

**BRISTOL TENNESSEE
BOARD OF ZONING APPEALS
MEETING MINUTES
June 20, 2019**

Members Present:

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

Staff/Others Present:

Tim Beavers
Cherith Young
Steve Blankenship
Ross Peters
Heather Moore
Brittany Fleenor
Karl Cooler
Steven Mott

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, June 20, 2019, by Chairman Jack Hyder and a quorum was declared present.

II. APPROVAL OF MINUTES

Mr. Jack Hyder proposed changes to the May 16, 2019 meeting minutes. The first change occurred on page 3 in the last paragraph on the third line, the word "mute" to be changed to "moot." Also, in the last paragraph of that item, Mr. Berenshteyn seconded the motion, and he cannot do that. The verbiage should be changed to, "Mr. Berenshteyn indicated that his client wanted the matter to be tabled." In the following line, the word "also" should be removed. All were in favor of approving the minutes as corrected.

III. OLD BUSINESS

None

IV. NEW BUSINESS

A. Variance Request – 105 Meadowcrest Drive

Mr. Ross Peters presented information on the variance request. The applicant, Chad Braswell, requested a variance for the property located at 105 Meadowcrest Drive. The property is zoned R-1A (Low Density Single Family) and is approximately .70 acres. The front and rear setbacks are 35 feet and the side is 10 feet. The right-of-way width is 50 feet, with a 50 foot radius from the center of the cul-de-sac. The existing deck is 20 feet by 25 feet centered on the front of the home. The proposed deck would expand across the total width of the home measuring 42 feet by 25 feet. This exceeds the 10 foot maximum encroachment into the front yard setback area

allowed for uncovered decks. The City denied a March 22, 2019, building permit application for the expansion of the deck. The applicant's reasons for the variance are to allow for a safer and larger area for his child to play, to allow more covered space below the deck for parking and security, and to possibly resolve flooding issues that could occur to the lower level of the home.

Zoning Ordinance Chapter 2, Section 215(E) (2) Supplementary Provisions states that one of the exceptions to setback requirements is that steps, porches, decks, and other similar appurtenances of a primary structure at the first floor elevation or lower that are not covered or enclosed may encroach into the front yard setback ten (10) feet and the rear yard setback fifteen (15) feet. In both cases such encroachments must be a minimum of ten (10) feet from the front and rear property lines. Such portions of a primary structure may encroach into the side yard setback no more than six (6) feet and in all cases such side yard encroachments must be a minimum of four (4) feet from the side property line.

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

Staff believes 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 extending a nonconforming deck further into the setback area. 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 setback variance request at 105 Meadowcrest 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.

Mr. Hyder stated there is essentially an 8 foot hole between the home and the front yard. Mr. Peters replied that Mr. Hyder was correct, and there is a retaining wall that is approx. 25 feet out

from the face of the house that is approx. 8 feet high. Mr. Hyder wanted to know if City codes would require a railing along the top of the retaining wall if this house were being built under current standards. Mr. Cooler stated that a railing would only be required if there was a walking surface adjacent to the wall. In a situation like this, the City would suggest a railing but not require one.

Mr. Braswell stated that he assumed the deck could extend the length of the home because the existing retaining wall extends that length. He also stated that there isn't much of a front yard for his daughter to play in, and the large drop off is a huge safety concern. This deck would allow for a larger play area and would close the drop off along the length of the home. The deck will also provide security because the owner's vehicles can be parked underneath without being seen from the street.

Mr. Hyder stated that this property poses exceptional practical difficulty due to the topography of the lot and the 8 foot deep hole between the street and the home. Mr. Peters responded that this is certainly a situation you don't see every day. Mr. Braswell stated that there is an 11.5 foot measurement on the right side of the property from the curb to the deck.

The Board opened the floor to members of the public to speak on this matter. Mr. Samuel Hess, of 110 Locust Street, Bristol, TN, stated that he is in favor of the variance request because he believes this property poses an exceptional safety issue, especially since a small child lives in the home. Mr. Hyder stated that it is difficult to grant a variance under the current standards, but this is a situation where the topography of the property is creating exceptional practical difficulties for the owner.

Mr. Grady Hensley made a motion to approve the variance request; Mr. Joel Staton seconded the motion. The motion carried unanimously.

B. Variance Request – 1403 Bluff City Highway

Mr. Ross Peters presented information on the variance request. The applicant, Raman Patel, requested a variance of the property located at 1403 Bluff City Highway and is in the B-3 (General Business) Zone. The lot is approximately 1 acre. The front setback is 15 feet, the rear setback is 20 feet, and the side setback is 10 feet when adjoining residential lot or district. The right-of-way width is 66 feet for Bluff City Highway and 50 feet for Locust Road. The rear of the existing motel structure is approx. located at the minimum rear building setback line. The proposed addition extends approx. 16-feet into the rear yard setback area. The City issued a stop work order on March 28, 2019, because no permit was issued for building addition. The request for variance is to allow for the expansion and enclosure of existing meeting/banquet room that has access onto the existing concrete patio to the rear of the Speedway Inn. The expansion would allow more space for attendees and activities of the meetings to be sheltered from the elements.

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

Staff believes 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 extending a structure into the setback area. 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 setback variance request at 1403 Bluff City Highway, 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.

Mr. Hyder asked if there is anything unusual about the shape or topography of the property. Mr. Peters responded that the property is not of an unusual condition. Mr. Samuel Hess, 110 Locust Road, Bristol, TN, is the owner of the property behind the motel. His garage sits close to the property line and directly beside the patio area of the motel. Mr. Hess stated that he does not have a problem with the addition that Mr. Patel built.

Mr. Staton asked if there was a permit pulled to build this structure. Mr. Peters replied that there was no permit, and a stop work order was issued on March 28, 2019, from the City's Codes Enforcement.

The Board opened the floor to the property owner, Mr. Raman Patel, 1403 Bluff City Highway. Mr. Patel stated that a group of local business owners meet at the motel once a week on Wednesday evenings to discuss issues they are having in their businesses. The indoor meeting space has become inadequate as the group has grown. The meetings were moved out onto the patio, but they are exposed to the elements which makes it difficult to meet out there. Mr. Patel stated that none of his surrounding neighbors have a problem with the new meeting structure because the existing patio wall has been there for many years.

The Board asked if any members of the public would like to speak on the matter. Mr. Mihe

Patel, Kingsport, TN, is a member of the business owners group. He stated that that bad weather makes it very difficult to meet regularly. He stated that since the structure would not extend past the preexisting patio wall, and none of the neighbors had an issue with the addition, he did not realize they needed to apply for a variance before they began construction.

The Board asked if there was anyone else who would like to speak. Mrs. Deborah Bowman, 338 Gifford Road, stated that she owns the garage next to the motel. She stated that Mr. Patel's problems are not only caused by the weather, there are also lots of mosquitos in that area as well. Mrs. Bowman stated that she is in favor of the variance request.

Mr. Hensley asked if Mr. Patel would have found out that he could not build the structure if he applied for a building permit. Mr. Peters responded that, yes, a building permit would have been denied.

Mr. Hensley made a motion to deny the variance request on the grounds that the criteria for a variance have not been established; Mr. John Cartwright seconded the motion. The motion carried unanimously.

V. OTHER MATTERS

Mr. Beavers stated that Planning Commission was favorable of the draft access standards, which they reviewed at their June meeting. Staff will bring those standard before the Planning Commission at their July meeting to make a recommendation to City Council if they so choose. The standard would be to increase the driveway widths from 20 feet to 24 feet in the right-of-way. There is also some language about loop driveways and how they may be configured. That should progress through the regulatory side, and it make take 2 or 3 months to get an adoption of something if City Council so chooses. At that time, staff would come back to the BZA for a recommendation on the Vance Drive issue.

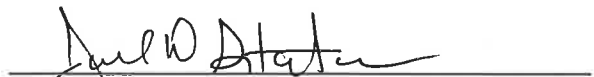
Mr. Beavers stated that there is a variance request for the meeting next month, July 18, 2019.

ADJOURNMENT

With no other business to discuss, the meeting adjourned at 12:05 p.m.



Jack Hyder, Chairman



Secretary