

**Board of Zoning Appeals
Minutes
March 9th, 2023**

The Board of Zoning Appeals met on Thursday, March 9th, 2023, at 5:15 p.m. in the Council Chambers located at 45 E. Broad Street, Cookeville, Tennessee.

Members Present: Nancy Bohannon, Michael Detwiler Elwood Ervin & Connie McCormick.

Members Absent: James Dial.

Staff Present: Haley Dickson, Jon Ward & Christopher Phillips.

Staff Absent: Ken Young & James Mills.

Others Present: Al Ehlert, Curtis Sipe & Kelli Sipe.

Consider for Approval the Agenda as Submitted. Michael Detwiler made the motion to approve the agenda as submitted. Connie McCormick seconded the motion and the motion carried unanimously. **Approved.**

Consider for Approval the Minutes of February 9th, 2023. Connie McCormick made the motion to approve the minutes of February 9th, 2023 as submitted. Michael Detwiler seconded the motion and the motion carried unanimously. **Approved.**

Consider a request for a variance to reduce the rear yard setback from 20 feet to 17 feet for a total variance of three (3) feet for the property located at 530 Cottage Way (Tax Map 052-O, Group E, Parcel 038.00). Request submitted by Mr. Allen Ehlert. Mr. Christopher Phillips stated that property owner, Mr. Allen Elhert, has submitted for approval a variance request to reduce the rear yard setback from 20 feet to 17 feet for a total variance of three (3) feet for his property located at 530 Cottage Way. The request was submitted to allow for the construction of an attached screened in porch. A previous variance request to reduce the rear yard setback from 20 feet to 13 ½ feet for a total variance of six and one-half (6 ½) feet was considered at the January 12, 2023 meeting. That request was denied unanimously.

Analysis: The subject property is identified as Parcel 038.00 on Tax Map 052O, Group E, and contains approximately 0.25 acres. The property is zoned RS-10, “Single-Family Residential” as are the adjacent properties to the north, west, and south. The property is bordered by RS-20, “Single-Family Residential” to the east. An existing single-family dwelling unit is located on the subject property.

Mr. Elhert has submitted a revised site plan depicting a screened in porch addition to the rear of the existing structure. The RS-10 District has a 20-foot rear yard setback requirement. The proposed screened porch addition is dimensioned as 16 feet by 7 feet. The existing home is 2 feet 2 inches from the setback line, the addition would also include the one (1) foot 10-inch eave overhang. The proposed seven (7) feet depth of the porch structure encroaches into the rear yard setback requirement by approximately three (3) feet. The requested variance not to exceed a three (3) foot reduction in the 20-foot rear yard setback requirement represents a total variance of 15 percent.

At the January 2023 BZA meeting, the Board determined no apparent hardship is present on the subject property to warrant a variance of the magnitude requested at that time. However, the Board of Zoning Appeals has historically considered variances up to 10 percent where no hardship is present. A 10 percent reduction in the rear yard setback for the subject property would constitute a two (2) foot reduction in the rear yard setback. The proposed encroachment would be limited to

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16 feet in width. In the opinion of the Planning Division, the current variance requested would not be detrimental to the public welfare or injurious to other property in the area.

Recommendation: Approval of a variance 10 percent to construct 16 feet by seven (7) feet screened porch as depicted on the submitted plan.

Mr. Ehlert, property owner, stated that the Board of Zoning Appeals usually approves variances of 10%, but he initially requested 15%.

Mr. Jon Ward stated that the lot width narrows since on a curve, encourage owner to buy property off neighbor.

Mr. Elwood Ervin asked if Mr. Ehlert's neighbor to the rear knows about his plan to build a screened porch.

Mr. Ehlert stated yes, he had asked his neighbor if he was willing to sell a portion of his property to Mr. Ehlert in order to meet the setback requirements but his neighbor wasn't interested.

Connie McCormick made the motion to approve a variance of three (3) feet. Michael Detwiler seconded the motion and the motion carried unanimously. **Approved.**

Consider a request for a special exception to allow a Hospice Residence Home / Assisted Living Facility on the property located at 570 State Street. Request submitted by Curtis & Kelli Sipe. Mr. Christopher Phillips stated that property owners Mr. Curtis and Mrs. Kelli Sipe have submitted a request for a special exception to reinstate a hospice residence/assisted living facility for property located at 570 State. Street.

Analysis: The subject property is identified as Parcel 002.04 on Tax Map 053 and contains approximately 1.00 acre. The parcel was created as part of the Upper Cumberland Christian Home Division, which was approved and recorded in 2007. The property is zoned RS-10, "Single-Family Residential" and is contiguous with properties zoned RS-10, "Single-Family Residential" to the north, east, and south, and as RM-8 "Multi-Family Residential" to the west. The Upper Cumberland Christian Home, a 33-unit senior housing complex, is adjacent to the subject property to the west.

The Planning Division has an extensive history with the property. The property was historically operated as a group home. The Zoning Code was amended to allow the property to be used as a hospice home and assisted living facility. The property was approved and used accordingly.

Hospice Residence Home/Assisted Living Facility is a use permitted on appeal (special exception) in the RS-10 District, subject to the following conditions:

212.4D Hospice Residence Home/Assisted Living Facility meeting the following conditions:

1. Minimum lot area of 40,000 square feet shall be provided for such facility
2. Maximum of twelve (12) residents shall reside at the facility
3. Minimum of one (1) off-street parking space per maximum number of residents and employees shall be provided at the facility
4. No freestanding signs shall be permitted

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5. Shall be located on property contiguous with property zoned for multi-family residential purposes and shall be accessed from the same street as the contiguous property zoned for multi-family residential purposes
6. Structure shall be compatible with nearby residential structures in terms of scale and appearance
7. Site plan and floor plan shall be submitted to and approved by the Board of Zoning Appeals
8. Type 2 Screen/Buffer Yards as specified in section 208 of this Zoning Code shall be provided along all property lines abutting property zoned or used for single or two-family residential purposes
9. All requirements of the State of Tennessee that pertain to the use and operation of the facility shall be met
10. Shall have been previously legally utilized as a group home

The special exception was last approved by the Board of Zoning Appeals on March 10, 2022. A floor plan depicting the proposed utilization of the structure as a hospice residence home/assisted living facility was submitted at that time. The floorplan depicted a total of 10 bedrooms to be used for hospice/assisted living.

No changes are planned for the site, which was found to be compliant with the occupancy, signage, parking, and screening requirements when approved in 2017 and confirmed again in 2022. The site exceeds the minimum lot area requirement and exterior façade of the residential structure will not be altered. Also, as noted, the site is contiguous with property zoned for multi-family residential purposes and is accessed from the same street as the contiguous property zoned for multi-family residential purposes. The application was submitted for reapproval of a previously approved special exception for the property before the one (1) year expiration requirement as stipulated in the Zoning Code.

In the opinion of the Planning Division, all established conditions can be met and the property appears to be particularly suitable for the proposed use.

Recommendation: Approval of the request, subject to compliance with all applicable provisions of the Zoning Code.

Mr. Sipe stated that the project took longer than expected. Plan to submit license in the next few weeks and hopes to be operating by the summer.

Michael Detwiler made the motion to approve the request as recommended by staff. Nancy Bohannon seconded the motion and the motion carried unanimously. **Approved.**

Adjournment: 5:28 P.M.

Submitted for Approval

Submitted for Recording

Haley Dickson
Planning Assistant

James Dial, Chairman
Board of Zoning Appeals