



# CITY OF MCMINNVILLE, TENNESSEE

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COMMUNITY DEVELOPMENT DEPARTMENT  
PLANNING & ZONING DIVISION

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**To:** Board of Zoning Appeals Members  
**From:** Community Development  
**Subject:** May 26, 2020 Public Hearings and Meeting  
**Date:** May 21, 2020

The McMinnville Board of Zoning Appeals will meet and hold public hearings on Tuesday, May 26, 2020 at 11:00 am. The BZA meeting will be held via teleconference and participation instructions are included with this packet.

1. McMinnville Board of Zoning Appeals meeting called to order
2. Approval of Minutes from February 25, 2020 meeting
3. Review – Variance request for sign located at 488 N. Chancery Street (Tax Id: 059M H 025.00)
4. Public Hearing - Variance request for sign located at 488 N. Chancery Street
5. Review – Variance request for property at 212 Cherry Lane (Tax Id: 059E A 026.00)
6. Public Hearing – Variance request for property at 212 Cherry Lane
7. New/Old Business
8. Adjourn

## Staff Report

### **488 N. Chancery Street – Variance to reduce setback of sign from 5' off ROW to 2' 3"**

The McMinnville Board of Zoning Appeals is reviewing a variance request for a sign located at 488 N. Chancery Street, further identified as Map 059M, Group H Parcel 025.00 of Warren County Tax Maps. The property is zoned C-2 General Commercial. The request is for variance to place a sign 2 ft and 3 in from the right of way; the Zoning Code requires signs in commercial districts be a minimum of 5 ft from the right of way. The owner had started the work of building the sign structure when staff informed him that the project required a sign permit.

The property is regularly-shaped, and its dimensions are 95 ft x 188 ft which amounts to an area of 16,650 sf. The primary structure on the lot sits 30 ft from the property line. The area between the right

of way and the building is a hard surface and used for parking and driving through to the other access point onto N. Chancery Street (see Image 1 and Image 2). The area around the building is open and used for parking and as a driveway around the building to exit onto N. Chancery Street (see variance application and attachment)

A sign had previously been located on the property in the location 2 ft and 3 in from the right of way when the area of the property was a gravel parking area. The owner removed the old sign and paved over the parking area. The new sign does not meet the definition of a nonconforming, "grandfathered in", sign since it has come into being after the adoption of the sign code. The sign is approximately 6 ft wide.

**Recommendation: Denial Based on Criterion A**

When granting a variance, it is important that the BZA base their decision on the standards set out in the Zoning Code to avoid appearing arbitrary or inconsistent. When reviewing the criteria for variance, the Board of Zoning appeals shall ascertain that the following are met:

- a. The particular physical surrounding, shape, or topographic conditions of the specific property involved would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict application of the zoning resolution were carried out;
- b. The conditions upon which the petition for a variance is based would not be applicable, generally, to other property within the same zoning district;
- c. The variance will not authorize, in a zone district, activities other than those permitted by the zoning ordinance;
- d. Financial returns only shall not be considered as a basis for granting a variance;
- e. The alleged difficulty or hardship has not been created by any person having an interest in the property after the effective date of the zoning code;
- f. The granting of the variance requested will not confer on the applicant any special privilege that is denied by the zoning code to other lands, structures, or buildings in the same zoning district;
- g. The variance is the minimum variance that will make possible the reasonable use of the land, building, or structure;
- h. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the area in which property is located; and
- i. The proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion of public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the area.

The staff finds that the variance does not meet Criterion A. This lot is regularly shaped, has no obvious topographical challenges, or surroundings which would impede locating this sign 5 ft from the property line. If the property owner had filed a sign permit, staff could have directed them to the proper distance prior to any work being done. Since there is nothing exceptional in the physical surrounding, shape, or topographic conditions of the property, this request does not meet Criterion A.

**212 Cherry Lane – Variance to reduce setback for accessory structure in side yard from 15 ft to 10 ft.**

The McMinnville Board of Zoning Appeals is reviewing a variance request for a property located at 212 Cherry Lane, further identified as Map 059E, Group A Parcel 026.00 of Warren County Tax Maps. The property is zoned R-1 Low Density Residential. The proposed request is a variance to build a 20 ft by 40 ft garage in the side yard with a 10 ft setback; the Zoning Code requires accessory structures in R-1 to setback 15 ft from the property line since accessory structures are not allowed in the required side yard. The owner came to the Community Development Department for a building permit, and it was determined her plans would require a variance.

The property has a slight diagonal on the right side, but it is more or less regularly-shaped. Its dimensions are approximately 106 ft x 150 ft and with an area of 15,900 sf (see variance application and attachment). A stormwater culvert runs across the property approximately in the required rear yard; it is located approximately 115 ft from the front property line, and creates a slight rise across the property (see Images 3 & 4). The stormwater infrastructure was placed by the City of McMinnville across this block at the request of the property owners. The placing of the culvert happened prior to this property owner taking possession of the parcel. Currently, only 9% of the lot is covered, and there is an accessory structure, a carport, but the garage will replace the carport.

The property owner would like to build a 20 ft by 38 ft garage in her side yard (see Images 5 & 6). Staff informed her that she did not have enough room to avoid building in the required side yard and maintaining 10 ft from the existing house, and they advised her to move it deeper into the property. It was discovered that she couldn't move the garage further back into the required rear yard due to the presence of the stormwater culvert and the resulting topography (see image 7).

**Recommendation: Approval Based on Criterion A**

When granting a variance, it is important that the BZA base their decision on the standards set out in the Zoning Code to avoid appearing arbitrary or inconsistent. When reviewing the criteria for variance, the Board of Zoning appeals shall ascertain that the following are met:

- a. The particular physical surrounding, shape, or topographic conditions of the specific property involved would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict application of the zoning resolution were carried out;
- b. The conditions upon which the petition for a variance is based would not be applicable, generally, to other property within the same zoning district;

- c. The variance will not authorize, in a zone district, activities other than those permitted by the zoning ordinance;
- d. Financial returns only shall not be considered as a basis for granting a variance;
- e. The alleged difficulty or hardship has not been created by any person having an interest in the property after the effective date of the zoning code;
- f. The granting of the variance requested will not confer on the applicant any special privilege that is denied by the zoning code to other lands, structures, or buildings in the same zoning district;
- g. The variance is the minimum variance that will make possible the reasonable use of the land, building, or structure;
- h. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the area in which property is located; and
- i. The proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion of public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the area.

The staff finds that the variance does meet Criterion A. The stormwater culvert and resulting topographical change predates this owner's possession of the land and inhibits her ability to site the garage in a location that meets the requirements of the zoning code (see attached pictures). Due to the physical conditions of the lot and the topography of the property, this request does meet Criterion A and we recommend the variance request be approved.