

CITY OF CLARKSVILLE

BOARD OF ZONING APPEALS

-MINUTES-

DATE: April 7, 2021

LOCATION: 100 South Spring Street

I. CALL TO ORDER/ QUORUM CHECK/ PLEDGE OF ALLEGIANCE

Bobby Powers called the Board of Zoning Appeals meeting to order at 2:30 P.M. Mr. Powers stated for the record that a quorum was present.

II. PLEDGE OF ALLEGIANCE

III. MEMBERS PRESENT

Bobby Powers
Cindy Greene
Stacey Wenzler

STAFF PRESENT

Justin Crosby, Building Official
Valerie Ogle

OTHERS PRESENT ADDRESSING THE BOARD

Representatives for BOZA applications

- IV. MOTION:** Bobby Powers read and entertained a motion. *“In order to comply with the technical aspects of the Governor’s Executive Order regarding holding open meetings in a forum other than in the open and in public, this governing body determines that meeting electronically is necessary to protect the health, safety, and welfare of its citizens due to the COVID-19 outbreak.”* Bobby Powers made a motion to adopt; motion seconded by Stacey Wenzler. Vote was unanimous.

V. ADOPTION OF MINUTES

Bobby Powers made a motion to adopt the March 3, 2021 minutes amended to read Bobby Powers abstained from vote on case number BZA-08-2021; Cindy Greene seconded the motion. The minutes were adopted.

VI. BOARD OF ZONING APPEALS CASES

- A. **Case Number BZA-10-2021:** Application of Lindstrom & Company LLC, Scott Lindstrom, Agent, property located at Wilma Rudolph Blvd. & N. Edgewood Place, Tax Property Map No. 032, Parcel 013.02, Zoned AG/C-5. Description of the Request: “Applicant is requesting an 18.8 foot variance from the required 50 foot front yard setback in order for the structure to be 31.2 feet from the South property line.” The staff is recommending disapproval of the request; request does not meet the requirements of the current zoning ordinance and hardship is considered self-imposed. Applicant notified the Building & Codes Department that they wish to withdraw the Request.
- B. **Case Number BZA-14-2021:** Application of Patricia Wheeler, property located at 241 Senator Dr., Tax Property Map No. 019-I, Parcel G-021.00, Zoned R-2. Description of the Request: “Applicant is requesting a Use Permitted on Review in an R-2 zone to allow for a Family Day Care Home as a Customary Home Occupation. Six (6) children allowed.” The staff is recommending approval of the request; request will have no adverse effects on surrounding properties. There was no one present on the call to speak on behalf of the Request. There was no one present to speak in opposition of the Request. After discussing, Mr. Powers entertained a motion. Cindy Greene made a motion to approve the request as presented, seconded by Stacey Wenzler. The motion passed unanimously.
- C. **Case Number BZA-15-2021:** Application of Judy’s Hope Foundation, Inc., Bryce Powers, Agent, property located at South Second St., Tax Property Map No. 066-K, Parcel H-016.00, Zoned R-3. Description of the Request: “Applicant is requesting a Use Permitted on Review in an R-3 zone to allow for a Religious Institution.” The staff is recommending approval of the request; request will have no adverse effects on surrounding properties. Bryce Powers was present on the call to speak on behalf of the Request. Mr. Powers was inaudible on the call. Justin Crosby explained an adjoining property owner submitted a complaint to the Building and Codes Department expressing concern that the institution would cause an increase in the homeless presence in the area. There was no one present to speak in opposition of the Request. After discussing, Bobby Powers entertained a motion. Stacey Wenzler made a motion to

approve the request as presented, seconded by Cindy Greene; Bobby Powers abstained from voting. The motion passed.

- D. **Case Number BZA-16-2021:** Application of Bill Mace Homes, property located at 1360 Highgrove Ln., Tax Property Map No. 089-C, Parcel A-017.00, Zoned R-1. Description of the Request: “Applicant is requesting a 1.9 foot variance from the required 30 foot front yard setback in order for the structure to be 28.1 feet from the East property line.” The staff is recommending disapproval of the request; request does not meet the requirements of the current zoning ordinance and hardship is considered self-imposed. Jen Schmittou was present on the call to speak on behalf of the Request. There was no one present to speak in opposition of the Request. After discussing, Mr. Powers entertained a motion. Cindy Greene made a motion to approve the request as presented, seconded by Stacey Wenzler. The motion passed unanimously.
- E. **Case Number BZA-17-2021:** Application of John Rudolph, McKay Burchett & Company, Agent, property located at 507 S. 1st St., Tax Property Map No. 066-J, Parcel F-015.00, Zoned R-4. Description of the Request: “Applicant is requesting a 25 foot variance from the required 40 foot front yard setback in order for the structure to be 15 feet from the West property line. Applicant is requesting a 23 foot variance from the required 40 foot front yard setback in order for the structure to be 17 feet from the East property line.” The staff is recommending disapproval of the request; request does not meet the requirements of the current zoning ordinance and hardship is considered self-imposed. Cal McKay was present on the call to speak on behalf of the Request. Justin Crosby noted there is an exception in the zoning ordinance that allows the front setback to match 40 percent of the existing houses on the street and that their request is asking for the same. Allen Moser spoke in favor on the request, noting he feels this request fits the same as his previous request at Klines Alley, which the Board granted. There was no one present to speak in opposition of the Request. After discussing, Mr. Powers entertained a motion. Stacey Wenzler made a motion to approve the request as presented, seconded by Cindy Greene. The motion passed unanimously.
- F. **Case Number BZA-18-2021:** Application of Mike Arnold, property located at 104 Canyon Dr., Tax Property Map No. 042-I, Parcel D-027.00, Zoned R-1. Description of the Request: “Applicant is requesting a 10.2 foot variance from the required 90 foot lot width in order for the lot to be 79.8 feet wide at the building setback line.” The staff is recommending disapproval of the request; request does not meet the requirements of the current zoning ordinance and hardship is considered self-imposed. Mike Arnold was present on the call to speak on behalf of the Request. Justin Crosby noted there is a lot width requirement in which lots must meet a

certain width at the building setback lines, not at the street. This setback line is required to be 90 feet wide and this lot is currently 79.8 feet wide. There are two parcels, 104 and 105 Canyon Road, with a request for the property lines to be adjusted. Bobby Powers stated he remembers a prior chairman of the Board of Zoning Appeals indicating the board doesn't have the ability to rule on the width adjustment of a lot or the square footage of the lot. Mr. Powers asked if these requests should be reviewed by counsel for the city or go back to the Regional Planning Commission and let them rezone this to something that is correct. Mr. Powers asked if the Board has the legal right to rule on a case like this. Justin Crosby responded that the way the zoning ordinance reads, you cannot accept a smaller width lot or size lot if it creates more lots or for monetary gain and these requests are not doing either; the same number of lots will remain. Justin Crosby stated this request is not creating any more lots than what was already platted. The plat that was approved created four lots and when they built the house they built them too close together and it crossed the property line; that is where the issue is. It is not creating any more lots and not doing anything to make them more money. Mr. Powers indicated he is concerned with the Board's liability. Mr. Powers asked if Justin had checked with the City attorney for his interpretation; Mr. Crosby stated he had not. Mike Arnold stated he is asking for forgiveness; they had the property surveyed and the corners marked but they didn't know there was an issue until they went to sell the house. Mr. Powers asked if they had already moved people in; Mr. Arnold said they have. Mr. Powers asked how Building & Codes missed this before they moved people in. Mr. Crosby stated this type lot doesn't require a survey be provided before the framing inspection; only certain type properties require this. Mr. Crosby stated he did not know that they had received a final inspection. Mr. Arnold indicated they have received the final inspection. He also indicated they have already spoken with the Regional Planning Commission and they referred him to the Board of Zoning Appeals. Cindy Greene asked what Bobby Power's thoughts were. Mr. Powers stated he wouldn't mind in the City attorney made this call on the interpretation. Mr. Crosby responded that he would be happy to discuss with the City attorney and get an interpretation from him. Stacey Wenzler and Cindy Greene agreed. There was no one present to speak in opposition of the Request. After discussing, Mr. Powers entertained a motion. Cindy Greene made a motion to defer the request for 30 days, seconded by Stacey Wenzler. The motion passed unanimously.

- G. **Case Number BZA-19-2021:** Application of Mike Arnold, property located at 105 Canyon Dr., Tax Property Map No. 042-I, Parcel D-028.00, Zoned R-1. Description of the Request: "Applicant is requesting a 5 foot variance from the required 15 foot side yard setback in order for the structure to be 10 feet from the North property line. Applicant is requesting a 23.8 foot variance from the required 90 foot lot width in order for the lot to be 66.2 feet wide at the building setback line." The staff is

recommending disapproval of the request; request does not meet the requirements of the current zoning ordinance and hardship is considered self-imposed. Mike Arnold was present on the call to speak on behalf of the Request. There was no one present to speak in opposition of the Request. After discussing, Mr. Powers entertained a motion. Stacey Wenzler made a motion to defer the request for 30 days, seconded by Cindy Greene. The motion passed unanimously.

- H. **Case Number BZA-20-2021:** Application of Shelbyvillas, G.P., Dana Baggett, Agent, property located at 451 Shelby St., Tax Property Map No. 054-E, Parcel C-030.00, Zoned R-6. Description of the Request: “Applicant is requesting to waive sidewalk requirements.” The staff is recommending approval of the request; request will have no adverse effects on surrounding properties. Dana Baggett was present on the call to speak on behalf of the Request. There was no one present to speak in opposition of the Request. After discussing, Mr. Powers entertained a motion. Cindy Greene made a motion to approve the request as presented, seconded by Bobby Powers; Stacey Wenzler abstained from voting. The motion passed.

VII. NEW BUSINESS: Allen Moser

Seems there have been some changes to the application process versus what is codified. Recently the staff has started requesting engineered drawings, to include a proposed building, which seems to be getting the cart before the horse. Mr. Moser indicated he could not find where that change came from or when it was codified; he asked the staff, and has not been able to find any record of when that change took place or why. Justin Crosby stated the staff will look into it but it has been common practice to require a survey for all variance requests for as long as he recalled. Mr. Crosby added that it seems if an applicant is requesting relief from a setback, they should show what exactly they are asking for. Allen Moser indicated sometimes he may not have the intent to build on a lot; he may want to take a non-buildable lot and make it buildable in order to resell it, and that the additional cost, even though it could be incurred later on, if required, ultimately gets passed on to the consumer and makes housing less affordable.

VIII. CITY COUNCIL ACTION REQUIRED: N/A

ADJOURNMENT

Motion to adjourn made by Cindy Greene; seconded by Stacey Wenzler.