

**Board of Zoning Appeals
Minutes
April 13th, 2023**

The Board of Zoning Appeals met on Thursday, April 13th, 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.

Members Absent: James Dial & Connie McCormick

Staff Present: Jon Ward & Christopher Phillips.

Staff Absent: Haley Dickson, Ken Young & James Mills.

Others Present: Eric Walker & Danielle Herren.

Consider for Approval the Agenda as Submitted. Michael Detwiler made the motion to approve the agenda as submitted. Nancy Bohannon seconded the motion, and the motion was carried unanimously. **Approved.**

Consider for Approval the Minutes of March 9th, 2023. Michael Detwiler made the motion to approve the minutes of March 9th, 2023 as submitted. Nancy Bohannon seconded the motion, and the motion was carried unanimously. **Approved.**

Consider a request for a variance to reduce the front yard setback from 50 feet to 43 feet for a total variance of seven (7) feet and a variance to reduce the rear yard setback from 10 feet to three (3) feet for a total variance of seven (7) feet for the property located at 1200 North Washington Avenue Request submitted by Planning Staff. Mr. Christopher Phillips stated that Planning Staff have submitted for approval a variance request to reduce the front yard setback from 50 feet to 43 feet for a total variance of seven (7) feet and a variance to reduce the rear yard setback from ten (10) feet to three (3) feet for a total variance of seven (7) feet for the property located at 1200 North Washington Avenue. A previous variance to reduce the front yard setback from 50 feet to 37 feet based on a submitted site plan was approved at the April 14, 2022, Board of Zoning Appeals meeting.

Analysis: The subject property is identified as Parcel 019.00 on Tax Map 040K, Group H and contains approximately 0.22 acres. The property is zoned CL, “Local Commercial” as are the adjacent properties to the north and south. The property is bordered by CN, “Neighborhood Commercial” to the east, and is bordered by RM8, “Multi-Family Residential” to the west. The northwestern property boundary is also adjacent to the railroad right-of-way. The property is currently vacant.

The previous variance to reduce the front yard setback from 50 feet to 37 feet was approved based on a submitted site plan depicting the southwest corner of a proposed building being located within the 50-foot setback from East 12th Street as stipulated in Section 204.12 “Required Setbacks Along Major Streets” of the Zoning Code. A revised site plan was submitted and reviewed by the relevant city departments on February 28, 2023. During the review, the East 12th Street Widening and Improvement Project was discussed. The City Council, in the 2022-2023 budget, included appropriations for improvements to East 12th Street to include widening the segment from North Washington Avenue to Mississippi Avenue. The site plan approved for the subject property in April 2022 did not depict the location of stormwater facilities. The submitted site plan reviewed in February 2023 depicted the stormwater management structures within an area that could be impacted by the East 12th Street Project.

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The proposed variance to reduce the front yard setback from 50 feet to 43 feet is six (6) feet less than the variance that was approved in April 2022. As indicated at previous consideration, this front yard encroachment only applies to the southwest corner of the proposed structure. and is decreased by shifting the structure to the north and reducing the rear setback. While the street improvement project has not been designed at this time, City Staff is of the opinion that consideration to shift the building to the north would minimize impacts on the site due to a future street widening project. The property owner is exploring alternative stormwater management options, including installing permeable pavers within a portion of the driveway/parking area that would eliminate the need for a stormwater detention pond.

Recommendation: Approval of the variance to reduce the front yard setback form East 12th Street from 50 feet to 43 feet for a total variance of seven (7) feet and the variance to reduce the rear yard setback from ten (10) feet to three (3) feet for a total variance of seven (7) feet as depicted on the submitted site plan.

Elwood Ervin asked if there were any other examples of pervious pavers being used.

Jon Ward stated that Mr. Jack Lynn used pervious pavers at his development on North Cedar Avenue and stated that a demonstration was given where a City Fire tanker truck dumped the entirety of its water tanks onto the surface and no water pooling could be seen as the pervious pavers absorbed and distributed the water from the surface.

Michael Detwiler made the motion to approve the variance request as submitted. Nancy Bohannon seconded the motion, and the motion was carried unanimously. **Approved.**

Consider a request for a variance to reduce the parking requirements from 36 parking spaces to 17 parking spaces for a total variance of 19 parking spaces for the property located at 707 Mahler Avenue. Mr. Christopher Phillips stated that Mr. Eric Walker, on behalf of Walker Investment Company, has submitted a request for a variance to reduce the parking requirement for a proposed restaurant and office development located at 707 Mahler Avenue. The request is to reduce the number of required parking spaces from 36 spaces to 17 spaces for a total variance of 19 parking spaces.

Analysis: The subject property is identified as Parcel 009.01 on Tax Map 053B, Group E and contains approximately 0.16 acres. The subject property is zoned UNV, "University" as are all adjacent properties. The property currently contains the old Sunshine Cleaners laundromat building, which is an existing nonconforming building in the University District. The variance was submitted to allow for a reduction in parking for the proposed restaurant and office.

Section 205.8D of the Zoning Code states that a restaurant, lounge, or food service establishment require one (1) parking space per three (3) seats of capacity, plus one (1) space per employee based on the largest work shift. The submitted site plan notes that the new restaurant will have an 80-person seating capacity and the petitioner has stated that the largest work shift will consist of six (6) employees. The site plan also depicts a proposed office area that will consist of 900 square feet of office space. The square footage of the office space will require an additional three (3) parking spaces. ($80 / 3 = 26.7$ seating capacity + 6 restaurant employees + 3 office spaces = 35.7 total spaces). A total of 36 parking spaces would be required for the proposed restaurant and office.

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The petitioner is requesting to reduce the number of required parking to 17 spaces, for a total reduction of 19 spaces. The proposed development is located in the University district. An on-street public parking area is located 150 feet south along Mahler Avenue. The City increased the paving surface along approximately 425 feet of the Mahler Avenue right-of-way to accommodate student public parking. The Ocha, Crepe & Crème, and Victor's Taco Shop restaurants located on West 7th Street within the University Zoning District have operated while nonconforming to parking requirements. These restaurants utilize significant pedestrian and student traffic along with public parking areas.

In the opinion of the Planning Division, the parking demand can be mitigated by existing parking and pedestrian traffic in the University District and the requested variance would not be detrimental to the public welfare or injurious to other property in the area.

Recommendation: Approval of the variance request to reduce the parking requirements from 36 parking spaces to 17 parking spaces, for a total variance of 19 parking spaces.

Mr. Eric Walker stated that the proposed development is not adding any square footage to the existing development and is only using the parking spaces that are provided at the property.

Elwood Ervin asked if there were any improvements currently proposed for the adjacent properties.

Mr. Walker noted that there was nothing proposed at this time that he was aware of.

Michael Detwiler made the motion to approve the variance request as submitted. Nancy Bohannon seconded the motion, and the motion was carried unanimously. **Approved.**

Consider a request for a variance to reduce the front yard setback from 25 feet to 23 feet for a total variance of two (2) feet and a variance to reduce the side yard setback from 10 feet to eight (8) feet for a total variance of two (2) feet for the property located at 215 Sycamore Street. Mr. Christopher Phillips stated that property owner Mr. Nely Adrian Sanchez has submitted a request for a variance to reduce the front yard setback from 25 feet to 23 feet for a total variance of two (2) feet and to reduce the side yard setback from 10 feet to eight (8) feet for a total variance of two (2) feet for the property located at 215 Sycamore Street.

Analysis: The subject property is identified as Parcel 016.00 on Tax Map 053H, Group A and contains approximately 0.26 acres. The property is zoned RS-10, "Single-Family Residential" as are all adjacent properties. The property is currently vacant. The property owner requested the variance to construct a new single-family house.

The RS-10 District requires a front yard setback of 25 feet and a side yard setback of 10 feet. The submitted survey shows a building area of approximately 25 feet in width. The property owner attempted to rehabilitate an existing single-family dwelling located on the property that was non-conforming to required setbacks. Due to the extremely poor condition of the structure, the framing and foundation failed during this renovation attempt. The home was demolished, and the variance request was submitted to construct a new house.

Section 233.9D.3.d.I states that a variance may be granted due to, "the particular physical surroundings, shape, or topographic conditions of the specific property involved would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict

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application of this Zoning Code were carried out.” Planning staff acknowledges the irregular shape of the subject property. The property is less than 60 feet in width, and over 213 feet in length and is situated in the curve of Sycamore Street.

Recommendation: Approval of the variance request to reduce the front yard setback by a total of two (2) feet and to reduce the side yard setback by a total of two (2) feet.

Michael Detwiler made the motion to approve the variance request as submitted. Nancy Bohannon seconded the motion, and the motion was carried unanimously. **Approved.**

Adjournment: 5:28 P.M.

Submitted for Approval

Submitted for Recording

Haley Dickson
Planning Assistant

Elwood Ervin, Vice Chairman
Board of Zoning Appeals