

# **FORM-BASED CODE COMMITTEE** **MINUTES**

**August 9, 2018**

The duly advertised meeting of the Form-Based Code Committee was held on August 9, 2018, at 2:00 p.m. at the Development Resource Center, Conference Room 1A. Chair Heidi Hefferlin called the meeting to order. Secretary Rosetta Greer called the roll and swore in all those who would be addressing the Committee. Emily Dixon explained the rules of procedures and announced that the meeting is being recorded.

**Members Present:** Chair Heidi Hefferlin, Jason Havron, Grace Frank (late), William Smith, Matthew Whitaker, Marcus Jones, and David Hudson

**Members Absent:** Ladell Peoples

**Staff Members Present:** Development Review Planner Emily Dixon, Secretary Rosetta Greer, City Attorney Keith Reisman, and City Attorney Phil Noblett (late)

**Applicants Present:** Mike Sarvis / Synovus, Tom Marshall, Debbie Sue Przybysz, Chad Moore / Certified Lighting, and Allen Jones / Asa Engineering

**Approval of Minutes:** The minutes for July 2018 were not ready for review and is deferred until September 2018.

**OLD BUSINESS: NONE**

## **NEW BUSINESS**

### **Case #18-FB-00028 – 800 Market Street (District 7) – Transparency**

#### **Project Description:**

The applicant, Mike Sarvis / Synovus, has applied for the following modification:

1. Reduction of transparency from 60% to 35%.

Ms. Dixon presented the PowerPoint presentation. She said the applicant was not required to have a neighborhood meeting because they were not within 300 feet of a Neighborhood Association. The sign is currently up without proper permitting of going through the Form-Based Code process.

**Mike Sarvis, of 800 Market Street Suite 100, addressed the Committee.** Mr. Sarvis said the company has been going through a brand transition and the signage on the exterior needed to be changed. He said he assumed that the existing signage in question was appropriate. He said he chose the location due to it being a closet space and not an active office space. He said he supports Form-Based Code and want to meet the requirements.

**Community Comments:** None.

**Rebuttal:** None.

**Discussion:** Mr. Smith asked if the signs were placed on the building since Form-Based Code. Ms. Dixon said yes and that many sign contractors are not aware that signs like the signage in question, is not allowed in the Form-Based Code. Mr. Whitaker asked if the sign meets Form-Based Code. Ms. Dixon said the sign meets Form-Based Code requirements but does not meet transparency. Mr. Smith asked if the 20% signage coverage for 1 window or all windows. Ms. Dixon said she considered all the windows along the frontage due to weird existing windows downtown. Ms. Hefferlin asked if approving the sign that has been put up would set precedent. Ms. Dixon said yes it would set precedent. Mr. Whitaker said the sign is within sign requirements. Mr. Smith said the space behind the signage is not used as office space, but closet space. Mr. Jones asked if the Committee approved the existing sign, would it set precedent for future signs. Ms. Dixon said it is always great to set an intent when approving projects for future projects.

**Marcus Jones made a motion to approve Case #18-FB-00028 – 800 Market Street Suite 100, as submitted pursuant to the Chattanooga City Code, Section 38-596(4) and pursuant to the Form-Based Code, subject to any and all conditions.**

**Conditions:** that this is an existing condition and the interior is a closet space and not an active office space.

**Matt Whitaker seconded the motion. The motion was unanimously approved.**

**Grace Frank joined the Committee at 2:15 p.m.**

**Case #18-FB-00029 – 801 Chestnut Street (District 7) – Sign**

**Project Description:**

The applicant, Tom Marshall / West Village Chattanooga, has applied for the following modifications:

1. Allowance of lights that are visible to motor vehicles and potentially distracting to drivers to be allowed for a weekly laser light show.
2. Allowance of lights sources coming from high-intensity narrow-beam fixtures.
3. Allowance of an excess of 2 foot candles of light to extend beyond the site into the Right-of-Way.

Ms. Dixon presented the PowerPoint presentation. She said the applicant was not required to have a neighborhood meeting because they were not within 300 feet of a Neighborhood Association.

**Tom Marshall, of 801 Chestnut Street, addressed the Committee.** Mr. Marshall works for the Defoor Brothers. He said the laser show happens every Saturday night and Pine Street is closed during the show. He said he has a City Special Event Permit to close the streets and that they hire two City police officers to keep driving traffic away. The laser show terminates on the masonry and does not pass the point where any traffic could come into the area. He said the laser show does not reflect onto any other buildings. The area that the laser show hits

is on the masonry part of the structure. He said they have had no accidents or complaints that he is aware of from anyone concerning the laser show. He said the laser show is a free family event. He said he was unaware of any permitting because it was a laser show and not a sign or advertisement.

**Community Comments:** None.

**Rebuttal:** None.

**Discussion:** Mr. Hudson asked Ms. Dixon about the laser show reflecting off other buildings. Ms. Dixon said she personally saw the laser show reflecting one Saturday night. Attorney Reisman asked Ms. Dixon to explain where she saw the laser show from. Ms. Dixon said she was outside at Barley's on Martin Luther King Blvd. and could see bright red lights and could see the laser show. Ms. Dixon said Mr. Marshall asked her and Zoning Inspector Randy Ridge about the laser show in November 2017 and she told him he would need a variance at that time. She said after seeing the lights she contacted Mr. Marshall to let him know that she recognized the laser show that night and that it needed to come before the Committee. Ms. Dixon said she spoke with CDOT and they said they were concerned and recommended that the lasers only be pointed at a downward motion. Mr. Marshall said there has never been a laser at the top of the building. He said the week after he spoke with Ms. Dixon, he asked Lt. Charlie Brown to send a police officer to Bessie Smith Hall and to note if he could see any lighting. He said you can see the laser show more towards the Tivoli on Chestnut and 7<sup>th</sup> Street. Mr. Marshall said he checked with the Airport and the FDA in November 2017. He said he the laser show goes straight across, and not up. Mr. Jones said Mr. Marshall mentioned masonry structures and asked if the laser show bounces off any of the windows in the area. Mr. Marshall pointed at the PowerPoint Presentation and showed where the laser show terminates on masonry. Attorney Reisman asked Mr. Marshall to explain the white cloud on the PowerPoint presentation. Mr. Marshall said they put out a fog / haze to make the laser show more amplified. Attorney Reisman asked Mr. Marshall what was illuminating the fog on the image on the PowerPoint presentation. Mr. Marshall said he did not know. Mr. Jones asked Ms. Dixon if Mr. Marshall was advised to get a variance prior to the laser show event happening through this process. Ms. Dixon said the process explained to Mr. Marshall in November 2017 was for him to submit a variance request to the Form-Based Code Committee to hear prior to implementing the laser show in January 2018. Ms. Hefferlin said the laser show event seems great for the community and she heard wonderful things about it. She said she was confused about why the applicant needed a variance. Ms. Dixon said the applicant is not meeting lighting requirements. She said the laser show is leaving from a building on 7<sup>th</sup> Street to Pine Street. Ms. Hefferlin said no one is present at the meeting that is in opposition of the laser show and asked if other complaints have been made. Ms. Dixon said no, but the laser show needs a variance because it is violating the Form-Based Code. Mr. Hudson said he thinks the laser show event is a perfect way of utilizing a public space and that is part of what the Form-Based Code Committee wants to encourage. Ms. Frank asked Ms. Dixon if there are safety issues in regards to the laser show and what the safety concerns are. Ms. Dixon said the main concern is that the laser show has strobing lights and if you are coming down the highway ramp nearby, the lights may be seen. She said if the Committee moves to approve the variance requests, stipulations should be set in regards to a max height of the laser show, the location, and the strobing lights to ensure safety. Mr. Smith asked if CDOT mentioned specifics about requirements that would be violated at the state level. Ms. Dixon said CDOT did not mention anything about the state requirements and that their biggest concerns were

any lights that would reach the Westin and reflect out. The strobing lights were concerning to them, as well, as far as people driving by. Mr. Whitaker said I have some questions, first for the City Attorney, how do we define distracting motorists. Attorney Reisman said he thinks distracting motorists is the normal terms, it is not defined, and the word means what it means. He said to give an example, the City recently prohibited mobile LED signs on two different companies that had vehicles with LED signs on the back and because of the size of them, and they found them to be distracting to drivers. He said he thinks that any way you look at it, it is from your personal knowledge of what is distracting, and that he was not talking about the applicants presenting. He said flashing LED signs on vehicles is something that we stopped because we were fearful of having accidents. Ms. Frank asked the applicant if a stipulation was set for the laser show to not reflect on the Westin building, would that be possible or make the situation complicated. Mr. Marshall said lights are not reflecting off the Westin building and that the laser terminate on top of the ledge of Mountain City Club and that the material is brick, which is not reflective. Ms. Dixon said she personally saw lasers bouncing off other buildings. Mr. Whitaker said the fog could be part of the reflection that Ms. Dixon may have seen. Ms. Hefferlin said it seems that Mr. Marshall has gone through great lengths to contain the light and the only stipulation she would set is to make certain the light show would only last a certain period of time. Mr. Marshall said the laser show is about 25 minutes for 8 songs and then about an hour for the crowd to dissipate. Mr. Smith said the distraction would be to motor vehicles looking to see what is going on in that area. Mr. Whitaker said he had another question for the City Attorney. He said are the Committee Members protected, legally, if they approved the requested variance. He asked if the Committee Members could be sued if someone had an accident because they were distracted, as individuals. Attorney Reisman said, "I have to tell you this, as a board member you cannot be sued." Chair Hefferlin, Ms. Dixon, & Attorney Reisman all talking at once, Ms. Dixon said the City could be sued. City Attorney said, "You have immunity and I am happy to tell all the board members that, but I am not going to give a legal opinion on the fly." Mr. Whitaker said, "To allow a variance because the applicants are requesting that, we allow them to vary from signs that distract motor vehicles, which is prohibited. If we waive that that seems not like a good idea." Mr. Jones asked if search lights like those found in the clubs, are allowed by this definition. Ms. Dixon said no and that is why this case is being heard. Mr. Havron asked if the Committee could defer the time frame of the approval to see what happens as it relates to traffic and etc. Mr. Marshall said there have been no complaints reported since December 31, 2017. Mr. Smith asked Mr. Marshall if he were aware of any highway reports. Mr. Marshall said he was unaware of any highway incidents or reports. Attorney Reisman suggested that the Committee condition the motion to a 6 month deferral date while allowing the laser show to continue during that 6 month period. Attorney Reisman asked Mr. Marshall if he brought any of the plans to CDOT, the City, or the Land Development Office prior to the beginning show. Mr. Marshall said he brought a drawing in November 2017 of what the laser show might look like and where the screen would go. He said he did not have the laser show available to show. Attorney Reisman asked Mr. Marshall if he was told he needed a variance at the time he presented the plan in November 2017. Mr. Marshall said he was under the understanding that it was not a sign and at the time he did not think he was told to get a variance. Attorney Reisman said he was informed that Mr. Marshall was aware that a variance was needed. Mr. Marshall said he did not know that and that he met with Inspector, Randy Ridge. Ms. Dixon said Mr. Marshall met with her as well because the property sites are all within Form-Based Code and that Mr. Marshall was made aware of needing a variance at that time.

**William Smith made a motion for to approve Case #18-FB-00029 – 801 Chestnut Street, as submitted pursuant to the Chattanooga City Code, Section 38-596(4) and pursuant to the Form-Based Code, subject to any and all conditions.**

**Conditions:** Allowance of each submitted variance request (1, 2, and 3) with a 6 month deferral where applicant must return before the Committee with traffic information on incidents on I-27, Martin Luther King Blvd., and surrounding area. Height limited to height of 15'. Lasers must only be targeted at masonry.

Jason Havron seconded the motion. 5 members were in favor. 2 members opposed the motion. The motion carried to approve.

Attorney Phil Noblett joined the Committee and Attorney Keith Reisman left.

**Case #18-FB-00030 – 1419 Market Street (District 7) - Parking**

**Project Description:**

The applicant, Brian Geselbracht / BG Construction, has applied for the following modification:

1. Closure of alley access from open City alley to parking lot.

Ms. Dixon stated that the applicant requested to defer case #18-FB-00030 – 1419 Market Street due to not having the required Neighborhood Association meeting.

**Case #18-FB-00031 – 812 Palmetto Street (District 8) – Lot Frontage**

**Project Description:**

The applicant, Debbie Sue Przybysz, has applied for the following modification:

1. Reduction of building frontage from 80% minimum (44' wide) to 58% with a width of 32'.

Ms. Dixon presented the PowerPoint presentation. No neighborhood meeting was required because this development only have 4 units.

**Debbie Sue Przybysz, of 812 Palmetto Street, addressed the Committee.** Ms. Przybysz said her intention for the quadplex is for professionals or for families who want to live downtown. She said she likes leisure space and without having a 13 foot setback on the shared lot line, it reduces the leisure space around the structure for the tenants. The main purpose is for each resident to have the ability to go outside.

**Community comments:** None.

**Rebuttal:** None.

**Discussion:** Mr. Jones asked why the applicant did not want to use the side of the building. Ms. Przybysz said the shared lot line from the new structure is built there will be a privacy fence from the back to the side and there will be a gate for the new foundation line. She said each unit will have a 9 foot long privacy fence dividing the townhome with an additional 4 foot sidewalk. Ms. Hefferlin asked what the major street was. Ms. Przybysz said Palmetto is the A street and Flynn is the B street. Ms. Dixon said units B thru D are addressing Flynn Street and Palmetto Street is the main street because it is more accessible. She said there is a single-family home and by having the setback on the fronting street, it would provide space between the existing single-family home. Ms. Hefferlin asked where the front doors for the townhomes are located. Ms. Dixon said the front doors face Flynn Street for 3 units and for unit A, it would

face Palmetto. The frontage is for Palmetto and it would provide a nice distance between the single-family home nearby. Mr. Smith said he could not visualize the development looking at a flat plan and would rather see elevations in which staff have been asked to require as part of the application submission process. Ms. Dixon said the elevation itself, while it would show the location of the door, is to have a narrower building. Ms. Przybysz passed out drawings to the Committee and said it would be a slab for the basement level and the townhomes are two stories and would have a shingled roof. Ms. Dixon said the difference of having the variance approved would be that the building would be 8 feet narrower than without having the variance. Mr. Whitaker said he feels the proposed plan is in keeping with neighborhood. Mr. Jones asked if recommendations came to the Committee. Ms. Dixon said no. Attorney Noblett said the decision needs to be under the purview of what the code states under Chattanooga City Code section 38-596(4). Mr. Smith asked what the hardships for the development were. Ms. Dixon said the applicant listed the shape of the lot as a hardship. Ms. Dixon said originally, Ms. Przybysz had all the units facing Flynn Street. She said in Form-Based Code you have to address the primary street and the applicant made adjustments from the original plans that were submitted to better suit the Form-Based Code. Mr. Hudson asked if the fence would be extended along Palmetto and that in some sense meets the filling of the frontage. Ms. Przybysz said the fence will be metal. She said there is a cantilever on the top of the structure coming out about 4 feet, as well as 2 feet. She did her submitted measures were based off the area where the foundation sits. Ms. Dixon said with a second story cantilever, Ms. Przybysz would only be off 6 feet instead of 13 feet. The orientation of the fronting street and the shape of the lot is a hardship for the applicant.

**Matt Whitaker made a motion for Case #18-FB-00031 – 812 Palmetto Street, as submitted pursuant to the Chattanooga City Code, Section 38-596(4) and pursuant to the Form-Based Code, subject to any and all conditions.**

**Conditions: Approved based off the narrowness of the lot, setback restrictions meets Form-Based Code intent and better transition for single family next door.**

**David Hudson seconded the motion. The motion was unanimously approved.**

**Case #18-FB-00032 – 1110 Market Street (District 8) - Sign**

**Project Description:**

The applicant, Chad Moore / Certified Lighting, has applied for the following modifications:

1. Allowance of a shared sign with signage that is not located on the tenant space.
2. Increase of signage from 9 sq. ft. to 27 sq. ft.

Ms. Dixon presented the PowerPoint presentation. A neighborhood Association meeting was required with MLK Association but she was informed that MLK Association did not want to meet with the applicants.

**Chad Moore, of 1110 Market Street, addressed the Committee.** Mr. Moore said the existing sign is 3 x 5 and he is proposing to make the sign 3 x 9. He said this is a multi-tenant building and tenants need external advertisement for their units.

**Community Comments:** None.

**Rebuttal:** None.

**Discussion:** Mr. Hudson said the area appears to be a common area. Ms. Dixon said if the Committee determines that site for the sign is common area then it would be set forth. She said the intent of the Form-Based Code is to minimize the signage on the exterior building and the intent of the multitenant building is to have a sign for the entire building and then once you enter the building is where any advertisement placed for the commercial spaces. She said in this case, the owners are wanting to make the tenants presence known prior to entering the building. She said if the Committee determines the site to be common area to make their decision based on common area requirements and to make sure to address the size of the sign. Mr. Jones said the entry way is common area for multiple buildings downtown and having an entry way be considered the common area could become a huge concern. Ms. Hefferlin asked if the intention for the exterior signage to be for the building and tenant space in the interior. Ms. Dixon said it is intended for the tenant space to be advertised in the interior and the building itself to be advertised from the exterior for larger unit buildings. Ms. Frank said the proposed signs helps for marketing the tenants inside. Mr. Whitaker said if the Committee could determine that the size be denied and that the space is common. Ms. Dixon said if the proposed sign were to go in the space asked for she would have to do a sign review that includes 1.5 feet multiplied by the linear length of the tenant space. She said the only danger about deeming the area as common area is having to know the exact numbers of every entry way. Mr. Whitaker said if we could get the applicants what they want without changing the code everything would be better off. Ms. Dixon said yes. Mr. Moore said the existing sign is 3 x 5. Ms. Frank asked how many common areas are there. Ms. Dixon said 3 common entrances. Ms. Hefferlin said the Committee needs to take into consideration of all the signage that is being allowed for common areas for tenants and not create a ripple effect. Mr. Moore said there are 10 tenants without any signage and the area in question is not the main entrance. Ms. Hefferlin said if they were to approve the variance requests than the other tenants of the building might want to have their business advertised on the exterior. Ms. Dixon said if the applicant put vinyl lettering on the existing sign then a sign permit would not be needed.

**Chad Moore asked to defer Case #18-FB-00032 – 1110 Market Street until a later meeting date to have time to reconvene with his clients.**

**Case #18-FB-00033 – 535 Cherokee Boulevard (District 1) – Parking (Setback & Buffer)**

**Project Description:**

The applicants, Allen Jones & Ken Dolberry (Mike's Hole in the Wall) has applied for the following modifications:

1. Reduction of parking setback from 30' to 13'.
2. Removal of perimeter planting along east side of the property.
3. Removal of 105' perimeter planting along the west side of the property. Instead provide a new fence in this space meeting the FBC fencing requirements.

Ms. Dixon presented the PowerPoint presentation. A neighborhood meeting was required and the applicants had a hard time meeting with and hearing from the Northside Cherokee Neighborhood Association president.

**Allen Jones, of 109 E MLK Blvd., addressed the Committee.** Mr. Allen Jones said right now the land disturbance permit has been issued to get the store open, they settled for the 10 parking spaces that is allowed within the Form-Based Code. He said the client wants to have more parking on the site. He said he talked to the official secretary for the Neighborhood Association and the secretary is in support of the request for additional parking. The intent of the front setback is to have an additional building placed there. He is providing buffer to offset the setback request for the front. The applicants are replacing the chain link fence with a fence that is more appropriate for Form-Based Code.

**Community Comments:** None.

**Rebuttal:** None.

**Discussion:** Mr. Jones asked if a motion was made to approve the request to go from 30' to 13' that a condition would be to not put a building there. Ms. Dixon said part of the goal with Form-Based Code is for buildings to be built and placed along the street edge and not to have parking at the street. Ms. Dixon said based on the shape of the lot, she doubts that a building will be built on the space at any time. Mr. Hudson asked Mr. Allen Jones how many parking spaces the clients would lose if the variances were denied. Mr. Allen Jones said they would lose 6 parking spaces. Ms. Hefferlin asked what the adjacent properties are. Mr. Allen said there is an industrial / warehouse space in the adjacent building and next door used to be a veterinarian shop but is now abandoned. There are two residential spaces behind the proposed development. Mr. Whitaker asked if the grade was going downward or upward. Mr. Allen Jones said the grade is higher and 525 Cherokee Blvd. has lower grade than the development site. Mr. Whitaker asked what the vegetation was like at the site. Mr. Allen Jones said you can barely see the abandoned veterinarian building due to the vegetation that is currently existing. Mr. Hudson asked if the frontage plantings would create some type of wall of some sort. Mr. Allen Jones said yes the plantings along the edge front would create a "wall". He said he is proposing beauty berries and evergreens, however it is subject to change when it comes to the species selection. Mr. Whitaker asked Mr. Allen Jones if a condition were set for heavier vegetation and or more dense vegetation, would they be willing to plant them. Mr. Allen Jones asked Ms. Dixon to define the change of use from a city perspective. Ms. Dixon said change of use is based on an obvious change of use or a change in use of occupant load; building code; and or higher-to-lower assembly change. Ms. Hefferlin asked if the decision for approval would prohibit the business from opening. Mr. Allen Jones said they would lose 6 parking spaces and customers would have to park on the streets which could be a problem for the neighborhood. Mr. Hudson asked what the ratio of occupancy to parking was. Ms. Dixon said the FBC parking is based off the square footage of the footprint of the building. The building's footprint is 4000 square feet.

**Matt Whitaker made a motion to approve Case #18-FB-00033 – 535 Cherokee Boulevard, as submitted pursuant to the Chattanooga City Code, Section 38-596(4) and pursuant to the Form-Based Code, subject to any and all conditions.**

**Conditions: Must densely screen the landscape perimeter plantings along Cherokee Blvd. This must be accomplished with evergreen shrubs. Must construct fence along the west side of the property in the place of the plantings**

**Grace Frank seconded the motion. The motion was unanimously approved.**

**Case #18-FB-00034 – 1603 Long Street (District 7) – Fenestration & Parking Setback**

**Project Description:**

The applicants, Matt Winget / Jay Floyd / Broadspace Investors, LLC, has applied for the following modifications:

1. Reduction of fenestration from 30% minimum to 16% on the front, bottom floor, of the townhomes.
2. Reduction of fenestration from 30% minimum to 0% on the ground floor of the townhome side facing 16<sup>th</sup> Street.
3. Reduction of fenestration from 25% minimum to 0% on upper floors of the townhome side facing 16<sup>th</sup> Street.
4. Reduction of primary parking setback from 30' to 15' along Long Street.
5. Reduction of side parking setback for the townhome at the corner of 16<sup>th</sup> and Long Street.

Ms. Dixon stated that the applicant requested to defer case #18-FB-0003 – 1603 Long Street due to not having a neighborhood meeting.

**OTHER BUSINESS:**

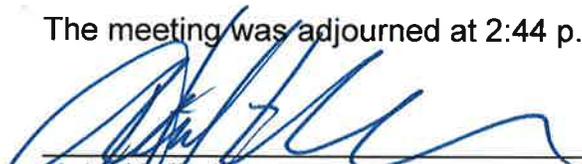
Chair Hefferlin asked that at the next Edits professional site plans are clearly defined.

Mr. Havron mentioned that the Rock Creek Outfitters sign has not been taken down. They asked for a 30 day variance on the sign and that 30 day approval has expired. Ms. Dixon said she will email the owners to take the signs down.

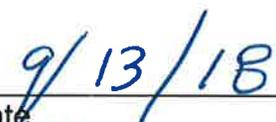
**NEXT MEETING DATE: September 13, 2018 (application deadline was August 10, 2018 at 4pm).**

**William Smith made a motion to adjourn. Matt Whitaker seconded the motion. The motion was unanimously approved.**

The meeting was adjourned at 2:44 p.m.

  
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Heidi Hefferlin, Chair

  
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Rosetta Greer, Secretary

  
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Date

  
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Date