

**CITY OF CLARKSVILLE**  
**BOARD OF ZONING APPEALS**

**-MINUTES**

DATE: October 5, 2022

LOCATION: 100 South Spring Street

**I. CALL TO ORDER/ QUORUM CHECK**

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  
Stacey Wenzler  
Micheal Long

**STAFF PRESENT**

David Smith, Director  
Mat Smiley  
Valerie Ogle  
Stephanie Rodriguez

**OTHERS PRESENT ADDRESSING THE BOARD**

Representatives for BOZA applications

**IV. ADOPTION OF MINUTES**

Bobby Powers entertained a motion to adopt the September 7, 2022 minutes. Micheal Long made a motion to adopt the minutes as written; Stacey Wenzler seconded the motion. The minutes were adopted.

**V. COMMITTEE ACTION REQUIRED**

- A. Case Number BZA-32-2022:** Application of Bill Mace, property located at 1104 Cardinal Creek Dr., Tax Property Map No. 018N, Parcel G 012.00, Zoned R-1. Description of the Request: "Applicant is requesting a 14.8 foot variance from the required 20 foot rear yard setback in order for the structure to be 5.2 feet from the South property line." Staff recommendation is for disapproval; request does not meet the requirements of the current zoning ordinance and hardship is considered self-imposed. Heather Chase, broker for Sandy and Jason Smith the new property owners, spoke in favor of the proposed variance stating that Mr. & Mrs. Smith have been in the house for

several months now without the variance and that she understands that a mistake was made however Mr. & Mrs. Smith are the ones paying for the mistake of the builder (Bill Mace). Micheal Long clarified that the Board of Zoning Appeals is here to enforce the rules that are set by code standards and posed the question as to whether Mr.& Mrs. Smith would be okay with the builder removing the porch so that a variance would not be required to which Mr. & Mrs. Smith replied yes. Stacey Wenzler asked Mr. & Mrs. Smith if they were currently residing in the house; they replied, yes they are. Bobby Powers asked if they were waiting for the certificate of occupancy in order to close on the property and Mrs. Smith replied yes. Bill Mace questioned if the porch was removed if they would be able to utilize the six foot setback. David Smith replied yes, the porch may not need to be removed in its entirety. Bill Mace asked if the porch was brought into compliance, would the case need to be brought to the board once again; David Smith replied yes that is correct, the case could be deferred or withdrawn as long as a revised survey was done showing the property is compliant with current building code. Jeff Tyndall (Regional Planning Commission) was present to speak in opposition of the request stating that the variance should be rejected out of principle. Mr. Tyndall then asked David Smith if it was only the overhang in question and not the foundation of the structure to which David Smith replied that that was correct. Mr. Tyndall stated that removing the porch cover would not affect the living arrangement of the house and that there are other ways to achieve desired shade. Bobby Powers entertained a motion. Stacey Wenzler made a motion to defer the request, seconded by Micheal Long. The motion was deferred unanimously.

- B. Case Number BZA-55-2022:** Application of Rollow Welch, property located at 2116 Post Rd., Tap Property Map No. 065M, Parcel H 011.00, Zoned R-1. Description of the Request: “Applicant is requesting a Use Permitted on Review in an R-1 zone to allow for a Guest House / Pool House.” Staff recommendation is for approval. Request will have no adverse effects on surrounding properties. Rollow Welch was present to speak on behalf of the request. There was no opposition present. Mr. Welch explained the pool house would be used for easier access to utilize the facilities instead of having to go into the main house. Bobby Powers entertained a motion. Stacey Wenzler made a motion to approve the request as presented, seconded by Micheal Long. The motion passed unanimously.
- C. Case Number BZA-56-2022:** Application of Khaleel White, property located at 983 May Apple Dr., Tax Property Map No. 029L, Parcel K 007.00, Zoned R-1. Description of the Request: “Applicant is requesting a Use Permitted on Review in an R-1 zone to allow for a Guest House.” Staff recommendation is for approval. Request will have no adverse effects on surrounding properties. Khaleel White was present to speak on behalf of the request. There was no opposition present. Mr. White explained that the guest house would only be for the family to stay while visiting. Bobby Powers entertained a motion. Micheal Long made a motion to approve the request, seconded by Stacey Wenzler. The motion passed unanimously.

- D. Case Number BZA-57-2022:** Application of Danielle Epstein, Reed Baldwin, Agent, property located at 374 Ryder Ave., Tax Property Map No. 043H, Parcel A 032.00, Zoned R-3. Description of the Request: “Applicant is requesting a 9.5 foot variance from the required 40 foot front yard setback in order for the structure to be 30.5 feet from the North property line.” Staff recommendation is for disapproval; request does not meet the requirements of the current zoning ordinance and hardship is considered self-imposed. Applicant requested to defer until the November meeting.
- E. Case Number BZA-58-2022:** Application of Joseph and Michelle Burton, property located at 3581 Aurora Dr., Tax Property Map No. 017E, Parcel F 009.00, Zoned R-1. Description of the Request: “Applicant is requesting a 2.3 foot variance from the required 10 foot side yard setback in order for the structure to be 7.7 feet from the North property line.” Staff recommendation is for disapproval; request does not meet the requirements of the current zoning ordinance and hardship is considered self-imposed. Joseph Burton was present to speak on behalf of the request. There was no opposition present. Mr. Burton explained that his reasoning for the variance is for aesthetic purposes and he would not want to make it an attached garage because then utilities would need to be moved around making the variance request more cost effective. Bobby Powers entertained a motion. Stacey Wenzler made a motion to approve the request, seconded by Micheal Long. The motion passed unanimously.
- F. Case Number BZA-59-2022:** Application of Charles Biter, property located at 509 Britton Springs Rd., Tax Property Map No. 030H, Parcel C 031.00, Zoned R-4. Description of the Request: “Applicant is requesting an 11.7 foot variance from the required 25 foot rear yard setback in order for the structure to be 13.3 feet from the North property line.” Staff recommendation is for disapproval; request does not meet the requirements of the current zoning ordinance and hardship is considered self-imposed. Brad Weakley, Weakley Brothers Engineering, was present to speak on behalf of the applicant. David and Ava Augustine, adjoining property owners, spoke in opposition to the variance request. Mr. Weakley stated that Mr. Biter is trying to create a best use scenario for the property and its future residents. If approved, the project would still need to go before the Regional Planning Commission for site approval, however, Mr. Biter wanted to ensure this option was available to them prior to going before the planning commission. Bobby Powers asked how many units would be going on the property to which Mr. Weakley responded with seven. Mr. Augustine stated that there are existing two story buildings out there that look down onto his property and if the proposed variance was passed the new structure would be much closer than the existing buildings and with them being two stories tall he feels the future residents would be able to see onto his property not giving him and Mrs. Augustine much privacy. Mrs. Augustine asked that if the request is approved if the windows would be able to be put on the side of the structure instead of the back. Bobby Powers responded that the Board of Zoning Appeals discusses

only the zoning of structures, not the design of the building. Jeff Tyndall spoke in opposition of the request stating that with what Mr.Biter is requesting it would be overbuilt for the shape of the site. Mr.Powers asked Mr.Weakley if moving the parking would be an option to which he replied ,yes, however it would make the parking for future residents pretty tight and undesirable. Mr.Weakley asked that if the board was leaning towards denying the request that if they would defer the request so that he may confer with Mr.Biter. Bobby Powers entertained a motion. Micheal Long made a motion to defer the request, seconded by Stacey Wenzler. The motion passed unanimously.

**G. Case Number BZA-60-2022:** Application of Millan Enterprises, property located at 25 Jefferson St., Tax Property Map No. 066G, Parcel A 004.00, Zoned CBD. Description of the Request: “Applicant is requesting a 61 foot variance from the required 75 foot maximum height of structure in order for the structure to be 136 feet in height.” Staff recommendation is for disapproval; request does not meet the requirements of the current zoning ordinance and hardship is considered self-imposed. Daniel Binkley, architect for the project, was present to speak in favor of the project. Mr.Binkley stated in the beginning phases of the project he had reached out to David Smith (Building & Codes), Jobe Moore (Assistant Fire Chief) and the Regional Planning Commission to ask their opinion on the project and had not received any negative feedback. Mr.Binkley then proceeded to give height facts about the surrounding buildings in the area. Bobby Powers asked if the structure would house 125 apartments plus commercial at the bottom to which Mr.Binkley responded yes. Jeff Tyndall (Regional Planning Commission) was a neutral party stating that it is about time that buildings be constructed vertically. After discussing, Bobby Powers entertained a motion. Stacey Wenzler made a motion to approve the request, seconded by Micheal Long. The motion was passed unanimously.

**H. Case Number BZA-61-2022:** Application of Nicholas Construction, property located at 486 Spiderwort Dr., Tax Property Map No. 057I, Parcel D 004.00, Zoned R-1. Description of the Request:”Applicant is requesting a 3% variance from the required 30% maximum lot coverage in order for the proposed structure to cover 33% of the lot.” Staff recommendation is for disapproval; request does not meet the requirements of the current zoning ordinance and hardship is considered self-imposed. Nicholas Liverett was present to speak on behalf of the project stating that originally the zoning ordinance called for R-1 being 15000 sq. ft. max area would be 4500 sq.ft., however, since going to cluster, that was not changed. The areas are much smaller but the 30% maximum lot coverage is still in place. Mr.Liverett voiced that this particular property is 60’x125’ which would be 7500 sq.ft. making the 30% 2250 sq ft which the minimum heated square footage is 1600 sq.ft. ;not giving much for a garage, porch, deck or patio for the house. Jeff Tyndall, (Regional Planning Commission), acknowledged that when developments get into clustering in R-1 Zones this is where builders are running into the issue of houses being overbuilt on the properties. Grayson Smith, surveyor, confirmed that when cluster developments were implemented dropping from 15000 sq.ft. to 6000

sq.ft., side setbacks, front yard setbacks and lot widths were changed and the 30% maximum lot coverage was not changed so he would ask the variance be passed. There was no opposition present. Bobby Powers entertained a motion. Micheal Long made a motion to approve the request, seconded by Stacey Wenzler. The motion passed unanimously.

**\*\*\* NEW BUSINESS: \*\*\***

David Smith (Building & Codes) posed if the Board of Zoning Appeals would allow Building & Codes to perform a staff level review of properties facing 5% or less of lot coverage. Bobby Powers entertained a motion. Micheal Long made a motion to allow staff level review for all applications at 5% or lower until the end of the year 2022, seconded by Stacey Wenzler. The motion was passed unanimously. Remaining cases BZA-62-2022 - BZA-65-2022 were passed based off the ruling that properties facing 5% or less lot coverage would be reviewed by Building & Codes at a staff level.

- I. **Case Number BZA-62-2022:** Application of Nicholas Construction, property located at 490 Spiderwort Dr., Tax Property Map No. 057I, Parcel D 003.00, Zoned R-1. Description of the Request: “Applicant is requesting a 4% variance from the required 30% maximum lot coverage in order for the proposed structure to cover 34% of the lot.” Staff recommendation is for disapproval; request does not meet the requirements of the current zoning ordinance and hardship is considered self-imposed.
- J. **Case Number BZA-63-2022:** Application of Curtis Merrell, Grayson Smith, Agent, property located at 833 Limestone Way, Tax Property Map No. 056I, Parcel H 008.00, Zoned R-1. Description of the Request: “Applicant is requesting a 5% variance from the required 30% maximum lot coverage in order for the proposed structure to cover 35% of the lot.” Staff recommendation is for disapproval; request does not meet the requirements of the current zoning ordinance and hardship is considered self-imposed.
- K. **Case Number BZA-64-2022:** Application of Curtis Merrell, Grayson Smith, Agent, property located at 837 Limestone Way, Tax Property Map No. 056I, Parcel H 007.00, Zoned R-1. Description of the Request: “Applicant is requesting a 5% variance from the required 30% maximum lot coverage in order for the proposed structure to cover 35% of the lot.” Staff recommendation is for disapproval; request does not meet the requirements of the current zoning ordinance and hardship is considered self-imposed.
- L. **Case Number BZA-65-2022:** Application of Curtis Merrell, Grayson Smith, Agent, property located at 841 Limestone Way, Tax Property Map No. 056I, Parcel H 006.00, Zoned R-1. Description of the Request: “Applicant is requesting a 4% variance from the required 30% maximum lot coverage in order for the proposed structure to cover 34” of the lot.” Staff recommendation is for disapproval; request does not meet the requirements of the current zoning ordinance and hardship is considered self-imposed.

**VI. CITY COUNCIL ACTION REQUIRED: NONE**

**ADJOURNMENT**

Motion to adjourn made by Stacey Wenzler; seconded by Micheal Long.