

MINUTES OF THE KINGSPORT BOARD OF ZONING APPEALS (BZA)

October 3, 2024, Regular Meeting

Noon
Montgomery-Watterson Boardroom, City Hall

Members Present:

Bill Sumner
Calvin Clifton
Wes Combs

Members Absent:

Joe White
Tracey Cleek

Staff Present:

Lori Pyatte
Ken Weems
Jessica McMurray

Visitors:

Wade McClellan	William Brown
Laura Mitchel	Krystal Rivera
Cecilia Harless	Paul Warrick
William Cooper	Rev. Scottie Burkhalter
John Rose	Amy Harris
Tommy Watts	

Chairman Bill Sumner called the meeting to order at 12:01pm.

Chairman Sumner explained the meeting procedures.

Ms. Lori Pyatte conducted the swearing in ceremony for those wishing to speak during the regular meeting. All visitors were sworn in.

Public Hearing:

Case: BZA24-0196– The owner of property located at 800 Broad Street, Control Map 046G, Group F, Parcel 017.00 requests administrative review of Sec 114-535 to allow a new electronic message board to be integrated into the existing sign. The property is zoned P-1, Professional Offices District.

Ms. Laura Mitchell, along with Rev. Scottie Burkhalter and Bill Cooper, presented their case to the board. Ms. Mitchell began by expressing gratitude for the opportunity to discuss their proposal for a small electronic sign at the church. She explained that this sign would greatly enhance their outreach efforts, enabling them to share real-time updates and important information with the community.

Ms. Mitchell noted that the church's current traditional signage lacks visibility and flexibility, often resulting in outdated messages. An electronic sign would not only lessen their reliance on printed materials but also create a consistent and professional appearance. Bill Cooper, the dedicated property chairman, has championed this initiative for many years, and they believe it aligns perfectly with their mission of community service.

She emphasized that the sign would be tastefully designed to complement the existing structure while being easily programmable for updates. Importantly, it could convey comforting messages during

challenging times and highlight various community events. The team is excited about the potential this sign holds for fostering communication and connection within the community.

Ms. Mitchell concluded by stating that with the board's support, they can bring this vision to fruition, enhancing the church's role as a welcoming and informative presence in the town. She thanked the board for considering their request.

Chairman Sumner, seeing no one wishing to speak further on the item, closed the public hearing.

Case: BZA24-0203 – The owner of property located at 165 Breckenridge Trace, Control Map 120, Parcel 003.55 requests administrative review of Sec 114-198 to allow a new church to be constructed in the industrial zone. The property is zoned M-1R, Light Manufacturing Restricted District.

Mr. John Rose, representative for Grace Pointe Fellowship Church, introduced himself and presented the church's case to the board. He expressed appreciation for the committee's consideration and began by outlining the church's zoning situation. Mr. Rose emphasized the complexities arising from the current zoning regulations, noting that the city's zoning ordinance neither permits nor prohibits a church from being built in their current M-1R zone. He pointed out that only three zoning districts within the city allow a church as a principal use: B-3, R-5, and B-4P.

Mr. Rose elaborated on the church's development plans, which include an indoor playground and other recreational facilities, all of which align with M-1R zoning allowances. He mentioned that they had commenced work under the assumption that their grading permit indicated compliance with zoning requirements. Mr. Rose articulated the church's financial commitment, highlighting a significant investment of \$300,000 to \$400,000 already spent on grading and preliminary work.

Although the staff recommended R-3 zoning, Mr. Rose stated that the church would prefer the B-3 designation, as part of their property is already classified as such. He expressed concerns about being required to return to the board for a variance if rezoned to R-3.

To support his argument, Mr. Rose cited recent developments in the area, highlighting properties that successfully transitioned from B-3 to R-3 abutting industrial zones, suggesting that similar pathways could be beneficial for the church. He urged the committee to consider these precedents and expressed that the decision to rezone their property should not force them into an undesired zoning category.

Mr. Rose emphasized that they never intended to enter a zoning conflict and that confusion surrounding their grading permit had placed them in a precarious position. He reflected on how, had they been aware of the zoning issues earlier, they might have chosen a different path.

Mr. Rose acknowledged he did not intend to challenge the staff's decision, believing he was merely seeking a variance. He noted that while he did not attend the pre-development meeting, his design team did.

Vice-Chairman Clifton asked if the church was the principal use. Mr. Rose confirmed. He emphasized the church's intent to be the principal use of the property and noted their building faces the Miller Parke subdivision.

Planning Manager Ken Weems stated that for church use to be allowed in the M-1R zone, it would need to be listed as a principal use in the M-1R zone. Manager Weems stated that the application correctly

identifies church use as not being listed as a special exception and not listed as a prohibited use in the M-1R code, but that these facts are irrelevant to the case.

The board sought clarification on the action at hand, with staff explaining that this case involved an administrative review to determine if the denial of the church in the M-1R zone was correct based on the zoning ordinance text. They emphasized that this was not a request for a variance or special exception. Chairman Sumner, reviewed principal uses in the M-1R zone and confirmed that church use was not listed a principal use.

Vice-Chairman Clifton inquired about the downside of rezoning to B-3, to which Mr. Rose responded that staff would only support R-3 and expressed concern about how the R-3 designation would affect the nearby industrial and commercial businesses.

Vice-Chairman Clifton confirmed that the property encompasses multiple zoning classifications, and staff recommended rezoning to R-3, similar to a recent R-3 rezoning on Breckenridge Trace. Staff explained that this recommendation was based on the large Miller Parke development across the street, highlighting past issues when B-3 zoning was placed adjacent to single-family residential areas.

Mr. Rose asked if the board had the authority to grant a variance even if the church was not listed as a principal use. The board clarified that they needed to determine who was correct regarding the zoning interpretation.

City Attorney Rowlett clarified that while the board could assess the interpretation of zoning classifications, discussions about alternative zoning avenues should be directed to other bodies. He reiterated that the board's role was not to alter the zoning but to interpret whether a church could be classified as a principal use or a special exception under the existing M-1R zoning.

Mr. Rowlett warned that if the board ruled in favor of the applicant, neighboring property owners could challenge the decision. Mr. Rose clarified that he did not wish to challenge the zoning administrator and was simply seeking alternatives, including a legal question about religious freedom use and whether the board could grant him the ability to build based on that. Chairman Sumner acknowledged the board's awareness of religious freedoms.

Mr. Rowlett contributed to the discussion by explaining the legal framework surrounding their request. He referenced both the Tennessee Religious Freedom Restoration Act and the federal Religious Land Use and Institutionalized Persons Act (RLUIPA), clarifying that for a burden on religious exercise to be deemed substantial, the religious entity must not cause any harm. Mr. Rowlett noted that the church's current zoning classification complicates their proposed activities and questioned if the church was aware of the zoning classifications before acquiring the property.

Mr. Rose confirmed the church was aware of the zoning classification when the property was purchased and that the church had not changed the zoning since then.

Vice-Chairman Clifton questioned why they could not simply rezone where the church is located. Staff commented that was the recommendation to the applicant. Mr. Rose expressed a preference for R-5 across the parcel.

Mr. Rose pointed out that the parcel is 45 acres and expressed doubts about the likelihood of the church utilizing the entire property. He mentioned that the church might consider returning for R-5 zoning in the future.

Mr. Rose expressed frustration at the possibility of being compelled to rezone to R-3, despite other zoning options aligning better with their intended use.

As the discussion concluded, Mr. Rose questioned why staff could not support other zoning options, particularly R-5. Mr. Rose noted the financial benefit of R-5 zoning, suggesting that if the church ever wished to sell the property for housing development, being locked into R-3 could be detrimental, as R-3 is not lucrative.

Chairman Sumner, seeing no one wishing to speak further on the item, closed the public hearing.

Case: BZA24-0204 – The owner of property located at 368 Old Kinkead Road, Control Map 022E, Group A, Parcel 007.00 requests a requests a 34 foot deviation from rear yard to Sec 114-133(1) for the purpose of constructing an accessory structure in the side yard. The property is zoned R-1B, Residential District.

Ms. Amy Harris, the property owner, presented her case to the board, requesting a rear yard deviation to construct a new parking pavilion. She noted that her property is somewhat secluded from neighbors and features a circular driveway. Ms. Harris explained that the pavilion would be better positioned if it could be placed in the side yard.

Chairman Sumner requested clarification from staff regarding the plat, which indicated additional structures on the parcel. Ms. Harris clarified that two of those structures had been removed, leaving only their home on the property.

Chairman Sumner, seeing no one wishing to speak further on the item, closed the public hearing.

Case: BZA24-0205 – The owner of property located at 1021 Timberidge Trail, Control Map 022E, Group F, Parcel 006.00 requests special exception to Sec 114-182(c)2 for the purpose of opening an in-home childcare facility. The property is zoned R-1B, Residential District.

Ms. Krystal Rivera presented her case to the board, requesting permission to establish an in-home childcare facility at her residence. Recently relocated from California, she has experience working with children and currently cares for her four children at home. She is committed to adhering to all regulations and ensuring compliance with local laws. Ms. Rivera has consulted with several neighbors she believes would be directly affected by her proposal.

Some neighbors expressed concerns about potential traffic and noise, though Ms. Rivera assured them that noise would be managed according to a schedule. She acknowledged that while she cannot control individual driving habits, there are no government subsidies available to safeguard her home and neighborhood, which primarily consists of blue-collar workers.

Chairman Sumner voiced his apprehensions about the proposal. Vice-Chairman Calvin pointed out that noise and traffic were significant concerns and inquired about the maximum number of children Ms. Rivera planned to care for. She explained that while the state would ultimately determine the limit, she anticipates accommodating no more than eight children.

The board is focused on assessing the impact on the neighborhood, particularly regarding the potential for increased enrollment. Ms. Rivera responded that if her business were to grow beyond capacity, she

would consider relocating. For now, she believes her home can effectively meet the community's childcare needs.

Chairman Sumner highlighted that residents seek tranquility in their neighborhoods, and the establishment of a business might disrupt that peace. He also raised concerns about the narrow roads in the area. In response, Ms. Rivera stated that parking would be available in her driveway, on the street, and in a neighboring vacant field. She noted that the facility's operating hours would be from 6 AM to 6 PM, but Chairman Sumner pointed out that this would result in approximately eight cars arriving during peak drop-off and pick-up times each day.

Wade McClellan spoke firmly against the proposal, highlighting that increased traffic would directly affect him, as many vehicles would be driving past his home. He pointed out that subdivision covenants explicitly prohibit business activities within residences, although the board acknowledged their inability to enforce HOA rules.

William Brown added his concerns, noting that there is plenty of vacant retail space better suited for this type of activity. He emphasized that the one-way in and one-way out traffic pattern in the area would be severely impacted. Allowing one home to operate a childcare business could set a troubling precedent for others to follow, potentially leading to a proliferation of similar enterprises.

Brown also raised alarms about pedestrians navigating the streets, especially given the absence of sidewalks. He worried that increased traffic would lead to vehicles frequently turning around in driveways, disrupting the peace and quality of life for residents. Overall, he argued that any rise in traffic would not only be detrimental but could significantly compromise the neighborhood's character and safety.

Chairman Sumner, seeing no one wishing to speak further on the item, closed the public hearing.

Case: BZA24-0206 – The owner of property located at 1200 Fiddlers Way, Control Map 061E, Group A, Parcel 006.00 requests a 13.2 foot front yard variance to Sec 114-183(e)(1)c and a 21.5 foot rear yard variance to Sec 114-183(e)(1)e for the purpose of constructing a new single-family home. The property is zoned R-1B, Residential District.

Cecilia Harless presented her case to the board, expressing her desire to build a single-family spec home on the property. She explained that she was unaware of the zoning and setback requirement of 30 feet. Compared to other lots in the neighborhood, this lot is 20 to 40 feet shallower. Although there is no homeowners' association (HOA), the subdivision restricts construction to a minimum of 1,800 square feet for a single-level home. The house plan she has selected is 1,900 square feet and aligns well with the character of the neighborhood. A smaller home or a different design would not complement the aesthetic of the surrounding properties. Without a variance, the proposed home would be unbuildable due to setback and subdivision restrictions.

The board confirmed the variance request.

Vice-Chairman Clifton, who resides in the neighborhood, stated he would abstain from the vote. He noted that the depth and grade of the lot posed challenges and that the neighborhood had anticipated

this situation for some time. Staff reported no calls of concern, aside from one inquiry from a neighbor wanting to know what was happening.

Chairman Sumner, seeing no one wishing to speak further on the item, closed the public hearing.

Case BZA24-0213 – The owner of property located at 418 Roller Street, Control Map 046H, Group A, Parcel 013.00 requests a 746 square foot variance to Sec. 114-133(2) to exceed the maximum square footage allowance for an accessory structure and a 4 foot variance to Sec. 114-133(2) for the purpose of locating the structure in the center of two existing accessory structures. The property is zoned R-4, Medium Density Apartment District.

Tommy Watts, the property owner, presented his case to the board, expressing his intention to construct a new storage garage between two existing garages. He clarified that the proposed use is residential. Mr. Watts is requesting a variance of 746 square feet to exceed the allowable size for accessory structures, as well as a 4-foot variance to position the new structure centrally between the two existing garages. He noted that he has spoken with his neighbor, who is supportive of the request.

Chairman Sumner, seeing no one wishing to speak further on the item, closed the public hearing.

BUSINESS:

Staff announced that BZA training will be available on November 8th from 9 AM to 12 PM at Meadowview Conference Center, with more details to follow.

Additionally, staff proposed rescheduling the Board of Zoning Appeals meeting originally set for November 7th to November 14th, as staff will be attending a conference from November 6th to 8th. The board agreed to this date change.

MOTION: made by Chairman Sumner, seconded by Mr. Combs, to approve the Kingsport Board of Zoning Appeals minutes for September 5, 2024.

VOTE: 3-0 to approve the minutes.

Adjudication of Cases:

Case: BZA24-0196– The owner of property located at 800 Broad Street, Control Map 046G, Group F, Parcel 017.00 requests administrative review of Sec 114-535 to allow a new electronic message board to be integrated into the existing sign. The property is zoned P-1, Professional Offices District.

The Board conducted a zoning interpretation and administrative review of Section 114-535 for the subject parcel to assess the integration of a new electronic message board into the existing sign in the P-1, Professional Office zone. The Board specified that the electronic message must be dimmed at night in accordance with code requirements.

MOTION: Made by Mr. Combs and seconded by Vice-Chairman Clifton to approve the integration of a new electronic message board into the existing sign in the P-1, Professional Office zone, with the condition that the message board be dimmed at night as required by code.

VOTE: 3-0 to approve the request.

Case: BZA24-0203 – The owner of property located at 165 Breckenridge Trace, Control Map 120, Parcel 003.55 requests administrative review of Sec 114-198 to allow a new church to be constructed in the industrial zone. The property is zoned M-1R, Light Manufacturing Restricted District.

After conducting a zoning interpretation and administrative review of Section 114-198 for the subject parcel, the board concluded that they agreed with the staff's assessment: according to zoning regulations, a church is not listed as a principle use in the M-1R zone.

MOTION: Made by Mr. Combs and seconded by Vice-Chairman Clifton to concur with the staff's rationale, agreeing with their assessment that, according to zoning regulations, a church is not listed as a principle use in the M-1R zone.

VOTE: 3-0 to concur with the staff's rationale that a church is not listed as a principle use in the M-1R zone.

Case: BZA24-0204 – The owner of property located at 368 Old Kinkead Road, Control Map 022E, Group A, Parcel 007.00 requests a requests a 34 foot deviation from rear yard to Sec 114-133(1) for the purpose of constructing an accessory structure in the side yard. The property is zoned R-1B, Residential District.

The board acknowledged that the parcel was large and somewhat secluded, with no further comments.

MOTION: made by Mr. Combs, seconded by Vice-Chairman Clifton, to approve a 34 foot deviation from rear yard as requested.

VOTE: 3-0 to approve the request.

Case: BZA24-0205 – The owner of property located at 1021 Timberidge Trail, Control Map 022E, Group F, Parcel 006.00 requests special exception to Sec 114-182(c)2 for the purpose of opening an in-home childcare facility. The property is zoned R-1B, Residential District.

Chairman Sumner acknowledged Ms. Rivera's intentions but expressed concern about the potential impact on the neighborhood. Vice-Chairman Clifton remarked that the overwhelming opposition from neighbors made it clear how the board should proceed, stating that the situation was not favorable for anyone involved.

MOTION: made by Mr. Combs, seconded by Vice-Chairman Clifton to deny the request, citing concerns regarding parking, traffic and neighborhood impact.

VOTE: 3-0 to deny the requested based on neighborhood impact.

Case: BZA24-0206 – The owner of property located at 1200 Fiddlers Way, Control Map 061E, Group A, Parcel 006.00 requests a 14.6 foot front yard variance to Sec 114-183(e)(1)c and an 8 foot rear yard variance to Sec 114-183(e)(1)e for the purpose of constructing a new single-family home. The property is zoned R-1B, Residential District.

The board acknowledged that the challenge arises from the lot's shallowness compared to other properties in the neighborhood. Vice-Chairman Clifton stated he would abstain.

MOTION: made by Mr. Combs, seconded by Chairman Sumner, to approve the 14.6 foot front yard variance and an 8 foot rear yard variance as requested.

VOTE: 2-0-1 to approve the request.

Case BZA24-0213 – The owner of property located at 418 Roller Street, Control Map 046H, Group A, Parcel 013.00 requests a 746 square foot variance to Sec. 114-133(2) to exceed the maximum square footage allowance for an accessory structure and a 4 foot variance to Sec. 114-133(2) for the purpose of locating the structure in the center of two existing accessory structures. The property is zoned R-4, Medium Density Apartment District.

Chairman Sumner asked if there was any further discussion; there was none.

MOTION: made by Vice-Chairman Clifton, seconded by Mr. Combs, to approve the 746 square foot variance to exceed the maximum square footage allowance for an accessory structure and a 4 foot building separation variance (right and left side) variance as requested.

VOTE: 3-0 to approve the request.

With no further business the meeting was adjourned at 1:30pm.

Respectfully Submitted,

Jessica McMurray

Jessica McMurray
Development Coordinator