



CITY OF MCMINNVILLE, TENNESSEE

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COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING & ZONING DIVISION

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To: Board of Zoning Appeals Member
From: Community Development
Subject: January 28, 2020 Public Hearings and Meeting
Date: January 23, 2020

The McMinnville Board of Zoning Appeals will meet and hold public hearings on Tuesday, January 28, 2020 at 11:00 am in the conference room at the Public Works Building (1266 Belmont Drive).

1. McMinnville Board of Zoning Appeals meeting called to order
2. Approval of Minutes from November 26, 2019 meeting
3. Review – Variance request for sign on property located at 1100 Smithville Hwy
4. Public Hearing - Variance request for sign on property located at 1100 Smithville Hwy
5. New/Old Business
6. Adjourn

Staff Report

The McMinnville Board of Zoning Appeals will be reviewing a variance request for a sign on property located at 1100 Smithville Hwy, further identified as Map 059K, Group D Parcel 020.00 of Warren County Tax Maps. The property is zoned C-3. The proposed request is to reduce the required 5 ft setback from the right of way to 0 ft for the sign and all for a sign to be located in a manner which may obstruct free or clear vision.

In June 2019, the Community Development Department received a complaint that this sign blocked the line of sight between the Plaza Shopping Center driveway and Smithville Highway when turning out of the driveway. In investigating this sign, our inspector learned that the sign is an existing sign which a new owner had recently bought and modified in a significant way. Major modifications trigger a need for a sign permit.

While there is a provision in the Sign Code for existing nonconforming signs, we believe that the major modification which warranted the sign permit required a new review of the compliance of the sign to the Sign Code. Owners of signs can make repairs or minor modifications to signs which would allow for their continued existence as a nonconforming sign. Nothing in the Sign Code specifically addresses how the nonconforming sign provision would work if a sign is sold and work on the sign requires a new sign permit. Here is the language of the provision:

14-1405.11: All nonconforming signs, which existed lawfully at the time of the enactment of this Official Sign Code, shall be allowed to remain and shall be considered as "grandfathered" in place. Mobile or portable signs shall not be "grandfathered."

Our inspector sent a letter asking the sign owner to come in for a sign permit. Upon reviewing the sign in relation to the sign code, the review found that it did not comply with two provisions of the sign code, and we advised the owner to seek a variance. Here are the two provisions:

14-1405.1: No sign shall be located in such a manner so as to obstruct free or clear vision or cause hazards for vehicular or pedestrian traffic by reason of location, shape, illumination or color.

14-1408.3 E: No part of any on-premise freestanding sign shall be closer than 5 feet from any street right of way line or property line.

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.

Staff questions whether this sign meets criteria h. This concern is based on the relationship to the right of way (aka the utility pole) which impacts the line of sight from the driveway and the complaint that the sign interferes with the free and clear vision from the Plaza driveway.

REPORT OF MEETING
MCMINNVILLE BOARD OF ZONING APPEALS
JANUARY 28, 2020

MEMBERS PRESENT

Jim Brock
Joey Haston
Jerry Williamson
Tom Ward

STAFF PRESENT

Katie Kemezis, Community Planner
Rebecca Roach, Staff

MEMBERS ABSCENT

David Marttala

OTHERS PRESENT

Lisa Hobbs
Jared Caldwell
Tara McBride

The meeting of the McMinnville Board of Zoning Appeals was held at 11:00 a.m. on Tuesday, January 28, 2020 at the Public Works/Community Development Building on Belmont Drive. Upon establishing a quorum was present, acting Chairman Jerry Williamson called the meeting to order.

APPROVAL OF MINUTES FROM THE NOVEMBER 26, 2019 MEETING OF THE MCMINNVILLE BOARD OF ZONING APPEALS

A motion was made by Joey Haston to dispense with reading and approve the minutes from the Board of Zoning Appeals November 26, 2019 meeting as presented. Tom Ward seconded the motion that was approved unanimously.

VARIANCE REQUEST REVIEW

The McMinnville Board of Zoning Appeals reviewed a variance request for a sign on property located at 1100 Smithville Highway, further described as Map 059K, Group D Parcel 020.00 of the Warren County Tax Maps. The property is zoned C-3 Highway Commercial District. The proposed request is to reduce the required 5 ft setback from the right of way to 0 ft. The sign is for House of Ink Tattoo & Body Piercing. Owners of the business are Jared Caldwell and Tara McBride. Community Planner Katie Kemezis stated in her staff report that the sign has been modified from the previous owner, therefore the Community Development department could not approve their sign permit. However, this sign was adjacent to the right of way and potentially impacting the line of sight to Smithville Highway. Ms. Kemezis brought this request to the BZA for the best course of action. Joey Haston stated that the sign should be grandfathered in. Co-owner Tara McBride stated that if they moved the sign back five feet it would block the drive thru to Krystal's. Jerry Williamson stated that the board needs to be careful about grandfathering a sign in as we don't want to set a standard or set a precedent. The group agreed that when a previously grandfathered sign is modified enough to warrant a sign permit, it should come before the Board of Zoning Appeals to rule on the variance. Katie Kemezis told the board she is looking into updating the sign code. Jim Brock made the motion to

approve the variance and to grandfather it in with the major modifications. Tom Ward seconded the motion. All members voted unanimously to approve.

OTHER BUSINESS

No other business was discussed

ADJOURNMENT

With no other business, Tom Ward made a motion to adjourn the meeting at 11:17 a.m. Joey Haston seconded the motion with the members voting all ayes.

Next meeting February 25, 2020

Chairperson Signature

Secretary Signature

Date Approved:



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To: Board of Zoning Appeals Members
From: Community Development
Subject: February 25, 2020 Public Hearings and Meeting
Date: February 19, 2020

The McMinnville Board of Zoning Appeals will meet and hold public hearings on Tuesday, February 25, 2020 at 11:00 am in the conference room at the Public Works Building (1266 Belmont Drive).

1. McMinnville Board of Zoning Appeals meeting called to order
2. Approval of Minutes from January 28, 2020 meeting
3. Review – Variance request for property located at 139 Bybee Drive (id: 059A B 02000)
4. Public Hearing - Variance request for sign on property located at 139 Bybee Drive
5. New/Old Business
6. Adjourn

Staff Report

The McMinnville Board of Zoning Appeals is reviewing a variance request for a property located at 139 Bybee Drive, further identified as Map 059A, Group B Parcel 020.00 of Warren County Tax Maps. The property is zoned R-1 Low Density Residential. The proposed request is to reduce the required 5 ft setback from the side property line for a carport to 0 ft. The pre-fabricated 18' x 20' carport has already been placed. The unpermitted carport was discovered by Community Development staff and a violation was issued. During the permitting process it became clear the carport was not in compliance with the Zoning Code.

The property is regularly-shaped and its dimensions are approximately 82 ft x 164 ft which amounts to an area of 13,448 sf. The area of the lot is less than the minimum in R-1 of 15,000 sf, and it is representative of the surrounding lots in the neighborhood. Despite being smaller in area, the lot width meets the R-1 requirements of 75 ft at the building line.

On the property, there is a concrete driveway wide enough for two vehicles that extends to the side property line. The driveway ends in an accessory storage structure. Aside from its distance to the side lot line, the carport meets the other requirements for carports in this zoning district. The existing house meets all the required setbacks for a primary structure:

Yard	Actual yard depth*	Required yard depth
Front	40 ft	40 ft
Back	105 ft	50 ft
Sides	15 ft	15 ft

*Measurements taken from the measurement tool on the TN Property Assessor's website

Recommendation: Denial

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. While this lot is smaller than the minimum for the R-1 zoning district, it is not narrower than the minimum width of 75 ft at the building line. From the images you can see the property is relatively flat and the lot regularly shaped. Since there is nothing exceptional in the physical surrounding, shape, or topographic conditions of the property, this request does not meet Criterion A.

The existing house is 15 ft from the property line which allows for a smaller carport that would still meet the required interior side setback of 5 ft. In the packet, we have also included an image taken from Google maps of a previous owner. You can see the driveway was previously large enough for a single car, and between then and now an owner of the building has installed the wider concrete driveway. Driveways are not subject to the zoning code, but the existence of a concrete driveway wide enough for two cars doesn't necessitate a carport over both cars.