

**JOHNSON CITY BOARD OF ZONING APPEALS
MINUTES
October 2, 2018**

Members Present: Dr. Stacey Wild, Chairman
Dr. Mike Marchioni, Vice-Chairman
Jenny Lockmiller
Marcy Walker

Members Absent: Robert Thomas

Staff Present: Venard Asongayi - Development Coordinator, City of Johnson City
Will Righter - Planner, City of Johnson City
Nicole Lawrence - Recording Secretary, City of Johnson City

Chairman Wild called the meeting to order at 6:00 p.m. A quorum was present.

Approval of the Agenda for the October 2, 2018 meeting was put forth with a motion to add an item to the end of the agenda, a discussion on a change to the Zoning code BZA Bylaws Article V, was put for the by Vice-Chairman Marchioni with a second from Commissioner Walker. The agenda was approved 4-0.

Approval of the minutes from the September 4, 2018 meeting was put forth with a motion to approve by Commissioner Walker with a second by Commissioner Lockmiller. Vice-Chairman Marchioni abstained. The minutes were approved 3-0-1 (Marchioni)

New Business:

The first item on the agenda was consideration of a 20.75 ft. variance request to reduce the front yard setback of the principal structure from 45 ft. to 24.25 ft. to reconfigure two drive-thru lanes in order to provide more on-site vehicular queuing. The proposed reconfiguration will assist in eliminating off-site queuing along Peoples St. In order to develop the longer, double-canopy lanes the applicant proposes to rebuild the principal structure closer to the property line abutting State of Franklin. The property is a Double Frontage Lot and therefore must adhere to the B-4 front yard setback requirements for property abutting both State of Franklin and Peoples St. These requirements prevent the building from being rebuilt in a location that will allow for the reconfiguration of the two drive-thru lanes.

The front yard setback requirement of 45 ft. from the property line abutting State of Franklin makes it impossible for the applicant to rebuild the principal building in a manner that will accommodate the reconfiguration of the drive-thru lanes. A reduction to the front yard setback requirement does not negatively impact the adjoining businesses. The current site configuration creates off-site queuing on Peoples St. This poses a safety hardship to both the business and its customers. Staff recommended the Board of Zoning Appeals favorably consider this variance request, reducing the front yard setback abutting St. of Franklin to 24.25 ft.

Public hearing was opened;

The developer Shawn Hickman, 604 Hickman St., Orlando, FL – spoke in favor of the variance request and was available to answer any questions the commissioners may have.

Seeing no one wished to speak, public hearing was closed.

A motion to approve the requested variance as presented was put forth by Commissioner Walker with a second from Vice-Chairman Marchioni.

Variance approved 4-0

The second item on the agenda was to consider a variance request to relocate the dumpster from the side yard to the front yard abutting Peoples Street. The applicant intends to demolish the existing principal structure and rebuild it closer to the west corner of the property abutting State of Franklin. The Johnson City Zoning Ordinance requires accessory structures in the B-4 District such as dumpsters to be located only in the rear yard. A double frontage lot has no rear yard. A location variance for the on-site dumpster enclosure is, therefore, warranted. The applicant intends to demolish the existing principal structure and rebuild it closer to the west corner of the property abutting State of Franklin. As part of the site rebuild, the applicant also intends to reconfigure the drive-thru lanes in order to provide more on-site queuing to prevent vehicular stacking on Peoples St. The proposed reconfiguration would route the drive-thru lanes through the existing dumpster location. Staff recommended that the Board of Zoning Appeals favorably consider this variance request, allowing for the relocation of the dumpster to the front yard abutting Peoples St.

Public Hearing was opened; seeing no one wished to speak, public hearing was closed.

A motion to approve the requested variance as requested was put forth by Vice-Chairman Marchioni with a second from Commissioner Lockmiller.

Variance approved 4-0

The third item on the agenda was consideration of a special exception to allow for shared parking of three general retail stores located at 3019 Peoples St. The applicant intends to operate three separate general retail businesses out of the former K-Mart building. Staff recommends approval.

Public hearing was opened;

John Abernathy – Birmingham, AL, with Trinity Development, AKA Blackwater- spoke in favor of the special exception.

Seeing no one wished to speak, public hearing was closed.

A motion to approve the requested special exception as presented was put forth by commissioner Walker with s second from Vice-Chairman Marchioni.

Special exception approved 4-0

The fourth item on the agenda was to consider a variance request to reduce the number of joint parking spaces for three retail businesses at 3019 Peoples St. from 776 stalls to 698 stalls. The three retail operations have a combined retail area of 163,991 sq. ft., which would ordinarily require 820 parking spaces. The installation of 20 bicycle racks and planting of 24 shade trees enables the developer to earn parking reduction credits as permitted in Section 11.2.6 of the Zoning Code. This reduces the parking requirement by 44 parking spaces. The applicant is also planning the future development of four outparcels with self-contained parking at this same location. The location of these outparcels combined with the steep topography along Greenline Rd and to the rear of the property will prevent the applicant from providing the required number of parking spaces. The applicant is requesting a variance to reduce the parking requirement by 78 spaces, and provide for a total of 698 parking spaces. The proposed shade trees and the landscaping requirements for the outparcels will reduce the vast expanse of asphalt currently on the property and significantly improve the aesthetic nature and storm water management of the property. Considering the market reality, staff believes that 698 parking spaces should adequately accommodate parking for all three businesses.

The developer intends to operate three general retail businesses out of the old Kmart facility at 3019 Peoples St. and has requested the BZA to approve a Special Exception to allow for joint parking for these three businesses. The applicant also intends for future development of four outparcels with self-contained parking at this property. Staff recommends approval.

Public Hearing was opened;

Steve Harrison – 930 Millercrest Dr., Johnson City, Tn. – spoke in favor of the request. He owns a business directly across the street from this site and is anxious to have a tenant move back in.

Edgar Lockett - 8 McGreggor Pl, Johnson City, Tn. – spoke in favor of the proposed development.

Seeing no one else wished to speak, public hearing was closed.

The commissioners stated that the outparcels are a self-imposed hardship created by the developer. However, after a lengthy discussion the commission determined that the steep topography along the rear property line and the property line abutting Greenline Dr. does create a hardship that prevents the developer from providing the number of parking stalls required by the zoning ordinance.

Motion to approve the requested variance as presented was put forth by Vice-Chairman Marchioni with a second by Commissioner Lockmiller.

Variance approved 4-0

The fifth item on the agenda was to consider a request to increase the height of freestanding sign from 30 ft. to 45 ft., and size from 90 sq. ft. to 250 sq. ft. at 10 ft. setback. The applicant intends to place a freestanding sign at the same location where the Old Kmart sign was on the property, but to increase the size of the sign from what Kmart had to 250 sq. ft. The sign location only has a 10 ft. setback. The maximum height permitted for a 10 ft. setback freestanding sign is 30 ft.; the developer wants to increase it to 45 ft. The developer desires a larger (250 sq. ft.) and taller (45 ft.) freestanding sign to maximize visibility from the interstate. To achieve this, the sign **MUST** have a setback of at least 25 ft. from the Peoples St right of way. There is no undue hardship associated with this variance request. The developer can meet his desires by relocating the sign in a landscape island within the parking lot at least 25 ft. from the Peoples Street public right-of-way. Staff recommended denial.

Public hearing was opened;

The developer was present and spoke in favor of the sign variance stating his potential retail client wanted their sign close to I-26 in order to receive the best placement for people to see their sign.

Seeing no one else wished to speak, public hearing was closed.

A motion to deny the requested variance as presented was put forth by Vice-Chairman Marchioni with a second from commissioner Walker.

Variance denied 4-0

The commissioners and staff proceeded to discuss changes to the Board of Zoning Appeals bylaws, Section V. Changes were made and agreed upon regarding time limits to be set during public hearings; each person speaking would be allowed a three-minute time limit in which to speak and make their case either for or against a specific item. The changes will go before the City Commission for final approval for change to the zoning code.

There being no further business the meeting was adjourned at 7:45 pm.



Dr. Stacey Wild - Chairman