

**BOARD OF ZONING APPEALS
MINUTES
SEPTEMBER 14, 2006**

The Board of Zoning Appeals met on Thursday, September 14, 2006 at 5:15 p.m. in the Council Chambers, 45 E. Broad Street, Cookeville, Tennessee.

MEMBERS PRESENT: Larry Burgess, Kay Detwiler, Jane Flatt, and Sid Gilbreath.

MEMBER ABSENT: Tracy Cody.

STAFF PRESENT: James Mills and Jayne Barns.

OTHERS PRESENT: Robert and Fran Marengo, Tony Kennedy, Walter Young, Greg Jolly, Thad Drake, Brad & April Eicholtz, John Swartz, Mark Anderson, and Patrick Cherry.

CONSIDER FOR APPROVAL THE MINUTES OF AUGUST 10, 2006. Kay Detwiler made the motion to approve the minutes of August 10, 2006. Larry Burgess seconded the motion and the motion carried unanimously. **APPROVED.**

CONSIDER A REQUEST FOR AN ADMINISTRATIVE REVIEW CONCERNING DENIAL OF RELOCATION OF NON-CONFORMING OFF-PREMISE SIGN (BILLBOARD) ON THE PROPERTY LOCATED AT 1200 INTERSTATE DRIVE. REQUEST SUBMITTED BY FLYNN OUTDOOR ON BEHALF OF JIMMY WRIGHT. (THIS ITEM WAS POSTPONED AT THE JULY 13, 2006 MEETING.)

James Mills stated that Flynn Outdoor, LLC, on behalf of property owner Jimmy Wright, has filed an appeal for the review of a decision by the Planning Department to deny the issuance of a permit to relocate a nonconforming off-premise sign located at 1200 Interstate Drive. Consideration of this request was postponed at the July 2006 meeting until the outcome of the adoption of a proposed amendment to the General Sign Regulations of the Zoning Code, which would allow the desired relocation, was determined.

The proposed amendment was adopted by the City Council on August 14, 2006 and is now effective. Flynn Outdoor, via email received by the Planning Department on September 12, 2006, has requested that this item be postponed again.

Staff recommended postponing this item for another month.

Kay Detwiler made the motion to postpone this item for another month. Sid Gilbreath seconded the motion and the motion carried unanimously. **POSTPONED.**

CONSIDER A REQUEST FOR A 433 SQ. FT. VARIANCE TO ALLOW A 16TH MULTI-FAMILY DWELLING UNIT ON THE PROPERTY LOCATED AT 1923 NORTH WASHINGTON AVENUE. REQUEST SUBMITTED BY TONY KENNEDY ON BEHALF OF CHARLIE SOARD. James Mills stated that Mr. Tony Kennedy, on behalf of property owner Charlie Soard, has submitted a request for a variance

to reduce the minimum lot area requirement of the CL, Local Commercial District for a proposed multi-family residential development located at 1923 North Washington Avenue.

The minimum lot area requirement of the CL District for multi-family residential uses is 3,000 square feet per dwelling unit. The subject property consists of approximately 47,567 square feet. Mr. Kennedy would like to construct a 16 unit multi-family development on the property which requires a minimum lot size of 48,000 square feet in the CL District. Mr. Kennedy is requesting a variance of approximately 433 square feet to allow the construction of a 16th dwelling unit. The 433 square feet represents a reduction of less than one (1) percent of the overall land area needed for 16 dwelling units and a reduction of approximately 14 percent of the land area needed for one (1) dwelling unit.

Staff recommended approval of request subject to compliance with all other Zoning Code requirements.

Sid Gilbreath made the motion to approve the 433 sq. ft. Variance to allow a 16th Multi-family dwelling unit on the property located at 1923 North Washington Avenue, subject to compliance with all other Zoning Code requirements. Kay Detwiler seconded the motion and the motion carried unanimously. **APPROVED.**

CONSIDER A REQUEST FOR A 10 FT. FRONT SETBACK VARIANCE ON THE PROPERTY LOCATED AT 1277 FISK ROAD. REQUEST SUBMITTED BY APRIL EICHOLTZ AND SONJA BROWN. James Mills stated that Ms. Sonja Brown, on behalf of Bear Lake Partners, has submitted a request for a variance to reduce the front yard setback by 10 feet for property located in the RS-10 District at 1277 Fisk Road.

Fisk Road is classified as a Major Street, which requires a setback of 50 feet from the right-of-way. The subject property is a corner lot and a setback of 25 feet off Blaine Avenue is also required. The property is encumbered by an East Tennessee gas line easement with a width of 50 feet. Ms. Henry also indicates that Bear Lake Partners previously donated a few feet of their property for the widening of Fisk Road.

Based on all these factors it appears that there are unique circumstances in this case which would justify the approval of a variance.

It should be noted that a similar request was submitted and approved by the Board in August of 2002. The action for which the variance was approved was not begun or completed within one (1) year as per the requirements of the Zoning Code, thus reapplication was required.

Staff recommended approval of the request.

Kay Detwiler made the motion to approve the 10' Variance request subject to the submitted of an amended plat. Larry Burgess seconded the motion and the motion carried unanimously. **APPROVED.**

CONSIDER A REQUEST FOR A SPECIAL EXCEPTION TO ALLOW OUTDOOR STORAGE ON THE PROPERTY LOCATED AT 1191 SOUTH JEFFERSON AVENUE AND A VARIANCE REQUEST TO WAIVE THE REQUIREMENT THAT STORAGE SHALL NOT BE LOCATED IN THE FRONT YARD. REQUEST SUBMITTED BY KYLE JOYCE ON BEHALF OF BIRO LLC. James Mills stated that Mr. Thad Drake, on behalf of property owner Biro, LLC, has submitted for approval a request for a special exception to allow outdoor storage on property zoned as CG, General Commercial, and located at 1911 South Jefferson Avenue. He has also submitted a request for a variance to waive a specific requirement for allowing outdoor storage as a special exception in the CG District.

Biro, LLC has indicated to the Planning Department that they would like to lease their property to Ferguson Enterprises, a plumbing supply company. Ferguson Enterprises has indicated that a substantial amount of outdoor storage is necessary for their operation. Outdoor storage may be permitted as a special exception in the CG District when meeting the conditions of Section 222.4G of the Zoning Code. Section 222.4G provides as follows:

“Outdoor storage of goods and materials when located to the rear of the principal structure facing a street or to the side of the principal structure if a Type 3 Screen as specified in Section 208 of this Zoning Code is provided, and when complying with all minimum yard requirements.”

A Type 3 Screen is intended to exclude all visual contact with the use or material being screened and, at a minimum, must be completely opaque from the ground to a height of eight (8) feet. Different options for providing the screen are allowed including solid fencing, walls or vegetation.

The variance request is to allow a portion of the outdoor storage to be located to the front of the principal structure. Based on the submitted site plan an area extending approximately 170 feet from the front of the principal structure to the required building setback line is desired for outdoor storage.

The site plan indicates that there is an unused area extending approximately 150 feet from the rear of the principal structure to the rear property line; however, none of the outdoor storage is proposed for this location. Mr. Drake has informed the Planning Department that Ferguson Enterprises indicates that it would be cost prohibitive for them to develop this area for storage. The Zoning Code provides that financial considerations alone are not to be considered as a basis for granting a variance. No other particular hardship has been presented that would justify the approval of a variance.

Staff recommended approval of the special exception request subject to compliance with the conditions of the Zoning Code and denial of the variance request.

Greg Jolly and Walter Young gave a presentation on Ferguson Enterprises.

There was a lengthy discussion concerning using the front yard for storage and setting a precedent on this type of use.

Kay Detwiler made a motion to grant the Special Exception for outdoor storage subject to compliance with the conditions of the Zoning Code. Sid Gilbreath seconded the motion and the motion carried unanimously. **APPROVED SPECIAL EXCEPTION.**

Sid Gilbreath made the motion to table the request for a variance. Kay Detwiler seconded the motion and the motion carried unanimously. **VARIANCE TABLED.**

Mr. Mills stated that it will take two votes from the Commission to bring this issue back to the Board.

CONSIDER A REQUEST FOR A SPECIAL EXCEPTION TO ALLOW OFF-PREMISE PARKING FOR 1611 EAST SPRING STREET AT 1601 EAST SPRING STREET. REQUEST SUBMITTED BY FRAN MARENGO. James Mills stated that Ms. Fran Marengo of Custom Fireplaces & More has submitted a request for a special exception to allow a portion of the parking required for the expansion of her business located in the CL, Local Commercial District at 1611 East Spring Street to be located off-premise. The property proposed for the location of the off-premise parking is located at 1601 East Spring Street and is also zoned as CL. This contiguous property is owned Gerald and Sherry Staggs.

Section 205.4 of the Zoning Code provides that off-premise parking for non-residential uses may be permitted as a special exception provided certain conditions are met. These conditions are as follows:

- The property proposed for the off-premise parking is located within 400 feet of the principal use for which the parking is required. In this case the property is contiguous and meets this requirement.
- Off-street parking for non-residential uses must be a permitted use on the property proposed for locating the off-premise parking. The subject property is zoned as CL in which off-street parking is permitted.
- The off-premise parking must not exceed 50 percent of the required parking. The submitted site plan indicates that the proposed expansion will require 24 new parking spaces. A total of 13 new on-premise parking spaces are indicated on the site plan, which would allow for 12 spaces to be located off-premise.
- When the property proposed for off-premise parking is not in the same ownership at the property being served by the parking, a duly executed written agreement assuring the continued availability and usability of the off-premise parking for as long as required by the use must be completed and recorded with the Putnam County Register of Deeds. Ms. Marengo has submitted the deed to the contiguous property which indicates that she has an easement on the property for the specific purpose of providing parking for her business.

Based on the submitted information it appears all the conditions for granting the special exception will be met.

Staff recommended approval of the request.

Kay Detwiler made the motion to approve off-premise parking for 1611 East Spring Street at 1601 East Spring Street. Larry Burgess seconded the motion and the motion carried unanimously. **APPROVED.**

ADJOURNMENT: 6:15 P.M.

SUBMITTED FOR APPROVAL

SUBMITTED FOR RECORDING

**JAYNE BARNS CPS
PLANNING ASSISTANT**

**JANE FLATT, CHAIRMAN
BOARD OF ZONING APPEALS**