

BOARD OF ZONING AND SIGN APPEALS
OFFICIAL MINUTES OF THE GOODLETTSVILLE
BOARD OF ZONING AND SIGN APPEALS

Date: November 7, 2017

Time: 5:00 P.M.

Place: Massie Chambers- Goodlettsville City Hall

Members Present: Chairman Tom Mosier, Owen Sanders, Edgar Lowe, Commissioner Rusty Tinnin, William Carter

Absent: All present

Also Present: Director of Planning and Development Services Addam McCormick, City Manager Tim Ellis, City Attorney Russell Freeman, Commissioner Zach Young, Rhonda Carson, and other interested persons.

Chairman Tom Mosier called the meeting to order. Owen Sanders made a motion to approve the minutes of the June 6, 2017 Board of Zoning and Sign Appeals meeting as written. Mr. Edgar Lowe seconded the motion. The motion passed 5-0.

Chairman Mosier announced that anyone wanting to speak on behalf of this item, would need to sign the registration sheet provided.

Item #1 {PUBLIC HEARING}

Phillip Bernier, Property Owner: Requests an administrative appeal of a zoning notice regarding a residential rental use at 510 Mason Lane. Property is zoned R-25, Low Density Residential Zoning District. Property is referenced as Sumner County Property Tax Map/Parcel # 143I, Group A, Parcel 019.000. and contains 0.88 acres.

Addam McCormick, Director of Planning and Development Services reviewed the request. He stated the request by property owner, Phillip Bernier is an administrative appeal of a zoning violation regarding a residential rental use at 510 Mason Lane. The property is zoned R-25, Low Density Residential and contains an existing legal nonconforming duplex on the property. Mr. McCormick reviewed the powers of the Board in determining if administration interpreted the zoning ordinance correctly and prepared the zoning violation accordingly regarding short term rental of this property. Staff gave a timeline of events for the Public Hearing by ordinance: ***August 25, 2017***-Formal violation notice sent to owner regarding short term rental/transient residential use according to the Zoning Ordinance

Mr. McCormick reviewed the zoning ordinance pertaining to residential areas (R15, R25, R40, etc.) which prohibits short term rentals. The ordinance only permits permanent residential uses in the residential zoning districts.

Mr. McCormick stated that staff received a complaint regarding this property operating a short term rental. Once the complaint was filed, Staff investigated the complaint and found the property to be advertised through an on-line booking site for short term rental. Staff also observed five (5) cars at the property the week of July 21st. A violation notice was then sent informing the owner that rental less than thirty (30) days is not permitted.

Property Owner Phillip Bernier (510 Mason Lane) addressed the Board members and discussed and reviewed the following:

14-202. Use classification, (6) Commercial activities.

(s) Transient habitation includes the provision of lodging services for transient guests. The term shall include four (4) different types of activities as defined in § 14-203(3).

(i) Hotel

(ii) Motel

(iii) Extended stay hotel/motel

(iv) Single room occupancy residential facility (SRO)

Mr. Bernier discussed his interpretation of the zoning ordinance and definition of the word “shall”. He did not feel his home fell under the classification of a “commercial activity”. He discussed each activity as defined in 14-202 and how each did not relate to his short term rental. He stated, therefore based on the definition of our ordinances, he is not violating a zoning ordinance as he is not running a hotel, motel, extended stay hotel/motel, and not renting a single room occupancy residential facility (SRO).

Chairman Mosier asked Mr. Bernier to describe what he felt he was operating. Mr. Bernier stated he was renting out his home and by definition of transient habitation, he was not doing that. He reminded the Board that the ordinances were written before short term rental were happening in Goodlettsville or the Nashville area. He stated he read through all of Goodlettsville’s ordinances and could not find any specifically relating to short term rental. He felt the renting of his home, was falling outside the definition of permanent residential and transient habitation according to the zoning ordinance.

Addam McCormick clarified for Chairman Mosier that the residential areas only permit permanent residential uses and the violation is that it is not being used as a permanent residential home and the time limit of the rental is less than thirty (30) days. This violation was based on the interpretation of the perimeters that we currently have in place. He explained the provision for Bed and Breakfast uses.

Chairman Mosier opened the Public Hearing at this time.

Bryan Jenkins, resident at Mason Circle stated his property backs up to the property at 510 Mason. He explained that he had an occurrence happen at his home regarding the rental of the property at 510 Mason. He stated someone had approached his back porch area looking for the correct rental home and had come to his house by mistake. Mr. Jenkins was concerned about the incident and wanted the Board members to know that he wanted the residential area he lives in to remain permanent residential.

Michael Ryman, resident at 508 Mason Lane (next door to 510 Mason) stated that Mr. Bernier has improved the property since he purchased it, but he did not want the property to be considered a “motel” with not knowing who is coming and going. He stated most neighbors

were not in favor of this property being rented as short term. He said that he did not know it was being used as an "Airbnb" until he received a letter informing him of the meeting. He also expressed concern of other properties in the area being rented on the website (Airbnb). Cisco Gilmore, resident and business owner in the City, complimented Mr. Bernier on his presentation. Mr. Gilmore stated he is concerned for citizens who live next to these rental properties. He is concerned with the change of people from night to night. He stated the City is established on values and nightly rentals should not be allowed in residential areas.

City Manager Tim Ellis informed the Board that per the 2015 opinion of the State of Tennessee Attorney General, short term rentals by definition qualify as a hotel and they are required to pay hotel/motel taxes.

Phillip Bernier addressed the Board. He apologized to Mr. Jenkins about the episode at his house. He also stated that he has never been notified from neighbors of any concerns or issues with the property. He invited them to discuss any issues with him as a neighbor. He discussed issues he had trying to rent it as a long term rental and the challenges he faced with the previous tenants. He discussed a survey conducted by the Tennessean regarding complaints in the Metro Nashville area. He stated according to these statistics a very small percentage of complaints were directly associated with short term rentals.

Chairman Mosier thanked Mr. Bernier for the information he provided, but did not feel this information was pertinent to the appeal request before them.

Brent Lanius, resident at 507 East Angela approached the Board. He stated his property is behind 510 Mason and expressed that he would like the phone number of the owner, Mr. Bernier to call him directly of any concerns in the future.

Cisco Gilmore approached the Board again and stated he is also concerned how this "Airbnb" could affect home sales in the neighborhood.

Chairman Mosier asked if the Board had any questions.

Commissioner Tinnin asked if ordinance 14-202 Use classification, clearly states that anything less than monthly (30 days) is prohibited.

Russell Freeman, City attorney stated that just because the term transient/vacation rental is not specifically defined, there is no inclusion within this permanent residential zoning by virtue of it being excluded by definition. The clear point is that permanent residential is thirty days (1 month) or more as defined.

Based on Staff recommendations and discussion had at this meeting, Edgar Lowe made a motion to deny the request and uphold the decision of Staff and not allow this short term residential rental to continue at 510 Mason Lane based on the following:

1. The definition given by State Attorney General defining what Hotel/Motel, rooming house is.
2. The fact that the Zoning Ordinance defines transient residential use as less than thirty (30) days.

Commissioner Tinnin seconded the motion. The motion passed unanimously, 5-0. Chairman Mosier stated the interpretation has been supported by the vote.

Mr. Bernier asked if there can be an appeal for a variation from the ordinance for specific circumstances. Mr. McCormick stated that the Planning Commission has been discussing a possible amendment to the zoning ordinance to allow this type of use, but no determination has been made at this time. He stated Mr. Bernier also has the right to appeal this decision at the court level.

Mr. Bernier asked how he could move forward with the amendments.

Chairman Mosier stated that he should set an appointment with Staff to discuss future plans.

City Manager, Tim Ellis clarified that his only appeal process at this point is to Chancery Court.

Addam McCormick stated that Staff has sent multiple letters to residents in the City regarding short term rentals. First a letter is sent when a complaint is received, if the violation continues, then a violation letter is sent to the owner. He stated this is the first case that has been before the Board of Zoning and Sign appeals.

Commissioner Tinnin made a motion for adjournment. Owen Sanders seconded the motion. All in favor.

The meeting adjourned at 5:50 P.M.



Tom Mosier, Chairman



Rhonda Carson, ECD Assistant