

**JOHNSON CITY BOARD OF ZONING APPEALS
MINUTES
July 3, 2018**

Members Present: Dr. Mike Marchioni, Vice-Chairman
Marcy Walker
Robert Thomas
Jenny Lockmiller

Members Absent: Dr. Stacey Wild, Chairman

Staff Present: Venard Asongayi - Development Coordinator, City of Johnson City
Will Righter - Planner, City of Johnson City
Nicole Lawrence - Administrative Coordinator, Development Services

Vice-Chairman Marchioni called the meeting to order at 6:00 p.m. A quorum was present.

Approval of the Agenda for the July 3, 2018 meeting was put forth with a motion to approve by Commissioner Thomas a second by Commissioner Walker. The agenda was approved 3-0. *Vice-chairman Marchioni abstained from voting.*

Approval of the minutes from the June 5, 2018 meeting was put forth with a motion to approve by Commissioner Walker with a second by Commissioner Thomas. The minutes were approved 3-0.

New Business:

Consider a 2 ft. variance request to reduce the front yard setback of the principal structure from 25 ft. to 23 ft., and a 5 ft. variance request to reduce the rear yard setback from 30 ft. to 25 ft. of the same principal structure - for the construction of a single family house based on lot topography and shallowness.

The developer intends to build a single family house with a front facing garage in the cul-de-sac of Glen Oaks Pl. Glen Oaks Pl is a local street. The house is required to be 25 ft. from the front property line and 30 ft. from the rear property line. The elevation of the rear yard descends steeply into a ravine. The rear yard topography makes it infeasible for the developer to construct the house within the required set back limits.

Staff recommended that the Board of Zoning Appeals favorably consider this variance request, reducing the front yard setback by 2 ft. and rear yard setback by 5 ft.

There were no questions from the Commissioners for staff.

Public hearing was opened;

Larry Sangid – 213 Shadow Wood Dr., the petitioner spoke in favor of the request and was available to answer any questions from the Commissioners.

There being no questions for the petitioner and seeing no one else wished to speak, Public Hearing was closed.

A motion to approve the Variance request was put forth by Commissioner Walker with a second from Commissioner Thomas.

Variance request approved 3-0.

Consider a 5 ft. variance request to reduce the rear yard setback of the principal structure from 30 ft. to 25 ft. for the construction of a single family house based on the location of an existing sewer line in the rear and side yard of the property.

The developer intends to build a single family house with a front facing garage in the cul-de-sac of Glen Oaks Pl. Glen Oaks Pl. is a local street. The house is required to be 30 ft. from the rear property line. The existing sewer lines in the rear and side yards of the lot prevent the applicant from developing the property within the setback limits required by the Zoning Code.

Staff recommended that the Board of Zoning Appeals grant this variance request, reducing the rear yard setback by 5 ft.

There were no questions from Commissioners to staff.

Public Hearing was opened; seeing no one wished to speak, Public Hearing was closed.

A motion to approve the Variance request was put forth by Commissioner Walker with a second from Commissioner Thomas.

Variance request approved 3-0.

Petitioner requests an Administrative Review of the decision of the building official permitting a structure associated with a nativity scene to remain on the property of

Southwestern Baptist Church. Should a structure permitted for a temporal use under Section 4.14.2A of the Zoning Ordinance be permitted to remain on the property as a customary accessory structure?

Zoning Ordinance Definitions: **ACCESSORY STRUCTURE OR USE:** A detached structure or use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

TEMPORARY USE: A land use or structure that is in place for only short periods of time not to exceed 90 consecutive days unless an extension is granted.

Section 4.13.3 of the Zoning Ordinance: 4.13.3 Prohibited accessory structures

Mobile storage units, e.g., semi-trailers, converted vans, or converted buses, shall not be used as accessory structures for storage or human occupancy on any residential lot.

Section 4.14.2A of the Zoning Ordinance: A. Religious service, show, exhibition and other gatherings under tent or in open. A Temporary Use Permit may be issued for a period of time not exceeding fourteen (14) days. Such activities shall only be permitted on lots with adequate off-street parking.

Section 6.10.1 of the Zoning Ordinance: 6.10.1.1 The regulations established in this Section are intended to provide optional methods of land development which encourage more imaginative solutions to environmental design problems. Residential areas thus established would be characterized by a unified building and site development program, open space for recreation, and provision for commercial, religious, education, and cultural facilities which are integrated with the total project by unified architectural and open space treatment.

The subject property is in the RP-2 Zoning District. It was rezoned from R-3 to RP-2 in 1986 without a concept plan attached to the rezoning ordinance. Redevelopment of this site, therefore, does not require a concept plan amendment as there was no concept to be amended.

The structure under consideration is located in the rear yard of the property and is less than 850 sq. ft. (accessory structures of more than 850 sq. ft. require special exception permits from the Board of Zoning Appeals. One of the special exception requirements in such case is that the customary accessory structure has to be built of the same materials as the principal structure).

Commissioner Lockmiller asked staff if the structures in question were on a foundation and she was not convinced that anything being called a permanent structure should be on wheels or blocks.

Staff replied that the Pavilion to the rear of the property is considered a Principal structure and the storage shed and the structures in question (Nativity Scenes) are considered accessory structures. Each Principal Structure is allowed two accessory structures in this zone (RP-2).

Commissioner Lockmiller asked staff if there were regulations in this zone (RP-2) for the type of material used on accessory structures?

Staff replied that no, there were not.

Commissioner Lockmiller asked if the church had gotten the proper permits for these structures to be placed on their property during the Christmas season?

Staff replied that, no they had not this past Christmas however, they are now aware that those are a requirement and will be sure to obtain the proper permits the next time they were used.

Public Hearing was opened;

Lynne Gregory – 1709 Galen Dr. the petitioner spoke. She states the structures are made of substandard building materials and the structures cannot be used in their current state for storage in the off season due to the lack of adequate materials used for the structures and there is not a door on the structure to secure any items inside. She is requesting the church move the structures off of their property completely in the off season, when they are not being used.

David McNeese – 2250 Dry Creek Rd. was the building committee representative from Southwestern Baptist Church where the structures are being kept and are used. He stated that they have moved the Nativity Scene structures that are in question to the far rear of the church property, away from Mrs. Gregory's view and yard. The church has placed them as far back on the property as they can and they are completely out of the public's view from the front or side of the church building. Mr. McNeese stated that these structures are used once a year as replicas of the Nativity for the Christmas season. They are up for approximately 15 days during Christmas and then moved from the front of the property. The structures are then used for storage the rest of the year.

Commissioner Lockmiller asked Mr. McNeese if the structures had a door that could close on the front for security. Mr. McNeese stated that no, there were no doors for the structure, they are placed together, front to front and one is smaller than the other and this does leave an opening in the front.

Seeing no one else wished to speak, Public Hearing was closed.

Commissioner Lockmiller asked staff about the zoning codes 6.10.1.1 and 6.10.1.3 regarding Accessory Structures building material being compatible to the surrounding areas, wasn't this applicable in this case? Staff stated that no, not with customary accessory structures that were less than 850 Sq. Ft. in size. They are not required to have the same or compatible building materials as the surrounding area.

Commissioner Lockmiller asked staff if this was not a mobile storage unit since the structures were not on foundations and were on wheels? She stated that the church members stated they intend to move it at the Christmas season back to the front for use therefore, this makes them mobile.

Staff stated that according to the zoning code 4.13.3, this particular structure does not fall under those prohibited Accessory Structures. These are used for religious services and according to Section 4.14.2A of the Zoning Ordinance, these are permitted and allowed.

The Commissioners had no further questions for staff.

A motion was put forth by Commissioner Walker to deny the petitioners request to have Southwestern Baptist Church located at 1112 Cherokee Rd, remove the two structures in question, from the property, with a second from Commissioner Thomas.

Motion for denial as stated was approved 2-1 (Lockmiller)

There being no further business the meeting was adjourned at 6:20 pm.



Dr. Mike Marchioni – Vice-Chairman