

**Board of Zoning Appeals
Minutes
April 14th, 2022**

The Board of Zoning Appeals met on Thursday, April 14th, 2022, at 5:15 p.m. in the Council Chambers located at 45 E. Broad Street, Cookeville, Tennessee.

Members Present: James Dial, Elwood Ervin, Michael Detwiler & Connie McCormick.

Members Absent: Nancy Bohannon.

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

Staff Absent: Ken Young & James Mills.

Others Present: Paul Hooper, Touch Lamb, Heather Hayes, Luke Allen, Sidonie & Margaret Sansom, Bob Vick, Justin & Tatum Hill, Inderjit Kaur, Tyler Brown & John Cornelison.

CONSIDER FOR APPROVAL THE AGENDA AS SUBMITTED. Elwood Ervin 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 MARCH 10TH, 2022. Connie McCormick made the motion to approve the minutes of March 10th, 2022, 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 REQUIREMENT FROM 25 FEET TO 15 FEET FOR A TOTAL VARIANCE OF 10 FEET FOR THE PROPERTY LOCATED AT 1545 DORIS DRIVE (TAX MAP 041-I, GROUP B, PARCEL 008.00) IN THE RS-15 ZONING DISTRICT. REQUEST SUBMITTED BY MARGARET SANSOM. Mr. Jon Ward stated that Ms. Margaret Sansom has submitted a request for a variance to reduce the rear yard setback requirement from twenty-five (25) feet to fifteen (15) feet for a total variance of ten (10) feet to remove the maximum amount of a proposed structure from the floodplain for property located at 1545 Doris Drive in the RS-15, "Single-Family Residential" District.

Analysis: The subject property is identified as Tax Map 041I, Group B, Parcel 008.00 and contains approximately 0.39 acres. The subject property is zoned RS-15, "Single-Family Residential," as are all adjacent properties. The subject property is currently vacant.

The RS-15 District requires a minimum lot size of 15,000 square feet. The district also requires a twenty-five (25) foot rear yard setback. The subject property also includes Floodplain Overlay Zoning as identified on the current Flood Insurance Rate Map, with most of the lot included within the Burton Branch Floodplain.

Ms. Sansom submitted the variance request to allow for a new single-family home to be relocated to the site and to reduce the maximum amount of the new structure that will be sited within the Floodplain. The Floodplain District (FL) is an overlay district established to enable the City of Cookeville to participate in the National Flood Insurance Program (NFIP) administered by the Federal Emergency Management Agency (FEMA). The rules of the Flood Plain Overlay District are applicable to flood hazard areas identified by FEMA.

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Ms. Sansom plans to move a house from 515 Hillwood Circle to the 1545 Doris Drive location. On June 22, 2021, the Board of Adjustment and Appeals (BAA) established a financial guarantee to ensure the structure proposed to be relocated would be brought into compliance with the 2018 International Residential Code. A guarantee in the amount of \$50,000 was approved by the BAA for the relocation project.

Ms. Sansom has indicated that she plans to pursue a Letter of Map Amendment based on fill for the relocated home. Through this process, fill material would be brought onto the site to elevate the structure outside of the flood hazard area. This proposal will have to be approved by FEMA. If approved by FEMA, this could eliminate the flood insurance requirement for the property. The request to reduce the rear yard setback would reduce the amount of fill material that would need to be brought onsite to elevate the structure.

In the opinion of the Planning Department, the floodplain presents a hardship for the subject property and the setback variance request will not be detrimental to the public welfare or injurious to other property in the area.

Recommendation: Approval of the variance request to reduce the rear yard setback requirement from 25 feet to fifteen (15) feet for a total variance of ten (10) feet as depicted on the submitted site plan.

Mr. Michael Detwiler asked how high the fill would be built up.

Mr. Jon Ward stated that that determination will be made if the request is approved.

Mr. Bob Vick stated that they will not decide on the fill height until the request is approved. The hope is to bring it up three feet or so. He stated that if this was being built as a new house, they could change the footprint to make it fit within the setbacks but since they are moving in an existing house, they would have to cut off a part of the house in order to keep it out of the floodplain as much as possible.

Mr. Detwiler asked if the property is built up three feet or so, would there be any troubles with the neighbors next door with the water runoff.

Mr. Vick responded that this would not create more run-off but would help the floodplain more than it would impact it.

Mr. Detwiler asked if they were building the house up by a full story.

Mr. Vick responded no; it would be built up only by a few feet.

Ms. Margaret Sansom, applicant, stated that if the neighbors have issues with screening and landscaping, that she would be glad to install a buffer and stated that she wants to be a good neighbor.

Mr. Luke Allen, of 1522 Barnes Drive, stated that he fails to see how the submitted request helps with their situation. He stated that he builds houses all over town and has spent upwards of \$70,000 on one unit to get the site ready. Mr. Allen pointed out grading on the proposed site and questioned the FEMA standards regarding grading height.

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Mr. Justin Hill, of 1552 Barnes Drive, stated that he owns the lots closest to the corner of the proposed property and is unaware of any variances for said property. Mr. Hill asked if this request for a variance was approved, if that meant this would affect any variance requests for the area in the future.

Mr. Ward stated that the Planning Department determines variances by hardship, not a matter of convenience.

Mr. Hill stated that he had tried to build in a floodplain, and he is under the assumption that you cannot bring in fill to a floodplain.

Mr. Ward stated that fill cannot be brought into a floodway.

Mr. Vick stated that they could move the house forward and bring in more fill, but it would bring the house higher above the neighboring houses. He stated that they have looked into the position of the house and feels that this plan is the best solution.

Mrs. Sansom stated that if her neighbors are concerned about closeness of the house to the shed, she can add screening and landscaping to create a buffer.

Mr. Ervin asked if the owner could apply to FEMA before they get a variance.

Mr. Ward stated that the owners could, but the costs would be high. There would be a risk if they are unsure if the request would be approved by the board.

Elwood Ervin made the motion to approve the request as recommended by staff. Connie McCormick seconded the motion, and the votes are as follows: Elwood Ervin - aye, Michael Detwiler – nay & Connie McCormick – aye. **APPROVED.**

CONSIDER A REQUEST FOR A VARIANCE TO REDUCE THE SIDE YARD SETBACK REQUIREMENT FROM 10 FEET TO 8.5 FEET FOR A TOTAL VARIANCE OF 18 INCHES FOR THE PROPERTY LOCATED AT 1085 CONSTITUTION COURT (040-M, GROUP B, PARCEL 001.03). REQUEST SUBMITTED BY INDERJIT KAUR.

Mr. Jon Ward stated that Mr. Inderjit Kaur has submitted a request for a variance to reduce the side yard setback requirement from ten (10) feet to eight and one-half (8.5) feet for a total variance of eighteen (18) inches for an addition to the garage for property located at 1085 Constitution Court in the RS-10, “Single-Family Residential” District.

Analysis: The subject property is identified as Tax Map 040M, Group B, Parcel 001.03 and contains approximately 0.47 acres. The subject property is zoned RS-10, “Single-Family Residential,” as are the adjacent properties to the east, west, and south. The property is bordered by CN, “Neighborhood Commercial” to the north. An existing single-family home is located on the site. The RS-10 District requires a minimum lot size of 10,000 square feet. The district also requires a ten (10) foot side yard setback.

Mr. Kaur submitted the variance request to construct a garage addition to the principal structure on the subject property. The proposed addition encroaches on the side yard setback requirement by approximately eighteen (18) inches. This encroachment includes the eave overhang of the corner of the proposed addition. The subject lot is located on a cul-de-sac and provides for an

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irregular lot shape. The western property line is angled from west to east, providing for the encroachment. The requested variance not to exceed an eighteen (18) inch reduction in the ten (10) foot side yard setback requirement represents a total variance request of fifteen (15) percent. This encroachment extends over the setback for approximately five (5) linear feet and represents an area of approximately 4 square feet.

In the opinion of the Planning Department, the irregular lot shape presents a hardship, and the setback variance request will not be detrimental to the public welfare or injurious to other property in the area.

Recommendation: Approval of the variance request to reduce the side yard setback requirement from 10 feet to eight and one-half (8.5) feet for a total variance of 18 inches as depicted on the submitted site plan.

Elwood Ervin made the motion to approve the request as recommended by staff. Michael Detwiler seconded the motion and the motion carried unanimously. **APPROVED.**

CONSIDER A REQUEST FOR A VARIANCE TO REDUCE THE FRONT YARD SETBACK REQUIREMENT FROM 30 FEET TO 27 FEET FOR A TOTAL VARIANCE OF 3 FEET FOR THE PROPERTY LOCATED AT 385 HUGHES STREET (TAX MAP 053-H, GROUP C, PARCEL 019.00). REQUEST SUBMITTED BY BROWN INVESTMENT PROPERTIES.

Mr. Jon Ward stated that Mr. Tyler Brown, on behalf of Brown Investment Properties, has submitted a request for a variance to reduce the front yard setback requirement from thirty (30) feet to twenty-seven (27) feet for a total variance of three (3) feet for property located at 385 Hughes Street in the CL, “Local Commercial” District.

Analysis: The subject property is identified as Tax Map 053H, Group C, Parcel 019.00 and contains approximately 0.34 acres. The subject property is zoned CL, “Local Commercial,” as are the adjacent properties to the east, west, and south. The property is bordered by CG, “General Commercial” to the north. A multi-family dwelling unit is proposed to be constructed on the site. The CL District requires a minimum lot area of 3,000 square feet per dwelling unit for multi-family residential where sewer is available. The district also requires a thirty (30) foot front yard setback. Brown Investment Properties acquired a building permit for the multi-family dwelling unit in September 2021. The variance request has been submitted along with a revised site plan showing the multi-family dwelling encroaching 3.2 feet into the front yard setback of the subject property. The subject lot has an irregular lot shape for multi-family development. The corner of the proposed structure extends over the front setback by approximately 2 feet, with the eave of the structure extending over by approximately 3.2 feet. The site plan depicts an area of approximately 16.5 feet encroaching within the front setback, representing a setback reduction of 10.7 percent for the 3.2-foot variance.

In the opinion of the Planning Department, the irregular lot shape presents a hardship, and the setback variance request will not be detrimental to the public welfare or injurious to other property in the area.

Recommendation: Approval of the request to reduce the front yard setback from 30 feet for 26.8 feet for a total variance of 3.2 feet as depicted on the submitted site plan.

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Mr. Bob Vick stated that he did the architectural work while another engineer did the civil work, and the design came out larger. A variance would prevent them from making the units smaller.

Ms. Heather Hayes, of 397 Short Street, stated that she lives in the general area and fears that any development will force stormwater to feed into the neighboring properties causing the area to flood. She stated that every square inch of grass is needed for water retention.

Mr. Vick stated that most of the variance is in overhang and would not be on the ground. He also stated that new developments require stormwater retention standards to help prevent future flooding.

Connie McCormick made the motion to approve the request as recommended by staff. Michael Detwiler seconded the motion and the motion carried unanimously. **APPROVED.**

CONSIDER A REQUEST FOR A VARIANCE TO REDUCE THE FRONT YARD SETBACK REQUIREMENT FROM 50 FEET TO 37 FEET FOR A TOTAL VARIANCE OF 13 FEET FOR THE PROPERTY LOCATED AT 1200 NORTH WASHINGTON AVENUE (TAX MAP 040K, GROUP H, PARCEL 019.00). REQUEST SUBMITTED BY JOHN CORNELISON OF SUNDOWN WINDOW TINTING.

Mr. Ward stated that Mr. John Cornelison of Sundown Window Tinting has submitted a request for a variance to reduce the front yard setback requirement from fifty (50) feet to thirty-seven (37) feet for a total variance of thirteen (13) feet for the construction of a new commercial development for property located at 1200 North Washington Avenue in the CL, “Local Commercial” District.

Analysis: The subject property is identified as Tax Map 040K, Group H, Parcel 019.00 and contains approximately 0.21 acres. The subject 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 by RM-8, “Multi-Family Residential” to the northwest. A new commercial business is to be constructed on the lot.

The CL District does not have a minimum lot area requirement for non-residential development where sewer is available. The subject property is a corner lot situated on East 12th Street and North Washington Avenue. Both streets are classified as Major Streets requiring a fifty (50) foot setback for any construction, per Section 204.12 of the Zoning Code. The rear of the property is bordered by railroad tracks requiring a ten (10) foot building setback. It appears that right-of-way acquisition has impacted the lot. Section 204.5 of the Zoning Code provides a mechanism for setback reductions when a portion of a lot of record is acquired for public purpose. The setback requirements, along with the irregular triangular shape of the property create a hardship for development on the subject property.

The variance request was submitted to allow for a new commercial window tinting service shop to be constructed on the subject property. Mr. Cornelison submitted a site plan showing the southwest corner of the new construction encroaching approximately thirteen (13) feet into the fifty (50) foot front yard setback on East 12th Street. The encroachment represents an area of approximately 199 square feet encroaching within the setback and 13-foot variance represents a 26 percent setback reduction of the 50-foot setback requirement.

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In the opinion of the Planning Department, the irregular lot shape presents a hardship, and the setback variance request will not be detrimental to the public welfare or injurious to other property in the area.

Recommendation: Approval of the variance request to reduce the front yard setback requirement from fifty (50) feet to thirty-seven (37) feet for a total variance of thirteen (13) feet as depicted on the submitted site plan.

Mr. Interjit Kaur stated that he owns the neighboring property, and the request is at the busiest corner of the city. Mr. Kaur believes that this development is not good for the future of the city.

The owner of Sundown Tinting, stated that they still plan on building on that corner regardless of the approval, they will just have to change the shape of the building. She stated that the business only has an average of 10 cars a day and will not increase traffic and the entrance will be located off of 12th Street. She stated that by making the building square, it would optimize the workspace.

Michael Detwiler made the motion to approve the request as recommended by staff. Elwood Ervin seconded the motion and the motion carried unanimously. **APPROVED.**

Adjournment: 5:27 P.M.

Submitted for Approval

Submitted for Recording

Haley Dickson
Planning Assistant

James Dial, Chairman
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