

**BRISTOL TENNESSEE
BOARD OF ZONING APPEALS
MEETING MINUTES
May 16, 2019**

Members Present:

Jack Hyder, Chairman
Ted Koehner, Vice-Chairman
Grady Hensley
John Cartwright
Joel Staton

Staff/Others Present:

Tim Beavers
Jacob Chandler
Cherith Young
Steve Blankenship
Ross Peters
Heather Moore
Brittany Fleenor

Members Absent:

None

I. CALL TO ORDER

The Bristol Tennessee Board of Zoning Appeals meeting was called to order at 11:00 a.m. on Thursday, May 16, 2019, by Chairman Jack Hyder and a quorum was declared present.

II. APPROVAL OF MINUTES

There being no changes to the February 21, 2019 minutes, they were approved as presented.

III. OLD BUSINESS

None

IV. NEW BUSINESS

A. Variance Request– 1404 Holston Dr.

Mr. Ilya Berenshtyen, of the Senter Law Firm, is representing the applicant, Mr. Christopher Phipps. After reviewing the information, Mr. Hyder stated that he believes this is a variance request instead of an administrative appeal. Mr. Hyder asked the Board if they were okay with considering this item as a variance request, and the Board agreed.

Mr. Beavers presented information on the variance request for additional driveway width for the property located at 1404 Holston Drive. The current Zone is R-2 (Single Family and Duplex), and the property is approximately .25 acres. The front and rear setbacks are 30 feet, the side yard setback on the Vance Dr. side is 12 feet, and the side yard setback on the North side is 8 feet. The right of way width is 50 feet, and the road width is 24 feet on both Vance Dr. and Holston Dr. There is an existing driveway width of approximately 16 feet. The property owners widened the existing driveway approximately 16 feet, for a total of 32 feet. This exceeds the 20 foot maximum access way width allowed in the right of way. The City required removal of 12 feet of the driveway, so the total driveway width would not exceed 20 feet. The property owner is requesting this variance because his family recently acquired a

third vehicle, the 20 foot driveway width off of Vance Dr. would require removal of the carport to allow additional parking adjacent to the existing parking, and construction of an additional driveway off of Holston Dr. would be a financial burden due to topography.

A variance may be granted only when all of the following conditions are present:

1. The strict application of the Zoning Ordinance would result in peculiar and exceptional practical difficulties or undue hardship on the owner
2. This difficulty or hardship is caused by either:
 - a) Exceptional narrowness, shallowness or shape of the property at the time of the enactment of the Zoning Ordinance, or
 - b) Exceptional topographical conditions or some other extraordinary and exceptional situation or condition of the property
3. The granting of a variance will not cause substantial detriment to the public good
4. The granting of the variance will not substantially impair the intent and purpose of the Zoning Ordinance and the zoning plan

Mr. Beavers stated that it does not appear that the strict application of the Zoning Ordinance would result in peculiar and exceptional practical difficulties or undue hardship to the owner. The stated difficulty or hardship would not be caused by exceptional narrowness, shallowness, shape of the property, topographical condition, or some other extraordinary and exceptional situation or condition of the property at the time of the enactment of the Zoning Ordinance. The granting of the requested variance would substantially impair the intent and purpose of the Zoning Ordinance and the Zoning Plan by creating a nonconforming driveway width. No conditions exist with the subject property or with City regulations that would justify the variance request in regards to the applicability of State Law.

Staff recommended that the Bristol, Tennessee Board of Zoning Appeals deny the driveway width variance request at 1404 Holston Drive, noting that no conditions exist with the subject property or with City regulations that would justify the variance request in regards to the applicability of State Law. Furthermore, the granting of the requested variance would substantially impair the intent and purpose of the Zoning Ordinance and the Zoning Plan.

The Board opened the floor for the applicant to speak. Mr. Berenshtyen stated that he is representing Mr. Phipps and would be presenting information on this request. Mr. Berenshtyen stated that placing another driveway on the other side of the property would cause an undue financial hardship on the Phipps family because the construction of a new driveway would be expensive. The reason they expanded the existing driveway is because their sixteen year old just got a car, and they didn't want her to park her vehicle on the very busy road in front of their home. They are requesting an extension of 12 feet to the existing driveway for the safety of their child.

Mr. Cartwright stated that this would cause a financial hardship, not an undue hardship. Mr.

Hensley agreed by stating that an undue hardship would be taking away use of some of the property. My. Hyder stated that if you look at the case law on this it would be difficult to justify a financial hardship as it would have to show there wouldn't be reasonable use of some part of the property. Mr. Cartwright stated that if there were a disability at play, it could be understandable; however, there is no disability in this case.

Mr. Koehner stated that the carport is 16 feet, and with a 20 foot approval there would be 4 feet extra. The Planning Commission and the City Council are studying the driveway width and considering 24 feet. If the regulation changes the applicant would have an extra 8 feet on the side, and the car could be pulled in without having to take the carport down.

Mr. Koehner made a motion to table the discussion until the City Council makes their decision on the driveway width regulation and until such time that the applicant would like to proceed, otherwise the request will become moot and withdrawn; Mr. Berenshtyen stated his client wanted the matter tabled; Mr. Staton seconded the motion; the motion carried unanimously.

V. OTHER MATTERS

None

VI. ADJOURNMENT

With no other business to discuss, the meeting adjourned at 11:40 a.m.



Jack Hyder, Chairman



Secretary