

**BOARD OF ZONING APPEALS
MINUTES
APRIL 9, 2020**

The Board of Zoning Appeals met on Thursday, April 9, 2020, at 5:15 p.m. via electronic means.

MEMBERS PRESENT: Nancy Bohannon, James Dial, Elwood Ervin, Sid Gilbreath, & Connie McCormick

MEMBERS ABSENT: None

STAFF PRESENT: Jon Ward, Ken Young & Haley Dickson

STAFF ABSENT: None

OTHERS PRESENT: Chance Mayfield, Christy Sweat, Steve Copeland, Mark Hunter, Horace & Patricia Hunter, & Janice Carol Bradford

CONSIDER FOR APPROVAL THE AGENDA AS SUBMITTED. Elwood Ervin made the motion to approve the agenda as submitted. Nancy Bohannon seconded the motion and the motion carried unanimously. **APPROVED.**

CONSIDER FOR APPROVAL THE MINUTES OF MARCH 12, 2020. James Dial made the motion to approve the minutes of March 12, 2020 as submitted. Connie McCormick seconded the motion and the motion carried unanimously. **APPROVED.**

CONSIDER A RESOLUTION DETERMINING THAT, DUE TO THE COVID-19 PANDEMIC, THE APRIL 9TH MEETING OF THE BOARD OF ZONING APPEALS SHALL BE BY ELECTRONIC MEANS AS PERMITTED BY EXECUTIVE ORDER NO. 16. Executive Order 16 issued by Governor Bill Lee is an order to ensure that government continues to function openly and transparently during the COVID-19 emergency, while taking appropriate measures to protect the health and safety of citizens and government official. The Resolution recognizes that the Board of Zoning Appeals will conduct the April meeting electronically as authorized by the Order.

James Dial made the motion to approve the resolution. Elwood Ervin seconded the motion and the motion carried unanimously. **APPROVED.**

CONSIDER A VARIANCE REQUEST TO THE ASPHALT/CONCRETE SURFACING REQUIREMENTS FOR A PORTABLE BUILDINGS SALES LOT FOR PROPERTY LOCATED AT 1552 AND 1588 WEST BROAD STREET. Mr. Larry Mahan submitted a variance request to the surfacing requirements for a portable building sales lot in the CL, Local Commercial Zoning District.

Analysis: The subject properties are located at 1552 and 1588 West Broad Street further identified as parcels 177.00 and 178.00 on tax map 039. Properties to the east, north and west are zoned CL, Local Commercial and property to the south is zoned LM, Light Manufacturing.

Section 205.7, Design Requirements for Parking Spaces and Lots, Section 205.7C, Surfacing Requirements provides “Parking lots and driveways shall be surfaced with Portland cement concrete or asphaltic concrete, as specified in the Cookeville Subdivision Regulations, and be so constructed to provide for adequate drainage and prevent the release of dust.”

Mr. Mahan placed portable buildings for sale on the property without acquiring the required permits. Among the surfacing requirements, the property owner would have to obtain access permits from TDOT as the property is located on State Highway 70 and must also meet additional city code requirements.

From the submitted application, Mr. Mahan contends that other portable building sales lots within the City do not meet the surfacing requirements. Any portable buildings sales lots located within the City that are not located on surfaced lots are grandfathered lots that existed prior to this requirement. The Planning Department recognizes no justified hardship to approve the request.

Staff Recommendation: Denial of the request.

James Dial stated that there had been mention of other properties in city limits that aren't located on surfaced lots, but those properties were grandfathered in.

James Dial made the motion to deny the request. Elwood Ervin seconded the motion and the motion carried unanimously. **DENIED.**

CONSIDER A VARIANCE REQUEST TO REDUCE THE REAR YARD SETBACK FROM 30 FEET TO 17 FEET FOR A TOTAL VARIANCE OF 13 FEET FOR PROPERTY LOCATED AT 4548 OLD SPARTA ROAD. Ms. Janice Carol Bradford submitted a request for a variance to the rear yard setback requirement for property located at 4548 Old Sparta Road in the RS-20, Single Family Residential District.

Analysis: The subject property is identified as parcel 025.05 on tax map 096 and is zoned RS-20, Single Family Residential. The property is adjacent to RS-20 to the south, and east, and RS20 and RS5 to the north and RS5 to the west. The property consists of approximately 0.26 acres (11,325 sq. ft.). An existing single-wide mobile home is sited on the lot. The existing mobile home is a nonconforming use in the district, the home is nonconforming to setbacks and the lot size is nonconforming to the RS20 District. The property was annexed into the City in 2000.

At the time of annexation, the parcel contained approximately 0.16 acres (approx. 7,000 sq. ft.). When zoning was established for the annexed area, the property was zoned RS20, Single Family Residential, as the property remains today. An additional 0.10 acres was added to the property with the Bradford-Smith Lot Line Adjustment Plat, bringing the parcel to its current configuration and size.

The RS20 Single Family Residential District requires a minimum lot size of 20,000 square feet. The district also requires a 30 foot front setback and 30 foot rear setback. A submitted survey shows that the lot is approximately 75 feet deep at the northern boundary and widens to approximately 85 feet deep at the southern boundary. The southwestern portion of the lot is encumbered by a 20 foot utility easement. This easement contains a primary electric line, the relocation of which is not feasible due to the costs. The existing utility easement causes the southern portion of the lot to be unusable for a principal structure. With the front and rear setback requirements, this only leaves an approximately 15 feet wide building area to site a home.

Ms. Bradford submitted the variance request as she needs to replace her current mobile home. The Zoning Code does not allow another single-wide mobile home to be sited on the property. Ms. Bradford has requested the variance to be able to site a 28 foot wide, double wide mobile home on the property. The exceptional shallowness of the lot existed with the enactment of zoning regulations. In the opinion of the Planning Department, the strict application of regulations would result in peculiar and exceptional practical difficulties to the property owner

and granting the variance will not be detrimental to the public welfare or injurious to other property owners in the area.

Staff Recommendation: Approval of variance request to reduce the rear yard setback requirement from 30 feet to 17 feet for a total variance of 13 feet.

Elwood Ervin asked if the current mobile home is violating the front and rear setbacks already.

Jon Ward confirmed that the current mobile home structure is violating the existing setbacks.

Sid Gilbreath asked if there has been any public comment on this agenda item.

Jon Ward stated that there has been no inquiries' regarding this request.

Elwood Ervin made the motion to approve the request as submitted to staff's recommendation. Connie McCormick seconded the motion and the motion carried unanimously. **APPROVED.**

CONSIDER A SPECIAL EXCEPTION REQUEST TO ALLOW A USED AUTO SALES ESTABLISHMENT AT 840 EAST 10TH STREET. Mr. Tracy Sweat, on behalf of property owner Mr. Jerry Gaw, has submitted a request for a special exception to allow the location of a used automobile sales establishment on property located in the CL, Local Commercial District at 840 East 10th Street.

Analysis: The subject property is further identified as parcel 010.00 on tax map 040L, group B and is zoned CL Local Commercial. The property is bound by CL Local Commercial zoning on all sides. Under the provisions of CL zoning, auto sales establishments may be allowed as special exceptions subject to compliance with the provisions of Section 221.4D of the Zoning Code. The conditions specified in Section 221.4D are as follows:

221.4D New and used auto sales, rental and leasing when meeting the following requirements:

1. Shall not be located adjacent to any district zoned RS-20, RS-15, RS-10, RS-5, or RD unless separated by a public street as shown on the Official Street Map
The subject property is surrounded by CL Local Commercial District on all sides and the location meets this criteria.
2. Shall be located on streets of at least Major Collector status
East 10th Street is classified as a Major Arterial, and the location meets this criteria.
3. Shall conform with the requirements of Section 206.15 of this Zoning Code
Additionally, all parking areas, including those for auto sales, must be surfaced as specified in Section 205.7C of the Zoning Code (see attached).

In the opinion of the Planning Department all established conditions can be met and the property appears suitable for the proposed use.

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

Steve Copeland stated that his concern with the request is that if it is approved, given the problems currently with the intersection of Park Drive and 10th Street, the proposed car lot would define that area of 10th Street. Dr. Copeland strongly urges the denial of the request.

Chance Mayfield owns property adjacent to the proposed location. He stated that with the corner lot being the main entrance to Park Village off Park Drive, he doesn't think that a used car lot should be allowed there.

Mark Hunter owns the property adjacent to the northern side of the proposed request. He has been working towards upgrading the units and boosting the quality of life for the tenants in Park Village. He stated that he believes that a car lot would not add to the quality of life that he has been working towards with his property. He urges the board to vote no on this request.

Christy Sweat, representing Tracy Sweat Auto Sales, stated that they are a family business and has been serving Cookeville for 31 years. They are planning on building a new office building at the proposed location. Ms. Sweat stated that there is a car lot across the street and a motor garage beside the proposed location. She asked the board to consider the request to keep the family business in Cookeville.

Horace & Patricia Hunter represent the apartments 800 Park Drive. Ms. Hunter stated that it would be a tragedy if the tenants in the new apartments adjacent to the proposed property look out over a car lot. She stated that this area of 10th Street is home to two churches, several new apartments and houses, a shopping center, and banks. She believes that a used car lot would cheapen the area and that particular people would not want to locate near a used car lot. Horace & Patricia Hunter discourage the request.

Elwood Ervin asked Jon Ward to explain the provision to the zoning code associated with this request.

Jon Ward stated that the use is a conditional use under a special exception. There are several conditions that this request has to meet. As stated in the staff recommendation, the conditions are:

1. Shall not be located adjacent to any district zoned RS-20, RS-15, RS-10, RS-5, or RD unless separated by a public street as shown on the Official Street Map

The subject property is surrounded by CL Local Commercial District on all sides and the location meets this criteria.

2. Shall be located on streets of at least Major Collector status

East 10th Street is classified as a Major Arterial, and the location meets this criteria.

3. Shall conform with the requirements of Section 206.15 of this Zoning Code

Additionally, all parking areas, including those for auto sales, must be surfaced as specified in Section 205.7C of the Zoning Code.

Nancy Bohannon asked if the car lot across the street and the garage adjacent to the property is operational under a variance as well.

Mr. Ward stated that the garage that is located adjacent to the proposed location was home to Rhino Linings, where they lined beds of trucks but it is a vacant facility now. He does not have the history of Elite Auto Sales, located across the street. He stated that it is compliant with the zoning district.

Sid Gilbreath asked if there are any stipulations to sidewalks associated with establishing new business.

Jon Ward stated that the city has requirements for any new development where they have to meet the zoning code which requires constructing sidewalks along the street fronts. When they go through the site plan phase, the city will look at where they propose to build their facility and where to park cars. The city does require sidewalks along existing streets.

Elwood Ervin asked when they meet the requirements for the special exception, why it has to come to the board.

Jon Ward stated that this is a conditional use and that the Board of Zoning Appeals is charged with making sure the appeal meets the conditions described in the zoning code.

Elwood Ervin asked if the request meets all the requirements for a conditional use.

Jon Ward stated that it is zoning compliant and it is located on a street that is compliant per the zoning code.

Elwood Ervin asked what they are subject to once the request is approved.

Jon Ward stated that they will have to provide a site plan showing where they propose to construct a structure and the structure will have to meet the architectural standards. The site plan will have to be reviewed by all applicable departments in the city to make sure it is compliant. Any new structure will have to meet all zoning codes per the city.

Elwood Ervin asked Ms. Sweat if they understood that there will be further requirements once the request is approved by the Board of Zoning Appeals.

Ms. Sweat on behalf of Tracy Sweat Auto Sales stated that they understand that there will be further requirements should the request be approved.

Nancy Bohannon stated that she doesn't understand the hesitancy of the community being so against the request since Rhino Linings had cars parked in front of their business.

Elwood Ervin stated that he agrees with Ms. Bohannon.

Ms. Bohannon stated that she wants to understand the community's hesitancy on the subject matter before she votes.

Jon Ward stated that this request is a conditional approval and it meets all the conditions stated in the zoning code.

Jon Ward stated that when a proposal meets the guidelines of the zoning code, it would be arbitrary to deny the request under these conditions.

Sid Gilbreath stated that the Board of Zoning Appeals has a responsibility to the citizens of the City of Cookeville to represent Cookeville's interest and it is difficult to listen to objections and not react to them. Instead, we need to represent the city as a whole and the interest and well-being of the citizens of the city.

Sid Gilbreath made a motion to approve the request subject to staff's recommendation. Connie McCormick seconded the motion and the motion carried unanimously. **APPROVED.**

CONSIDER A VARIANCE REQUEST TO REDUCE THE FRONT YARD SETBACK FROM 30 FEET TO 10 FEET AND REDUCE THE REAR YARD SETBACK FROM 25 FEET TO 5 FEET AND THE SIDE YARD SETBACK FROM 10 FEET TO 0 FEET FOR PROPERTY LOCATED AT 41 EAST 4TH STREET. Mr. Burton Nelson submitted a

variance request to reduce the front setback requirement to construct an additional egress staircase and to reduce the rear and side yard setback requirements to construct a laundry room in the southwest corner of property located at 41 east 4th Street.

Analysis: The subject property is further identified as parcel 001.00 on tax map 053B, group G and is zoned RS15, Single Family Residential. The lot consists of approximately 0.38 acres (16,552 sq. ft.). Properties to the south, east and north are also zoned RS15 Single Family Residential and property to the west is zoned CL, Local Commercial.

A multi-family apartment complex with nineteen units is located on the subject property. Mr. Nelson recently purchased the property and plans to renovate the complex. Multi-family development is nonconforming in the RS15 Zoning District. The existing structure is nonconforming to the front, side and rear setbacks. Tax records indicate the complex was built in 1962.

The apartment complex currently only has one (1) means of egress to the second floor units. If constructed today, the current building code would require two (2) means of egress for multi-family development with more than four (4) units on a second floor. The front setback requirement off East 4th Street is 30 feet. The current structure is located approximately 18 feet from the East 4th Street right-of-way, violating the front setback by approximately 12 feet. Mr. Nelson has provided a survey and architectural elevations that depict the proposed construction of an additional egress staircase that will extend approximately eight (8) additional feet into the front setback requirement off East 4th Street.

Mr. Nelson has also requested a variance to reduce the rear and side yard setback to construct a laundry facility for tenant use in the southwest corner of the property. The rear setback requirement is 25 feet off the southern property line. This portion of the current structure is sited approximately five (5) feet from the rear property line, and is sited entirely within the required rear setback. Mr. Nelson owns the property to the south, which consists of approximately 1.73 acres, and is the location of his primary residence. A provided site plan depicts the laundry addition would extend from the existing building footprint to the west for ten (10) feet. This addition would extend within the required ten (10) foot side yard building setback requirement, the northwest corner off the addition would be located on the western property line. The footprint of the proposed addition also includes the building overhang, but the corner wall of the proposed addition would be approximately 18 inches from the property line.

In the opinion of the Planning Department, the subject property is in need of renovation. The additional staircase is a safety issue. Mr. Nelson is not required to construct the additional stairs for the renovation of the nonconforming structure, but the additional staircase will provide secondary means of egress for the second floor units. The addition of an onsite laundry facility would also be an improvement to the property. The Board of Zoning Appeals has traditionally approved variances to allow additions to nonconforming structures that did not increase the nonconformity. This would be consistent with approving a variance to allow the addition to tie into the structure and extend along the existing rear setback encroachment, but the addition also causes an encroachment on the side yard setback requirement that does not exist prior to the proposed addition. The Planning Department has identified another means to provide relief.

While the property appears to be bound by Nashville and Eastern railroad right-of-way to the west, the submitted survey indicates that the western boundary is actually an undeveloped segment of Popular Avenue that runs adjacent to the railroad right-of-way. A segment of

Popular Avenue located to the south was closed, abandoned and declared as surplus property available for acquisition by adjoining property owners through Ordinance O16-02-03 in March of 2016. This segment extended from north of East 1st Street, to the southern boundary of Mr. Nelson's residence. The remaining undeveloped portion of Popular Avenue could be closed and acquired by Mr. Nelson, which would eliminate the need for a variance to the side yard setback.

Mr. Nelson has submitted a request to the Planning Department to close, abandon and declare as surplus property the undeveloped portion of Popular Avenue right-of-way along the western boundary of the site. If this request is approved, the additional property would remedy the side yard setback encroachment. The petitioner will still need a variance to allow the laundry addition for the portion that violates the rear yard setback.

Staff Recommendation: Approval of the variance request to reduce the front yard setback at the northern boundary to ten (10) feet to allow construction of an additional egress staircase on the northern building envelope as depicted on the provided site plan; approval of a variance to reduce the rear yard setback along the southern boundary to five (5) feet to allow construction of a new laundry facility as depicted on the provided site plan, subject to the property owner obtaining the undeveloped portion of Popular Avenue right-of-way, denial of the variance request to reduce the side yard setback requirement along the western boundary to 0 feet.

Elwood Ervin made a motion to approve the request subject to staff's recommendation. James Dial seconded the motion and the motion carried unanimously. **APPROVED.**

ADJOURNMENT: 6:20 P.M.

SUBMITTED FOR APPROVAL

SUBMITTED FOR RECORDING

**HALEY DICKSON
PLANNING ASSISTANT**

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