

**Board of Zoning Appeals
Minutes
September 10, 2020**

The Board of Zoning Appeals met on Thursday, September 10th, 2020, at 5:15 p.m. in the Council Chambers, 45 E. Broad Street, Cookeville, Tennessee.

Members Present: Nancy Bohannon, James Dial, Elwood Ervin, Sid Gilbreath & Connie McCormick.

Members Absent: None.

Staff Present: Jon Ward, James Mills & Haley Dickson.

Staff Absent: Ken Young.

Others Present: Bruce Anderson & Bill Haberkamp

Consider For Approval The Agenda As Submitted. Elwood Ervin made the motion to approve the agenda as submitted. James Dial seconded the motion and the motion carried unanimously. **APPROVED.**

Consider For Approval The Minutes Of August 13th, 2020. James Dial made the motion to approve the minutes of August 13th, 2020 as submitted. Elwood Ervin seconded the motion and the motion carried unanimously. **APPROVED.**

Consider a request for a variance to reduce the front yard setback requirement on 6th Street from 30' to 20' for a total variance of 10' and a variance to reduce the rear yard setback requirement from 25' to 13' for a total variance of 12' to build an addition and deck to an existing non-conforming house located at 605 North Dixie Avenue (Tax Map #53B-E-15.00). Jon Ward stated that Mr. Dennis Chaffin has submitted a request to reduce the front and rear yard setback requirements. The purpose of the request is to build an addition and to build a deck to an existing non-conforming single family dwelling located at 605 North Dixie Avenue.

Analysis: The subject property is identified as Parcel 015.00 on Tax Map 53B, Group E and is zoned as RS15, Single Family Residential. The parcel is a corner lot located at the northeast intersection of North Dixie Avenue and East 6th Street. All properties surrounding the subject lot are zoned RS15, Single Family Residential.

The subject property is nonconforming on a number of requirements to the Zoning Code. The current lot consists of approximately 0.17 acres, or approximately 7,544 square feet. This is nonconforming to the 15,000 square foot lot size requirement in the RS15 District. The existing principal structure is nonconforming to the front setback requirements along North Dixie Avenue and East 6th Street, and the rear setback requirement from the eastern lot boundary. An existing accessory structure is also nonconforming to the setback requirements, and has been used as an additional dwelling unit, which is not allowed in the single family zoning district.

The current structure is nonconforming to the front setback requirements of 30 feet off Dixie Avenue and East 6th Street, and the rear setback requirement of 25 feet. The existing home has an offset along the southern side of the structure along East 6th Street and a similar offset along the northern side of the structure. The petitioner has requested to construct an addition to the southern side of the structure, and square this off with the front of the home. The proposed addition is approximately 6.5 feet by 26.5 feet. The addition would extend approximately 7 feet further into the front setback off 6th Street for approximately 27 feet, and would extend into the rear setback approximately 12 feet. This addition would not project further into the front or rear setbacks than the structure currently projects at the existing building offset or at the rear of the home.

The petitioner has also requested to construct a deck along a similar building offset on the northern side of the home. The home currently violates the rear setback by approximately 12 feet. Again, the proposed deck would not project further into the rear setback than the existing structure. The petitioner has requested to reduce the 25 foot rear setback to 13 feet for a total variance of 12 feet.

The property is located within the North Dixie Avenue Historic District. The existing home was constructed in 1906. The Cookeville Historic Zoning Commission approved a Certificate of

Appropriateness for the proposed addition along the southern side of the home on Tuesday, May 8, 2018. An additional Certificate of Appropriateness will need to be considered for the deck construction on the northern side of the home.

A legal nonconforming structure is a structure that existed prior to the establishment of zoning regulations to which the structure does not comply. The existing home was constructed prior to zoning being established in the City of Cookeville. Under the provisions of Tennessee Code Section 13-7-208, nonconforming uses are allowed to remain in perpetuity provided they do not cease operation for a period of at least 30 consecutive months. They also have the right to expand on existing property provided there is enough space to meet the area requirements (setbacks) of the zoning district.

The existing accessory structure located on the property has been historically used as a separate dwelling unit, and previously had separate utility meters for natural gas and electricity. In Single Family Residential (RS) Districts, only one (1) dwelling unit per parcel is allowed. In addition the second dwelling unit violates required building setbacks. A provided survey shows this accessory structure is located approximately 1 foot from the northern property boundary (side) and 6 feet from the eastern property boundary (rear). Accessory structures less than 400 square feet are permitted provided the structure is located no closer than five (5) feet from any side or rear property line. The existing accessory structure is approximately 240 square feet in size.

This variance request was previously approved by the Board of Zoning Appeals on May 10, 2018 subject to removal of the accessory dwelling. The petitioner in 2018, Ms. Judy Nguyen, on behalf of property owner Felix Manier, let the BZA action expire. Mr. Dennis Chaffin purchased this property on July 21, 2020 and has resubmitted the variance request to rehab the home. Mr. Chaffin explained that utility meters have been removed from the accessory structure and he plans to demolish the accessory structure at his earliest opportunity. Consistent with the recommendation at the May 2018 BZA meeting, in the opinion of the Planning Department, the setback variance request will not be detrimental to the public welfare or injurious to other property in the area provided the accessory structure/dwelling unit is permanently removed.

Staff Recommendation: Approval of request to allow a 10 foot reduction in the setback along East 6th Street to build an addition to the southern side of the existing dwelling, matching the current projection of the dwelling, and approval of the request to reduce the rear setback requirement by 12 feet to allow construction of the addition and a deck extending no further than the current rear of the structure, subject to the permanent removal of the accessory structure/dwelling.

Bruce Anderson, of 613 North Dixie Avenue, stated that he is delighted that the accessory structure is gone and believes that the construction and renovation of the house will make it much better and is in favor of the variance.

Bill Haberkamp, of 511 North Dixie Avenue, stated that he was confused by the proposed setback language and asked if the house is being extended by 10 feet.

Jon Ward stated that the proposal is to square up the house, not extend it.

Bill Haberkamp asked if the Historic Commission will meet to discuss this proposal.

Jon Ward stated that the Certificate of Appropriateness has already been approved by the Historic Commission for the rear of the house. A Certificate of Appropriateness was never issued for the northern portion of the house; it will have to go to board.

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

Adjournment: 5:30 P.M.

Submitted for Approval

Submitted for Recording

HALEY DICKSON
PLANNING ASSISTANT

SID GILBREATH, CHAIRMAN
BOARD OF ZONING APPEALS