

MINUTES OF THE
GATLINBURG MUNICIPAL BOARD OF ZONING APPEALS
NOVEMBER 21, 2024
THURSDAY, 3:00 PM, CITY HALL

MEMBERS PRESENT

Jerry McCarter
Matt Zoder
Clay England

MEMBERS ABSENT

Joe Waggoner
Amanda Caton

OTHERS PRESENT

Chad Kennedy
Jeff Ownby
Brennon Garrett
Jayme Aleman

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. Jerry McCarter made a motion to approve the minutes of the October 24, 2024, meeting, and Mr. Clay England 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 front yard setback from the required 10' to 0' for an already constructed patio located at 745 Parkway, being Tax Map 126K, Group E, Parcel 3, C-1 Zone, requested Chad Kennedy.

Staff presented the request for a proposed variance to reduce the front yard setback from the required 10' to 0' for an already constructed patio located at 745 Parkway. The request comes after a violation was observed by the Code Enforcement Officer regarding the placement of chairs and tables within the required 10' front setback. The applicant is requesting a front setback reduction from the required 10' to 0' to allow for commercial activities to occur within the front setback area of the development. Article VII, Section 706, explicitly prohibits this activity from occurring within the front setback by stating "...personal solicitation for businesses, the rendering of services and all other commercial activity including vending machines, are also specifically prohibited outside within the front yard setback" and is further discussed within the C-A Commercial Aesthetic District regulations (Section 713). Per the Zoning Ordinance, the reason for the regulation is as follows: "Due to the heavy volume of pedestrian traffic and congestion and in order to promote the orderly flow of visitors and to enhance the safety of both pedestrian and vehicular traffic flow, the outdoor display and sale of merchandise within the front yard setback in the C-1 zone is prohibited." The applicant was made aware of the regulation prohibiting (January 2024) the usage of the front setback for seating before the site plan approval for the development was granted. The topic was discussed after staff called out the installation of the railing that was included in the submitted and approved plan. The railing was approved to be

located within the required 10' front setback as authorized by Article III's "Yard" definition. No hardship has been provided by the applicant or found by staff for the request. Mr. Chad Kennedy was present to offer further insight to the rationale of the request. Mr. Kennedy stated that there will be no smoking, and zero business conducted out on the front patio. Mr. Kennedy stated that the patrons would be able to order from the bar and go retrieve the ordered items as they become made available from the bar. Staff also strongly recommended providing seating that is flush with the railing out front so it does not appear to be a mass of patrons, rather it will be perceived as an extension of the internal operations. Staff also reiterated that the Fire Marshall would have to verify occupancy with the new additions to make sure the Life Safety component of this request is complying.

Following a brief discussion, Mr. Clay England made a motion to approve the request contingent upon the seating being provided as requested above, that there be no smoking, zero business being conducted, and that the Fire Marshall verifies occupancy with the new seating arrangement and that it is compliant. 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 22.5' to 17' for a proposed single-family dwelling to be constructed at 1196 Cole Lane, being Tax Map 117E, Group A, Parcel 2.06, R-1 Zone, requested by The Land Surveyors, Inc. Staff presented the request for a proposed variance to reduce the side yard setback from the required 22.5' to 17' for a proposed single-family dwelling to be constructed at 1196 Cole Lane. This exact request appeared before the Board at the previous meeting, October 24, 2024, where it was denied. The requestor wanted to request the variance again in hopes that a representative would be available to provide more information.

The request comes to the attention of the Board due to failed inspection. Staff found on August 29, 2024, that the applicant had encroached 5.5' into the required side yard setback. The approved dwelling for the parcel is a three-story structure, increasing the side yard setback requirement from the base 15' to 22.5'. the subject parcel is 0.41-acre (18,235 square feet) with about half of the parcel's slope being equal to or greater than the 30% per the City's GIS Software. However, the submitted survey does not note the exact slope percentage of the parcel. No hardship was identified within the application for the request. Staff has identified that the parcel is approximately 0.34-acre (14, 810 square feet) below the minimum lot size requirement for the R-1 (Low Density Residential) for a parcel sloped between 20%-29%.

Staff stated that the approved site plan complied with Article VIII, including Footnote #4, which requires a three-story structure to adhere to the additional 7.5' side yard setback. Unfortunately, during the August 29, 2024, inspection, Staff noted the placement of the house seat was off by ten feet causing the encroachment on western end of the property. The Board stressed the importance of following the approved site plan and having that document on site to ensure that the structure is place and built per the *approved* site plan. Staff also cautioned the requestor on moving forward with this project until the variance request was heard. There was also opposition expressed from neighboring property owners.

Following a brief discussion, Mr. Clay England made a motion to deny request, stating that the approved site plan should have been followed. Mr. Jerry McCarter provided a second with all members voting, "aye."

Unscheduled Items

The meeting was unanimously adjourned at 3:23 p.m. after a motion made by Mr. Clay England. Mr. Jerry McCarter provided a second with all members voting, "aye."

Approved:



MBZA Chairman

1-23-25

Date

