

**BOARD OF ZONING APPEALS
SPECIAL CALLED MEETING
MINUTES
MAY 14, 2019**

The Board of Zoning Appeals met on Tuesday, May 14, 2019, at 5:00 p.m. in the Council Chambers, 45 E. Broad Street, Cookeville, Tennessee.

MEMBERS PRESENT: James Dial, Elwood Ervin, Sid Gilbreath, and Nancy Bohannon.

MEMBER ABSENT: Jane Flatt.

STAFF PRESENT: James Mills, Jayne Barns, Jon Ward and Mike Davidson.

OTHERS PRESENT: David Brown, Woody Welch, Carol Welch, Jess Welch, Logan Weaver, Eric Walker, Marcia Donovan, Paula Haberkamp, Matt Allen, Rick Woods, Bob Walker, Wayne Cravens, Lindsay McReynolds, Luke Chaffin and Cathy McClain.

CONSIDER FOR APPROVAL MOVING THE TABLED VARIANCE REQUEST TO ACTION. James Dial made the motion to move the tabled variance request to action. Nancy Bohannon seconded the motion and the motion carried unanimously. **APPROVED.**

CONSIDER A REQUEST FOR A VARIANCE FOR THE HEIGHT ALLOWED FOR A WALL FROM 8' TO 20' FOR A TOTAL VARIANCE OF UP TO 12' ON THE PROPERTIES LOCATED AT 135 EAST 1ST STREET AND 68 NORTH DIXIE AVENUE. REQUEST SUBMITTED BY WOODY WELCH AND WILL ROBERSON. THIS ITEM WAS TABLED INDEFINITELY AT THE FEBRUARY 8, 2018 MEETING. PLACING THIS ITEM ON THE AGENDA REQUIRES THAT THE CHAIRPERSON OR TWO (2) MEMBERS REQUEST THAT THE ITEM BE PLACED ON THE AGENDA. James Mills stated that Mr. William Woodrow Welch has submitted a variance request for himself, and on behalf of adjoining property owner Mr. Will Roberson, from the maximum wall height requirement for their properties located at 135 East 1st Street and 68 North Dixie Avenue. Consideration of this item was tabled at the February 8, 2018 meeting of the Board of Zoning Appeals. The Planning Department recommends that this item now be removed from the table.

The subject properties are identified as Parcels 19.00 (Welch) and 17.00 (Roberson) on Tax Map 53G, Group C. Both properties are zoned as CN, Neighborhood Commercial. Parcel 17.00 is also located in the North Dixie Historic District overlay zone. The Welch parcel shares its entire southern boundary with Dogwood Park and a small portion of the southwest corner of the Roberson parcel borders the park.

Mr. Welch is requesting that he be allowed to construct a wall of up to a maximum height of 20 feet along his entire southern border and extending approximately 12 feet onto the Roberson property. The length of the proposed wall is approximately 120 feet. Mr. Welch claims that the wall height is necessary to reduce the noise emanating from Dogwood Park.

Provisions for fences and walls are provided in Section 204.9 of the Cookeville Zoning Code. Section 204.9D (5) stipulates that the height of a fence or wall located to the side or rear of a structure located in the CN district shall not exceed eight (8) feet. The submitted variance request is to allow a height up to twelve (12) feet higher than specified.

Consideration of this request was tabled at the February 2018 meeting due to a lawsuit filed against the City by Mr. Welch. The City Council, at its May 2, 2019 meeting, approved, by a vote of 3-2, a Settlement Agreement regarding the Welch lawsuit. This agreement (see attached) specifies that the lawsuit will be dismissed provided certain conditions are met including the approval of the variance request before the Board. It stipulates that the City concurs with Mr. Welch's BZA application and will urge the BZA to grant the application. It further states that the City will ask the BZA to establish reasonable conditions for design and construction requirements that are reasonably necessary to produce a wall that is structurally sound, safe and durable given its proximity to the playground and to Dogwood Park.

As the City is the only property owner directly impacted by the proposed variance and the City Council has approved a Settlement Agreement supporting approval, the Planning Department has no opposition to approval of the requested variance provided the stipulations regarding the wall specified in the Settlement Agreement are met.

Staff recommended approval of the request subject to the following:

- Submittal of structural engineering plans for the wall and approval of said plans by the city engineer (or retained engineer) verifying that the wall will be structurally sound, safe and durable and this approval shall not be unreasonable withheld
- The wall shall be built entirely on the Welch and Roberson properties and all work shall be conducted on the Welch and Roberson sides of the property lines so as not to disturb or endanger playground users during construction, nor to move or disturb the land, retaining wall, or landscaping on the City's side of the property line.

Elwood Ervin made the motion to approve the request, subject to staff's recommendation. Nancy Bohannon seconded the motion.

Chairman Sid Gilbreath opened the floor for public comments. After no comments were received, the Chairman asked for a vote on the motion. All ayes, motion carried.
VARIANCE APPROVED.

ADJOURNMENT: 5:05 P.M.

SUBMITTED FOR APPROVAL

SUBMITTED FOR RECORDING

**JAYNE BARNS CPS
PLANNING ASSISTANT**

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