

OFFICIAL MINUTES OF THE MEETING

GOODLETTSVILLE BOARD OF ZONING AND SIGN APPEALS

September 6, 2022

Goodlettsville City Hall

5:00 p.m.

Massie Chambers-Auditorium

Present: Chairman Cisco Gilmore, Jimmy D. Anderson, Stuart Huffman, Mark Writesman

Absent: Brian Rager

Also Present: Addam McCormick (Staff), Tim Ellis-City Manager, Russell Freeman-City Attorney, Sharon Reed (Staff)

Chairman Gilmore called the meeting to order at 5:00 pm and declared a quorum.

Approval of August 2, 2022 Meeting Minutes: Writesman made a motion to approve the minutes of the August 2, 2022 meeting, Huffman seconded the motion. Motion was approved.

AGENDA

Item #1 Mike Galbreath, Property Owner: Requests a rear building setback variance to permit an accessory carport to be attached to the house at 207 West Cedar Street. Property referenced as Davidson County Tax Map/Parcel#. 02504001600 Zoning Ordinance Section 14-208 (1)(e)(vii) **(Revision to request deferred at August 2nd, 2022 Meeting)**

Staff Discussion:

- The Board of Zoning and Sign Appeals at the August 2nd, 2022 meeting discussed the request regarding an administrative appeal to keep the recently constructed carport building in violation of the Zoning Ordinance.
- The carport is a violation of the maximum size of permitted accessory buildings.
- As discussed at the August meeting, the request has been revised to a rear building setback variance request to attach the accessory building/structure carport to the primary building/structure house with an attached roof line including a section of steps.
- The carport is ten (10') feet from the rear property line.
- The property is zoned R-10, Medium Density Residential.
- The Zoning Ordinance R-10 district section require a twenty (20') feet rear setback for primary buildings/structures.
- The Zoning Ordinance permits accessory buildings when there are no designated easements to be five (5') feet from the back and side property lines.
- The proposal to connect the carport to the house would change the classification of the building /structure from an accessory to primary building/structure.
- The revised request is a variance to reduce the rear building (primary building/structure) setback from twenty (20') feet to ten (10') feet.
- The Zoning Ordinance permits a total building square footage of 5,576 on the 0.32-acre property (13,939 square feet) based on the maximum permitted forty (40%) percent lot coverage for all buildings/structure including both primary and accessory.
- The existing garage and recently constructed carport are both 720 square feet (1,440 square feet) and the house is 1,390 square feet.
- The total building area is 2,830 square feet or twenty (20%) building lot coverage.

- The four (4') feet width proposed roof line connection would be an estimated 260 square feet.
- The total square feet of building area including existing and proposed roof line connection would be 3,090 square feet or twenty-two (22%) percent of building lot coverage.
- Any motion to approve or deny the variance request will need to include the basis for the motion per these review standards.
- As discussed at the August Meeting, the appeal and variance request to keep the carport without an attachment including staff's denial recommendation was based on the Zoning Ordinance violation notice.
- The revised request for a setback variance would be a different request.
- The conditions of the property including property slopes, shared driveway, and conditions of the property per the Zoning Ordinance Variance Review section would need to be reviewed with the rear building setback variance request.
- Staff would recommend approval based on the slope of property at the rear of the primary building/structure house and the level of shared driveway alteration that would be required to relocate the existing carport for an attachment to the back of the primary building/structure house. The carport location is in an area of an existing established vehicle driveway and parking area.
- The recommendation is based on Zoning Ordinance Section 14-213 (8)(c) Variance review items (i) and (vii)
- Staff's recommended approval includes the stipulation for the applicant obtain permits for the carport work completed and roof line connection

Applicant: Mike Galbreath, 207 West Cedar Street

Public Hearing Opened: No one requested to speak.

Public Hearing Closed

Board Discussion:

No Discussion

Motion: Writesman made a motion to deny the request based on Mr. Galbreath creating the hardship by not applying for a permit or ceasing construction when asked to do so by a code's official, seconded by Anderson . The motion passed unanimously.

Item #2 Cynthia Payne: Request conditional use approval for a home day care center at 611B Ellen Drive. Property is zoned R25, Low Density Residential as is referenced as Sumner County Sumner County Tax Map/Parcel# 143NA007.00 Zoning Ordinance Section 14-213 (9)(e)(ii)(a)(1)

Staff Discussion:

- Staff received a complaint about a day care operating at the property and sent a violation notice.
- The property is zoned R25, Low Density Residential and includes 26,000 square feet in lot area which meets the minimum lot size requirement in the R25 zoning district of 25,000 square feet.
- The use is a non-conforming three (3) unit residential rental use.
- The applicant's request is for the home day care to permit up to four (4) kids with the home day care use.
- The State of Tennessee regulates home day cares including five (5) or more kids.
- The City's Zoning Ordinance definition of home day care does not include a defined minimum number of kids to be considered a home day care.
- The City's Zoning Ordinance Conditional Use section includes both general and specific review criteria.

- Per the Zoning Ordinance Conditional Use section, the Board can define reasonable restrictions on the conditional use application including restrictions to reduce or minimize the injurious effect of such conditional use upon and ensure compatibility with surrounding properties.
- The Board would need to define any restrictions to the conditional use application with the meeting motion.
- Since the home day use issue was determined based on a complaint and since the request is for use in a three (3) residential rental unit, the applicant will need to discuss the operation of the limited home day care to not adversely affect the adjacent properties and in this case other tenants in the building.
- The operation items to be reviewed include age of the children and hours of operations including drop off and pick up times.
- The applicant has requested the Board to review the outdoor play area fence requirement for the home day care conditional use based on the setting of the property.
- Staff discussed the proposal with the property owner, and they are aware of the request and possible required fence improvements.
- Staff would recommend approval based on applicant presenting the operation criteria determined by the Board to not adversely impact the adjacent properties and other tenants in the building.
- The Board will need to review the outdoor play area and depending on the age of the children included in the home day care a fenced in play area behind the residential building per ordinance provisions may need to be provided.
- The property owner would have to provide written approval of the fence installation and location.
- Since the proposal is of up to four (4) kids which would not be under the state licensing regulations, then the City's Code Department to review the tenant space to ensure all emergency egress doors and windows and operable smoke detectors and any other applicable life safety code features for a residential unit would be provided and operational.
- Due to the unique setting of the home day care use within in a multi-unit residential use the conditional use is recommended to be limited to three (3) to four (4) kids only.
- The number of kids permitted with the home day care use depends on the applicant's discussion of the home Day care operation to reduce the adverse impact to adjacent properties and residents in the building.

Applicant: Cynthia Payne, 611 B Ellen Dr.

- Payne explained she keeps children that are waiting to get into a day care due to the long wait list or starting pre-school.
- Payne states most are smaller children ranging in age from one (1) year to twenty-four (24) months
- Payne states she is a grandmother of six (6) so she may have on occasion her grandchildren in addition to the day care children
- Payne states she keeps her Goddaughter four (4) nights a week
- Payne states she is in rental property and plans to move in March when her lease is up.
- Writesman asked if the property owner is aware of the request
- McCormick responded the property owner is aware of the request and discussed if the board requires a fence would need confirmation from the property owner
- Writesman asked if the day care is upstairs
- Payne responded she moved there in 2019 and discussed the unit under her.
- Huffman discussed the property owner and the variance/conditional use.
- McCormick responded the conditional use goes with the applicant not the property owner.

Public Hearing Opened:

Ashley Cooley, 610 Ellen Drive

- Cooley states she does not want to live across the street from a day care center.
- Cooley states she purchased a house in a residential neighborhood not to be across the street from a business

- Cooley states she does not want the view out her front window to be advertising signs for a day care and she does not want the traffic or street parking for the day care
- Cooley states they are concerned with property value across from a day care

Public Hearing Closed

Board Discussion:

- Gilmore discussed the conditional use and if the applicant moves in March the conditional use will expire and if the board approves is the fenced in area required
- McCormick responded in the zoning ordinance it is one of the conditional use requirements for a home day care
- Gilmore discussed a timeline for the conditional use request
- McCormick discussed options the board could have on the conditional use request
- Freeman asked for updates on the residential fencing modifications.
- McCormick responded and explained the requirements for this location
- Anderson discussed concern with fire and safety issues of a day care on the 2nd floor
- Huffman discussed concern with the day care variance request if you just have four (4) kids

Motion: Huffman made a motion to deny the request, seconded by Writesman. The motion passed unanimously.

Item #3 Kenjoh Outdoor Advertising, LLC: Requests an administrative appeal of the Planning Director's decision to deny a sign permit for a high-rise pole sign within the Rivergate Parkway Interchange Sign Zone District for a proposed sign on CSX, Railroad right-of-way adjacent to I-65. The sign is proposed west of the south bound I-65 entrance ramp off Rivergate Parkway. Zoning Ordinance Section 14-305 (2).

-Staff Discussion:

- Applicant requests a deferral to the November meeting.

Motion: Anderson made a motion to defer the request, seconded by Writesman . The motion passed unanimously.

With no further business, Huffman made the motion to adjourn, seconded by Anderson. The motion passed unanimously.

The meeting adjourned at 5:32 pm.

Mike Galbreath asked questions about the decision. The Board decided to reopen the meeting and start the meeting recording again.

Motion: by Huffman to reopen the Board of Zoning and Sign Appeals meeting, seconded by Anderson.

The September 6, 2022 Board of Zoning and Sign Appeals meeting is open.

- Mike Galbreath stated he did apply and has a copy of the permit.
- Galbreath stated after several months of not hearing back from the City he told his contractor to proceed with construction

- Galbreath stated the first contact he heard from the City was when construction was about ninety (90%) complete
- Freeman asked McCormick if an application was completed
- McCormick responded yes he remembers around Christmas an application was completed and a city staff member called the building company about the size of the proposed building and the permit was not obtained then staff saw the work in March
- Freeman asked McCormick if the permit was denied?
- McCormick responded the permit was not denied and an explanation of the inspection.
- Freeman discussed the contractor's responsibility to follow the codes and ordinance for square footage.
- McCormick responded Mr. Galbreath was the permit applicant.
- Ellis stated he is not a voting member of the board but asked how he completed his application
- Galbreath stated it was a paper application and submitted to the office.
- Galbreath stated this is not something he did without permission he submitted the application and never heard back from the City.
- Freeman discussed last month's meeting issue was the building being out of compliance and this month's meeting request for rear building setback variance
- Galbreath stated if he was denied because he did not have a permit that is not because he did go through the process and did not hear back from the City.
- Freeman discussed the request on the agenda for a rear building setback variance
- McCormick responded the request for a rear building setback variance to permit the accessory carport to be attached to the house
- Galbreath discussed the property line and property layout with carport
- Freeman discussed the minimum and maximum distance setback variance
- Huffman discussed issues with the carport against codes and last months meeting discussion on how it could be amended with a setback variance of ten (10) feet
- Gilmore discussed a complaint a property owner submitted
- McCormick responded a property owner has concern with the driveway ownership and additional construction equipment on the driveway and property
- McCormick discussed the permit and property issue with square footage of house and accessory building
- Huffman discussed the hardship issue and the setback variance request
- Gilmore clarified the motion tonight was to deny the setback variance based on self-inflicted hardship
- Huffman asked Freeman for clarification on the motion to deny
- Freeman discussed the creation of a hardship issue and difficulty of defining a hardship
- Galbreath discussed issues if adding to the home due to the historic nature of house and connection would alter the historic appearance and discussed the shared driveway and property owner complaints
- Galbreath stated he was not aware of the letter they received from a neighbor and asked if it was available to the public
- McCormick responded yes, if he made a request, he could send him what he received.
- Freeman clarified a hardship, a new application for a connection and no construction will start before the application is accepted will allow the issue of creating a hardship not be a bases for denial.
- Freeman discussed a motion to reconsider and a motion to deny or approve.
- Ellis discussed the rules of the board and when items can be reconsidered.
- McCormick responded the Board of Zoning and Sign Appeals operate under the general criteria of Robert's Rules of Order with no by laws defined for hearing agenda items
- Huffman discussed the process of applying for a permit for the connection
- McCormick discussed obtaining a permit, an administrative appeal, and a variance request.
- Huffman discussed not reconsidering the motion and the applicant apply for the permit
- Freeman discussed codes permit process and a variance request

-McCormick discussed a permit application can be submitted but will be denied due to need for a variance to approve request.

Motion: by Huffman to deny reconsideration, motion is not seconded, motion failed.

-Gilmore and Freeman discussed no second is failed motion

The meeting adjourned at 6:00 pm.

Cisco Gilmore, Chairman

Sharon Reed, Planning Assistant