

MINUTES OF THE
GATLINBURG MUNICIPAL BOARD OF ZONING APPEALS
SEPTEMBER 26, MEETING
THURSDAY, 3:00 PM, CITY HALL

MEMBERS PRESENT

Jerry McCarter
Matt Zoder
Joe Waggoner
Clay England
Amanda Caton
Joe Waggoner

MEMBERS ABSENT

OTHERS PRESENT

James Tant
Ken Loomis
Shelby Bashan
Jeremy Zachary
David Davis
Dan Saffelder
Al Shirley
Brennon Garrett

Staff Representative: Gary Carver, Planning Director
Dalton York, Assistant City Planner
Jodi Bible, Executive Secretary

Chairman Matt Zoder called the meeting to order at 3:00 P.M. Mr. Clay England made a motion to approve the minutes of the August 22, 2024, meeting, and Mr. Jerry McCarter provided a second with all members voting, “aye.”

Staff Report

Petitions and Communications from the Public

Old Business

New Business

Review and consideration for a proposed variance to reduce the minimum lot size requirement for a R1-A (Low Density Residential) District for a proposed plat at 626 Ownby Drive, being Tax Map 117L, Group A, Parcel 11, R1-A Zone, requested by James Tant.

Staff presented the request to reduce the minimum lot size requirement for a R1-A (Low Density Residential) District for a proposed plat at 626 Ownby Drive. The proposal was brought to Staff following a discussion with the property owner. The request is to allow for a subdivision of the subject parcel to construct an additional dwelling for use by a family member per the applicant’s discussion with Staff. The parcel in question was at one time three separate parcels, all of which were nonconforming for minimum lot size requirements per Article IV for the R1-A Zone. There was a recombination survey recorded for the property in 2020 which corrected the three non-conforming lots into one conforming lot by current standards. The applicant has stated their hardship for the request is that other lots located within the neighborhood are similar in lot size to the subject request. Staff agreed that is not a permissible hardship for all intents and purposes of this Board. However, Staff concurred that the variance request would be favored if this request had been made prior to the recombination of the three previous lots mentioned above. Applicable Regulations: Article VIII, being the Area, Yard, and Height Requirement; Article IV R1-A (Low Density Residential) District.

Following a brief discussion, Mr. Clay England made a motion to approve the request as presented. Mr. Jerry McCarter provided a second with all members voting, “aye.”

Review and consideration for a proposed variance to reduce the side yard setback from the required 15’ to 10’ for a proposed single-family dwelling to be constructed at 468 Winfield Heights Road, being Tax Map 126O, Group B, Parcel 15, R-2 Zone, requested by Phillip Derosia
Staff presented the request for a proposed variance to reduce the side yard setback from the required 15’ to 10’ for a proposed single-family dwelling to be constructed at 468 Winfield Heights Road. The subject parcel is .21-acre (9,261 square feet), with the majority of the parcel’s slope being equal to or greater than 30% per City’s GIS software. However, the submitted survey does not note the exact slope of the parcel. No hardship was provided by the applicant. Staff has found that the parcel is approximately 0.5-acre to 0.79-acre below the minimum lot size requirement for the R-2 (Medium Density Residential) District for a parcel sloped 20%-35%. Applicable Regulations: Article VIII being the Area, Yard, and Height Requirements.

Following a brief discussion, Ms. Amanda Caton made a motion to approve the request as presented. Mr. Clay England provided a second with all members voting, “aye.”

Review and consideration for a proposed variance to reduce the front yard setback from the required 25’ to 15’ and the side yard setback from the required 22.5’ to 15’ for a proposed single-family dwelling to be constructed at 315 Tower Road, being Tax Map 127H, Group C, Parcel 16, R-1 Zone, requested by Ken Loomis Construction.

Staff presented the request to reduce the front yard setback from the required 25’ to 15’ and the side yard setback from the required 22.5’ to 15’ for a proposed single-family dwelling to be constructed at 315 Tower Road. The subject parcel is 0.47-acre (20,237 square feet), with the majority of the parcel’s slope being equal to or greater than 30% per the City’s GIS software. However, the submitted survey does not note the exact slope percentage of the parcel. The proposed dwelling is three-stories tall which would require an additional 7.5’ side yard setback (Article VIII, Footnote #4). The side yard setback reduction, if granted, would require the dwelling to adhere to the same side yard setback as a two-story structure. No hardship was identified by the applicant. Staff has found that the parcel is approximately 0.53-acre below the minimum lot size requirement for a R-1 (Low Density Residential) District for parcel sloped between 30%-49%. Applicable Regulations: Article VIII, being the Area, Yard, and Height Requirements.

Following a brief discussion, Mr. Joe Waggoner made a motion to approve the request as presented. Ms. Amanda Caton provided a second with all members voting, “aye.”

Review and consideration for a proposed variance to reduce the side yard setback from the required 22.5’ to 15’ for an already constructed accessory structure located at 528 Reba Lane, being Tax Map 117K, Group A, Parcel 1, R-1 Zone, requested by For Rent Properties, LLC.

Staff presented the request for a proposed variance to reduce the side yard setback from the required 22.5’ to 15’ for an already constructed accessory structure located at 528 Reba Lane. The proposal was brought to Staff after a site visit occurred, during the visit Staff found an unpermitted accessory structure was constructed within the required 22.5’ side yard setback (an additional 7.5’ is required when the proposed dwelling is over two-stories in height, Article VIII, Footnote 4). A separate request appeared in front of the Municipal Board of Zoning Appeals on August 22, 2024. The previous request was a reduction of the side yard setback from the required 22.5’ to 9’. The new request is in hopes of

being allowed to observe the current minimum side yard setback for a two-story residence. The Board of Appeals initially denied the request on the grounds that the applicant had not requested a building permit for the accessory structure instead the applicant constructed it without a permit and upon final inspection learned that the accessory structure encroached into the side yard setback, considerably.

The applicant has stated that their reason for the request is due to “restraints from topography and an existing non-conforming lot size that does not meet today’s standards we are requesting a set back variance for the side yard.” The lot which the variance has been requested for has a slope of approximately 34%. The parcel is currently non-conforming by current standards as its lot size, being 10,562 square feet (0.24-acre), is approximately 33,105 square feet (0.76-acre) under the current minimum lot size requirement for a parcel sloped between 30% to 49%.

Following a brief discussion, Mr. Joe Waggoner made a motion to approve the request for a side yard setback reduction of 15’ contingent upon a letter expressing approval from the adjoining property holder. Ms. Amanda Caton provided a second with all members voting, “aye.”

Review and consideration for a proposed variance to reduce the front yard setback from the required 25’ to 15’ and the rear yard setback from the required 20’ to 15’ for a proposed single-family dwelling to be constructed at 505 Bruce Road, being Tax Map 117N, Group C, Parcel 18, R1-A Zone, requested by Gene Singletary.

Staff presented the request to reduce the front yard setback from the required 25’ to 15’ and the rear yard setback from the required 20’ to 15’ for a proposed single-family dwelling to be constructed at 505 Bruce Road. The subject parcel is .38-acre (16,619 square feet), with less than half of the parcel’s slope being equal to or greater than 30% per the City’s GIS software. However, the submitted survey does not note the exact slope percentage of the parcel. When Staff took the average slope of the parcel utilizing the City’s GIS software’s 10’s contours the parcel’s average sloped varied from 28% to 41%. No hardship was identified by the applicant. Staff has found that the parcel is approximately 0.37-acre to 0.62 below the minimum lot size requirement for the R1-A (Low Density Residential) District. Staff also mentioned that this home is being constructed in a R1-A (Low Density Residential) District which prohibits the use of residences as overnight rentals. The dwelling will be ineligible for the Tourist Residency program. Applicable Regulations: Article VIII, being the Area, Yard, and Height Requirements.

Following a brief discussion, Ms. Amanda Caton made motion to approve the request as presented. Mr. Clay England provided a second with all members voting, “aye.”

Review and consideration for a proposed variance to reduce the rear yard setback from the required 20’ to 1’ for a proposed single-family dwelling to be constructed at 1706 Mountain Shadows Way, being Tax Map 117M, Group C, Parcel 1, R1-A Zone, requested by Al Shirley.

Staff presented the request for a proposed variance to reduce the rear yard setback from the required 20’ to 1’ for a proposed single-family dwelling to be constructed at 1706 Mountain Shadows Way. The subject parcel is 0.14-acre (16, 619 square feet), with more than half of the parcel’s slope being equal to or greater than 30% per the City’s GIS software. However, the submitted survey does not note the exact slope of the parcel. The request has come about as Staff and the developer(s) held multiple conversations regarding the ingress and egress of the lot. At this time, the only allowable entrance for the parcel would be off Hidden Hills Road due to the property abutting Mountain Shadows Resort’s HOA common space and the reference development’s private access road, Mountain Shadows Way. The applicant has stated that their goal is to be absorbed into the Mountain Shadows Planned Unit Development (PUD) which would allow for the dwelling to be accessed via Mountain Shadows Way.

The proposed variance at this time would allow for construction to commence before the parcels absorption into the Mountain Shadows Planned Unit Development (PUD). However, before Staff could issue approval for the permit request, the applicant will be required to have an easement recorded with the Sevier County Register of Deeds which will show that the parcel has the right to access via privately maintained Mountain Shadows Way and through the HOA's common area.

The lot being below the minimum lot size for a parcel is approximately sloped an average of 42% has been identified by the applicant as their hardship. Staff has found that the parcel is approximately 0.86-acre below the minimum lot size requirement for the R-1A (Low Density Residential) District for a parcel sloped between 30%-49%. Mentioned earlier, during the previous request, it is important to also note that this proposal is located within a R1-A (Low Density Residential) District where short-terms rentals are prohibited. Staff has brought this to the requestor's attention and has emphasized on the need to rezone this parcel to ensure that use is compliant with the Gatlinburg Municipal Zoning Ordinance. Staff also reiterated the importance of having an easement agreement recorded if the approval is given.

Following a discussion, Mr. Clay England made a motion to approve the request as presented. Ms. Amanda Caton provided a second with all members voting, "aye."

Unscheduled Items

The meeting was unanimously adjourned at 3:47 p.m. after a motion made by Mr. Joe Waggoner. Ms. Amanda Caton provided a second with all members voting, "aye."

Approved:



MBZA Chairman

10-15-24

Date