH.**

ADJOURNMENT: 5:58 P.M.

SUBMITTED FOR APPROVAL

SUBMITTED FOR RECORDING

**JAYNE BARNS CPS
PLANNING ASSISTANT**

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