

OFFICIAL MINUTES

GOODLETTSVILLE BOARD OF ZONING APPEALS

Date: January 14, 1991
Time: 6:00 PM
Place: City Hall

Cases Heard:
 91-1-205
 91-1-206

Members Present:

Tommy Jackson
 Fred Chapman
 Owen Sanders
 Tom Mosier

Others Present:

Dale Burie
 John Garrett
 Billy Benz

Staff Present:

Bill Terry

Chairman Niebruegge was absent, therefore, the Board elected Fred Chapman as acting chair for this meeting. The minutes of the previous meeting were approved as submitted.

Case No. 91-1-205 - Consideration of a request for a conditional use permit to operate a live music performance theater in a portion of Outlets LTD Mall. The Mall is zoned CSL, and the use is classified as an Entertainment and Amusement Activity which is permitted by conditional use.

Staff Analysis - The applicant, Dale Burie (DBA Front Porch Theater), wants to establish a live performance theater with a seating capacity of 150. The theater would have performances at specified times each day. This is an entertainment use which is permitted by conditional use permit. The requirements established by ordinance that the Board must consider are that the use be found to have no adverse impact on adjoining property and that all zoning requirements be met. This would include parking requirements. Also, all fire safety code requirements must be met. The only alterations to the building are interior. The sign ordinance also applies.

An as built survey showed that adequate parking is available. Other considerations that the Board may want to examine include hours of operation, level of noise and its effect on other tenants, and the safety of the facility to house this number of people.

The last factor above must be considered in light of recent problems relating to electrical code violations and fires which were caused by them. The fire department responded to a fire call during December at the Mall and extinguished two fires which were caused by improper electrical connections. A detailed inspection by the fire department, building inspector, and Metro electrical inspector revealed numerous violations in the wiring for several signs on the building. These problems are now being corrected, but

the Mall must have better management of the facility. The Board needs to have assurance from the owners of the Mall that this situation will not recur.

Discussion - No one was present for the public hearing, and proper notice was given. The board asked about hours of operation, the level of compliance with the electrical code, level of noise, type of operation, and design of the facility for emergency exits.

Assistant Fire Chief Phillip Gibson explained the fire and wiring situation. John Garrett representing the Mall ownership stated that the necessary corrections were being made and that the situation would not occur again. The Board noted that this was a code problem and that the facility would not be allowed to open until all code requirements were met. Gibson also noted that an emergency exit to the rear would be required.

Burie discussed the type of operation, who would perform, and type of management. Generally, three shows a day will be done at approximately 3:00, 6:00 and 9:00. No alcohol will be served. Garrett noted that if the noise level was excessive in adjoining stores, then the Mall management would add sound insulation.

Board Action - It was moved by Tom Mosier that the permit be approved due to the fact that parking is adequate, code requirements will have to be met, the use will not create an adverse impact, and other zoning requirements can be met. Tommy Jackson seconded, and the motion was carried 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 general requirements of Section 11-1409 (d) and the specific requirements of Section 11-1409 (f) (2) of the zoning ordinance have been met; and

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

NOW, THEREFORE, BE IT ORDERED, that the conditional use permit as requested is approved and that this order shall constitute said permit.

CASE NO. 91-1-206 - Consideration of a request by Billy Benz for a rehearing of a request for a variance in the height requirements for an accessory building on his property.

Staff Analysis - This case was originally heard as Case No. 90-198 in September of 1990, and the variance request was rejected. The zoning ordinance provides for rehearing of a case by a majority

vote of the Board. This means it will take three votes to rehear the case. The basis for rehearings is that there is new evidence or information on the case or that there was error or mistake in the original hearing. In this case Mr. Benz is requesting a rehearing based on the fact that the full board was not present for the first hearing.

Discussion - No one was present for the public hearing. After discussion of the facts of the issue of a rehearing, it was voted unanimously to rehear the case. The Board noted that this property consists of about five acres and is quite a bit larger than other adjoining lots which average between 1/2 and one acre. The use of the building was discussed, and Benz stated that it was accessory to his house for recreation and group meetings. It was also noted that he had built an office in the building in which a computer was used and records were stored. Occasionally, a client will come in for a meeting and lunch. The facts of the previous hearing were covered again.

Board Action - Tom Mosier moved that due to the size of the property, the height of main structure, the topography of the lot and the fact that no one objects from the neighborhood, the variance of 4 1/2 feet be granted. Second by Owen Sanders. Motion carried by a majority vote of 3 to 1 with Jackson voting no.

OFFICIAL ORDER OF THE BOARD

WHEREAS; the public and adjoining property owners have been adequately notified and no one objects, and

WHEREAS; the property in questions is five acres in size; and

WHEREAS; the lot contains a low point at the location of the building, and

WHEREAS; the house is over 35 feet in height,

NOW, THEREFORE, BE IT ORDERED, that a variance of 4 1/2 feet be granted.

The meeting adjourned at 7:00 PM.

Eddie Niebruegge, Chairman

Submitted by:



Bill Terry, Planning Director