

BOARD OF ZONING APPEALS  
MUNICIPAL CENTER COUNCIL CHAMBERS

Tuesday, August 9, 2016

6:00 p.m.

The regular meeting of the Board of Zoning Appeals was scheduled and held in the Council Chambers of the Municipal Center on August 9, 2016.

1. Chairman Sisson called the meeting to order at 5:58 p.m.
2. Chairman Sisson requested the roll call. Ms. Regina Gibson called the roll of the Board and established a quorum:

COMMISSIONERS PRESENT: Ms. Jennifer Sisson, Chairman; Mr. Hunter Browndyke, Vice Chairman; Alderman Mary Anne Gibson; Mr. Frank Uhlhorn; Mr. Mike Harless and Ms. Sherrie Hicks

DEVELOPMENT STAFF PRESENT: Mr. Cameron Ross, Economic and Community Development Director; Ms. Sheila Pounder, Planning Division Manager; Ms. Regina Gibson, Administrative Secretary, and Mr. Alan Strain, Attorney

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The Board of Zoning Appeals is a Quasi-Judicial body and as such, the latitude for acting on applications is somewhat limited by State Statute and City Ordinance. This meeting is recorded and those appearing before the Board would need to identify themselves, give their address and be sworn in for the record.

Motions made in all meetings are of an affirmative nature and does not necessarily mean that the motion will be approved, but that the language will be in an affirmative nature when the motion is made.

3. Approval of Minutes for July 12, 2016.

Mr. Uhlhorn moved to approve the Board of Zoning and Appeals minutes of July 12, 2016, seconded by Mr. Browndyke, with no further comments or discussions.

ROLL CALL: Mr. Uhlhorn – Yes; Ms. Hicks – Abstain; Mr. Browndyke – Abstain; Alderman Gibson – Yes; Mr. Harless - Abstain; Chairman Sisson - Yes

MOTION PASSED

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4. 2008 Sonning Drive – Approval of a Variance to Increase the Width of a Driveway in the Front Yard of a Corner Lot in the R'1 District. (Case No. 16-618).



**BACKGROUND:**

DATE SUBDIVISION APPROVED: March 1, 1972.

DATE PRINCIPAL STRUCTURE APPROVED/BUILT: The home was constructed in 1974.

PREVIOUS VARIANCE REQUESTS: None.

**DISCUSSION:**

**SPECIFIC SECTIONS OF ZONING ORDINANCE:** The specific request is approval of a variance from § 23-88(a)(2) (Maximum width), which states “For residential corner lots only, a parking pad located beyond the limits of the driveway may be permitted within the required front yard, provided the parking pad’s paved area abuts the principal driveway, and does not exceed a maximum of 300 square feet within the required front yard”.

**NATURE OF VARIANCE REQUESTED:** The property’s “R-1” zoning district establishes a minimum front yard setback, extending 40 behind the property line. The applicant was cited on March 11, 2016 by a City Code Compliance Officer for having a driveway addition that is approximately 400 square feet within the front yard of a residential corner lot. The addition of an 18’ x 22’ parking pad (396 sq. ft.) to the exiting driveway causes the paved area in the front yard on this lot to exceed the Code by approximately 100 square feet.

**APPLICANT’S JUSTIFICATION:** The applicant states that the reason for the variance request is “the family need for additional off-street parking spaces for multiple drivers in the household, thereby; freeing up on street parking spaces for safety to the neighbors, and to resolve an ongoing erosion issue due to the heavy shade of trees in the yard that has become an eyesore”. See pages 6-9 for a copy of the application for information concerning the justification for this request.

**STAFF COMMENTS:**

1. The property is a corner lot with the driveway and parking pad located on Woodgate Drive.
2. A copy of the letter to the applicant from the City’s Code Compliance Officer and pictures of the site are attached to the staff report.
3. The requested variance will result in a 396 square foot parking pad area to be located in the front yard of this property.

**PROPOSED MOTION:** To approve a variance for 2008 Sonning Drive to allow an increase in the width of a driveway to 396 square feet in the front yard on a corner lot in the “R-1” Medium Density Residential District, subject to the board’s discussion, staff comments contained in the staff report, and the site plan submitted with the application.

Mr. Ken Steward and Mrs. Sherry Steward explained the reason for the parking pad was to resolve an ongoing erosion issue as well as to allow additional parking spaces. They explained they had to park at least 2 of their 5 vehicles each day at the corner where the school has the bus stop to pick up the neighborhood children and felt this created a safety issue because the children were walking in and around the vehicles to get on the bus.

Mr. Todd Copland, Mr. Larry Tucker, Mr. Allen Fife, and Mr. John Elway spoke in favor of this variance due to the safety issues for the children as well as it being aesthetically pleasing for their neighborhood by solving the erosion problem on this lot.

Mr. Uhlhorn explained aside from the safety factor, hardships can be topographical. Since this is a situation where there is barren ground due to the shade from the trees and the ground washing away then this is hardship enough for him to vote in favor of this variance request.

Alderman Gibson expressed her appreciation for the corrective measures taken to get the cars off the street in order to protect the children. She then expressed her concerns to staff concerning the contractors that are performing work that is not allowed by the city ordinance and requested that staff look into a way to educate these contractors so this doesn't continue to happen in the future.

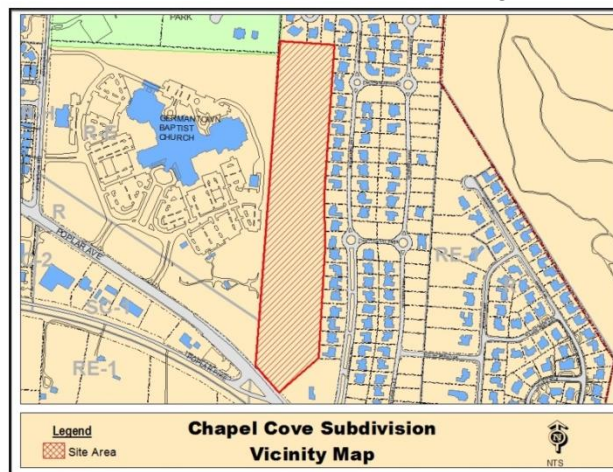
Chairman Sisson called for a motion.

Mr. Uhlhorn moved to approve a variance for 2008 Sonning Drive to allow an increase in the width of a driveway to 396 square feet in the front yard on a corner lot in the "R-1" Medium Density Residential District, as discussed, staff comments contained in the staff report, and the site plan submitted with the application, seconded by Ms. Hicks.

**ROLL CALL:** Ms. Harless – Yes, due to the safety factor; Mr. Uhlhorn – Yes; Ms. Hicks – Yes; Alderman Gibson – Yes; Mr. Browndyke – Yes; Chairman Sisson – Yes

MOTION PASSED

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5. Chapel Cove Subdivision – North side of Poplar Avenue, 397.5' west of Devonshire Way – Approval of a Variance to Allow a Fence to Exceed 6 feet in Height. (Case No. 16-620).



**BACKGROUND:**

DATE OF ANNEXATION: December 31, 1988.

DATE SUBDIVISION APPROVED: The Chapel Cove Subdivision was approved by the Germantown Planning Commission on July 5, 2016.

DATE PRINCIPAL STRUCTURE APPROVED/BUILT: Development under review.

PREVIOUS VARIANCE REQUESTS: PC granted a subdivision variance to Section 17-56(k), Maximum length of a deadend street (1,200 feet) and no more than 30 lots on a deadend street. Subdivision was approved to allow a cove that is 2,240 feet in length and 45 lots on a deadend street.

DISCUSSION:

**SPECIFIC SECTIONS OF ZONING ORDINANCE:** The specific request is a variance from §6-102(a) of the Code of Ordinances, which states, “the maximum height of any fence shall be six (6) feet.” The applicants’ fence exceeds six (6) feet in height by two feet.

**NATURE OF VARIANCE REQUESTED:** The specific request by the applicant is to allow an 8 foot brick wall with 9 foot brick piers/columns along the southern and a portion of the western property lines in Phase 1 of the development and to allow an 8 foot wooden fence along remaining portion of the western property line in Phase 2 of the development. The proposed 8 foot wall and fence with are part of a landscape and hardscape plan with an entrance feature that was approved by the Design Review Commission on July 26, 2016 (see attached site plan). The 8 foot brick wall and wooden fence along the western property line will be placed between the new residential lots in the Chapel Cove Subdivision and the existing ball fields and parking lots on the adjoin Germantown Baptist Church property.

**APPLICANT’S JUSTIFICATION:** The applicant indicates that the reason the variance is being requested is “to provide safety and security for future homeowners due to proximity to existing recreational fields and the potential for errant throws from players to end up in their rear yards that could cause injury to them or their families”. See pages 6-8 for a copy of the application with information concerning the justification for this request.

STAFF COMMENTS:

1. The requested variance will result in a wall/fence that is 8 feet along the southern and western property lines of the Chapel Cove Subdivision as approved with the landscape plan by the Design Review Commission.
2. If the variance is approved, the applicant shall apply to the Neighborhood Services Dept. for a fence permit.

**PROPOSED MOTION:** To approve a variance to allow a wall/fence to exceed 6 feet in height along the southern and western property lines of the Chapel Cove Subdivision as approved with the landscape plan by the Design Review Commission, subject to the Board’s discussion, staff comments, and the plan and documents submitted with the application.

Mr. Michael Rogers with Fisher Arnold and Mrs. Kim Grant Brown, one of the Chapel Cove owners as well as one of the residents explained that they were requesting the fence variance for 3 reasons, safety because of balls flying over the fence, since there is a lot of activity going on at times; it will help with the noise and lighting issues as well. The ball field is the most critical request because this fence would help protect the residents from the fly balls and helps breakup the noise when there is activity on the field as well as the lighting. Further north there is a significant elevation change between the service drive that goes around the church and the properties so this additional 2 feet would help with the traffic noise as well as any other lighting from the back parking lot. It would also help with the traffic noise along Poplar Avenue and explained aesthetically by keeping it consistent it would make for a better transition to the entry feature. Mrs. Brown explained that the fence request for phase two as well as for the whole property is just for the protection of future homeowners and screening the commercial property next door from their back yards.

After the motion was initially made by Mr. Uhlhorn as it was written. Mr. Harless requested the board to consider changing the motion where it reads to allow a wall/fence to exceed 6 feet to change it to 8 feet instead and that would cover the southern and western of Phase 1 but not include Phase 2. Mr. Uhlhorn explained that his motion was for all of the phases because it is apparent that there is a topographical issue and feels it is a hardship.

Chairman Sisson requested that Mr. Uhlhorn withdraw his motion and allow the next person to speak and then they would move forward.

Mr. Robert Reese explained the 8 foot fence was already approved by the Design Review Commission and does have 9 foot columns.

Chairman Sisson explained that the motion says to exceed 6 feet is also subject to board discussions, staff comments, the plan and documents submitted with the application so there is more structure to the motion as it is written, more than just you can exceed 6 feet.

After much discussion, Chairman Sisson called for a motion.

Mr. Uhlhorn moved to approve a variance to allow a wall/fence to exceed 6 feet in height along the southern and western property lines of Chapel Cove Subdivision as approved with the landscape plan by the Design Review Commission, as discussed, staff comments, and the plan and documents submitted with the application, seconded by Ms. Hicks.

**ROLL CALL:** Mr. Harless – No, because Phase 2 should stand alone and don't believe that there is that much of an elevation change that would require an 8 foot fence vs a 6 foot fence. Also the 8 foot fence requested at the back of the property should be a 6 foot fence as well ; Alderman Gibson – Yes; Mr. Browndyke – Yes; Mr. Uhlhorn – Yes; Ms. Hicks – Yes; Chairman Sisson - Yes

MOTION PASSED

3. 8000 & 8040 Wolf River Boulevard – Approval of a Variance to Reduce the Number of Required Parking Spaces in the O District. (Case No. 16-639).



**BACKGROUND:**

DATE OF ANNEXATION: December 31, 1988.

DATE SUBDIVISION APPROVED: The Planning Commission granted approved of the final subdivision plat for the ReSubdivision of Wolf River Medical Office Complex Subdivision on August 3, 2004.

DATE PRINCIPAL STRUCTURE APPROVED/BUILT: 8000 Wolf River Blvd built in 2005 & 8040 Wolf River Blvd built in 2007

PREVIOUS VARIANCE REQUESTS: None.

DISCUSSION:

SPECIFIC SECTION OF ZONING ORDINANCE: The request is approval of a variance from § 23-469(1), Parking and Loading, which states “At least one off-street parking space shall be provided for each 200 square feet of gross floor area for the following uses. Measurements representing 50 percent or more of the specified number of square feet of gross floor shall require an additional parking space.

c. Medical services: Doctor's offices, dentist's offices; and...”

NATURE OF VARIANCE REQUESTED: The property’s “O” zoning district establishes the calculation for the minimum number parking spaces required for specific office uses. The preliminary and final site plan for Lot 2 (8000 Wolf River Blvd.) was approved by the Planning Commission and the Design Review Commission in April, 2006 for a 37,709 square foot two (2) story office building with 189 parking spaces. The preliminary and final site plan for Lot 3 (8040 Wolf River Blvd.) was approved by the Planning Commission and the Design Review Commission in May, 2006 for a 41,449 square foot medical office building with 207 parking spaces. The applicant is seeking approval of a variance to reduce the number of required parking spaces to allow a reduction of 3 spaces on Lot 2 and 7 spaces on Lot 3 to provide additional area for large truck turning movements and add a new loading ramp area with designated loading spaces in the parking lot of Lot 2. The building square footage has changed overtime for both buildings since their initial approvals, thereby; changing the required amount of parking accordingly. The building on Lot 2 is now 54,641 sq. ft. with 273 required parking spaces and the building on Lot 3 is now 40,457 sq. ft. with 202 required parking spaces. The granting of the variance will leave both lots below their required number of parking spaces, 3 below for Lot 2 and 2 below for Lot 3. The parking for these two buildings are in close proximately, which allows for sharing of some spaces by customers accessing one of these two buildings. If approved, a new site plan for each lot that reflect the proposed changes to the parking lot must be approved by the DRC.

APPLICANT’S JUSTIFICATION: The applicant indicates that the reason the variance is being requested is “the desire to make small changes to the existing parking lot allow additional area for large truck turning movements and a new loading ramp area. The existing development and parking configuration prevents the addition of parking spaces to meet the Germantown Zoning Ordinance”. See pages 8-12 for a copy of the application with information concerning the justification for this request.

STAFF COMMENTS:

1. Section 23-469 of the City of Germantown Code of Ordinances states in part, “At least one parking space shall be provided for every 200 square feet of gross floor area...”.
2. The existing 54,641 sq. ft square foot building on Lot 2 requires a minimum of 273 parking spaces and the existing 40,457 sq. ft square foot building on Lot 3 requires a minimum of 202 parking spaces.
4. The granting of the requested variance will result in a decrease of 5 total spaces for these two office buildings, (3 spaces on Lot 2 and 2 spaces on Lot 3) resulting in Lot 2 having a total of 270 parking spaces and Lot 3 having a total of 200 parking spaces
5. The applicant has provided a site plan that reflects the adjusted parking layout, including the new loading ramp area (Attached to back of report).
5. An application for approval of a revised preliminary and final site plan that reflects the increased building footprint should be filed with the Design Review Commission prior to removal of the parking spaces.

PROPOSED MOTION: To approve a variance to reduce the number of required parking spaces to allow Lot 2 (8000 Wolf River Boulevard) to have 270 spaces and Lot 3 (8040 Wolf River Boulevard) to have

200 spaces in the “O” District, subject to the Board’s discussion, staff comments contained in the staff report and the site plan submitted with the application.

Mr. Steve Brigance with A2H and Carma Jude with Healthcare Realty Services explained the delivery trucks are to bring supplies for the various medical clinics that are located in the building. Although these clinics have been here for some time, they are steadily growing and are requiring more supplies; therefore, larger trucks are necessary. Therefore, they are requesting to reduce the number of required parking spaces to allow a reduction of 7 spaces on Lot 3 to provide additional space in order to accommodate the turning radius for the larger trucks.

Mr. Uhlhorn moved to approve a variance to reduce the number of required parking spaces to allow Lot 2 (8000 Wolf River Boulevard) to have 270 spaces and Lot 3 (8040 Wolf River Boulevard) to have 200 spaces in the “O” District, as discussed by the board, staff comments contained in the staff report, and the site plan submitted with the application, seconded by Ms. Hicks.

ROLL CALL: Mr. Uhlhorn – Yes; Ms. Hicks – Yes; Mr. Harless – Yes; Mr. Browndyke – Yes; Alderman Gibson – Yes; Chairman Sisson - Yes

MOTION PASSED

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ADJOURNMENT

There being no further business, comments, or questions by the Commission, the Chairman adjourned the meeting at 7:05 p.m.