

MINUTES OF THE GOODLETTSVILLE
BOARD OF ZONING APPEALS

Date: August 12, 2002

Time: 5:00 PM

Place: City Hall Conference Room

Members Present: Tom Mosier, Ed Lowe, Glen Garrett, Mike Cunningham

Staff Present: Bill Terry, Bennie Lane, Vicky Ignatz

Others Present: John Carpenter, Rachael McCorkle, Wayne McCorkle, Timothy Eidson, Ray Waddle, Marie Waddle, James S. Turner, Doris Ruskin, Frank Raden, Allen Ramsey, Clayton Gholan, Carl Minchey, Jim Galbreath, Teresa Galbreath, Will Galbreath, Johnny Claude Garrett, Phillip Galbreath, Jim Thomas, Jeff Cordell, and others

Cases: 2002-08-422 2002-08-423

The meeting was called to order by Tom Mosier. Minutes of the July 8, 2002 Goodlettsville Zoning and Sign Appeals Board were approved as written.

CASE NO. 2002-08-422 Consider the request of William Morgan, 110 Valerie Court, Sumner County Tax Map 140P, Parcel 12, to grant a variance in the rear yard setback regulations. The applicant is John Carpenter, contractor.

Analysis – Staff reviewed. The applicant is in the process of building a house on the lot on Valerie Court. The house is framed and roofed, but during the loan survey process, it was discovered that the rear corner of the house encroaches about three (3) feet into the required rear yard setback. The property is zoned R-25 and this district requires a 30-foot rear yard setback. Terry presented a video of the subject lot illustrating the topography of the area and depicting the location of the house in relationship to the setback lines, property lines and adjoining homes.

The contractor maintains that the house was placed as far back on the lot as possible due to the steep slope of the lot from the street.

Discussion - John Carpenter, building contractor, explained that a property survey was prepared indicating the required thirty (30) feet setback lines. When the contractor was laying out the lot, it was discovered the house would be basically facing another house at the bottom of the hill. The contractor made the decision to reposition the house to align it with the cul-de-sac resulting in the encroachment of the rear setback line by three (3) feet.

Carpenter stated he requested a survey at the footing stage of construction. The completed survey was forwarded to the bank by the surveying company. Carpenter indicated he did not receive a copy of the document and assumed there were no problems with the survey. Carpenter reported he was not aware of the setback line encroachment until the bank informed Carpenter that the mortgage loan survey indicated non-compliance of the setback regulations. At this point construction had progressed to near completion of the framing stage. A variance application was thereby filed with the Goodlettsville Board of Zoning and Sign Appeals.

Carpenter acknowledged that two major factors, the severity of the grade of the lot and the large amount of rock located on the lower section of the property, determined the positioning of the home closer to the rear of the property. Extensive excavation or blasting would have been required to position the house downward of the lot. Approximately four (4) feet was excavated from the current building site to prevent excessive height at the front of the house. Mosier questioned if the rock was a factor with the current location of the home. Carpenter stipulated that the garage, porch and step areas contained rock; however, they were able to work around the rock.

Rachael McCorkle, 910 W. Cynthia Trail, the rear yard adjoining property owner, requested a copy of the initial survey and questioned if the surveyor is a licensed surveyor. She asked for clarification as to whether the property was surveyed a second time after the building footprint was changed and prior to the placement of the footings. Her major concerns are the close proximity of the new home to her property line and the misalignment of the home with the established neighborhood. McCorkle has spoken with a realtor who indicated the location of the new home will have a detrimental effect on the resale value of her home and the adjoining neighbor's home. Mosier stated that it is not unusual to see homes out of alignment in a neighborhood and such homes are in compliance if they meet the setback requirements. Terry stated the minimum setback lines for each zoning district are established by the zoning ordinance and these lines create a building envelope. Anywhere within the building envelope a person may build.

McCorkle questioned if there are plans for any other structures on the property. Mosier stated he could not answer the question and that is not an issue before the Board at this time. McCorkle stated that it was her understanding there are plans for installation of a pool in the back of the new home. Her concern is that there is not enough room for this structure. Terry acknowledged he understood installation of a pool has been discussed. There have been no official plans submitted; however, a pool is a permitted use. Due to the fact a pool is an accessory structure, it can locate within a required setback. It may encroach into the rear yard up to a point. In this particular lot, there is a ten (10) foot utility easement. There can be no encroachment into the utility easement without the permission of the city.

Timothy Eidson, 108 Valerie Court, questioned whether variances are typically requested after a house is built. Mosier stated that typically a variance is requested prior to the construction. Terry stated that it is his understanding that Mr. Carpenter, the contractor, had no knowledge of the encroachment until the mortgage loan survey indicated non-compliance. Edison asked if there is any precedence in a decision by the Board regarding a setback variance involving a house that is already built. Mosier stated this type variance request is not common. Terry added that he was not aware of any cases where the action of the Board required the home to be demolished and relocated. Eidson stated that he is uncomfortable with the building process and wished the situation had been handled differently by informing the adjoining neighbors of the intent of the builder prior to construction.

Carpenter responded to McCorkle's question regarding the surveyor. The initial survey indicating property lines and setback lines was conducted by Rocky Montoya, a licensed surveyor. At this time, the owners are not planning to install a pool. Carpenter previously met

with the pool manufacture to discuss the option of installation of a pool. Should a pool be installed it would not encroach on any setback lines and would be located a minimum distance of thirty (30) feet from the property line.

Terry stated this is an unfortunate situation which impacts the adjoining neighbors due to their concern that the house is too close to the property lines. However, Mr. Carpenter has essentially complied with all the requirements as far as locating in the building envelope except for the back corner of the house. There is no easy way to resolve the situation. The options available are to approve the rear yard setback variance, to demolish the home or reposition the home.

Terry wanted to clarify the law relating to the power of the Board and paraphrased Section 13-7-207(3) of the Tennessee Annotated Code granting authority to this Board to determine action on a variance. "Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of exceptional topographic conditions or other extraordinary and exception situation or condition of such piece of property, the strict application of any regulation enacted under this chapter would result in a peculiar or exceptional practical difficulty which is related to said property, then a variance may be granted provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zoning plan.

Lowe stated the building site restricted conformity with the existing neighborhood due to the slope and elevation of the lot.

Action of the Board - Motion by Lowe to grant a three (3) feet rear yard setback variance based on the hardship of the topography of the lot. Motion seconded by Garrett. Motion passed unanimously.

OFFICIAL ORDER OF THE BOARD

WHEREAS; the public and adjoining property owners have been adequately notified, and

WHEREAS; the Board has determined that the requirements of Section 14-307(f) have been met, and

WHEREAS; the Board has determined that no adverse impact will occur;

NOW, THEREFORE, BE IT ORDERED, that a three (3) feet variance in the rear yard setback requirement be granted at 110 Valerie Court, Sumner County Tax Map 140P, Parcel 12 based on the establishment of a hardship as a result of the topography of the lot.

CASE NO. 2002-08-423 Consider the request of the Goodlettsville Church of Christ, 115 Harris Street, Davidson County Tax Map 25-B, Parcels 17, 22, 24, 25 to grant a conditional use permit for a parking lot extension. The applicant is Jared Gray, Ragan-Smith Associates.

Analysis - Staff reviewed. Terry reported the Goodlettsville Church of Christ has acquired some additional lots on Harris Street adjacent to the lot which was previously approved by this board for use as a driveway. The proposal here is to use the back portions of the lots for a parking lot while continuing to rent the houses located on the front part of the lots. The issue before this board is the conditional use permit for the parking lot in the residential zone.

A subdivision plat will need prepared to be to combine the lots and create an area for the parking lot. The subdivision plat and site plan will be submitted to the Planning Board and the lots as well as the parking lot will have to meet all zoning and subdivision regulations.

Discussion - Allen Ramsey, Ragan-Smith Associates, is requesting a conditional use permit for a parking lot located in a residential zoning district. The access drive has been approved on Lot 5. Per the request of the Planning Board, the existing house will be removed. Mr. Gholson stated the existing houses on Lots 6, 7, 8 and 9 will remain rental homes at this time.

Action of the Board - Motion by Garrett to grant a conditional use permit for the Goodlettsville Church of Christ, Davidson County Tax Map 25-B, Parcels 17, 22, 24, 25, portions of Lots 6, 7, 8 and 9, located on Harris Street, for a parking lot expansion. Motion seconded by Cunningham. Motion passed unanimously.

OFFICIAL ORDER OF THE BOARD

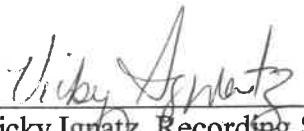
WHEREAS; the public and adjoining property owners have been adequately notified, and

WHEREAS; the Board has determined that the requirements of Section 14-1409(c) have been met, and

WHEREAS; the Board has determined that no adverse impact will occur;

NOW, THEREFORE, BE IT ORDERED, that a conditional use permit be granted for a parking lot expansion for Goodlettsville Church of Christ, Davidson County Tax Map 25-B, Parcels 17, 22, 24, 25, portions of Lots 6, 7, 8 and 9, located on Harris Street.


Tom Mosier, Chairperson


Vicky Ignatz, Recording Secretary