

# **FORM-BASED CODE COMMITTEE**

## **MINUTES**

February 9, 2017

The duly advertised meeting of the Form-Based Code Committee was held on February 9, 2017, at 2:00 p.m. at the Development Resource Center, Conference Room 1A. John Straussberger called the meeting to order. Angela Wallace called the roll and swore in all those who would be addressing the Committee. John Straussberger explained the rules of procedure and announced that the meeting is being recorded.

Members Present: David Barlew, Matthew Whitaker, Jason Havron, William Smith, Grace Frank, Heidi Hefferlin, Gabe Thomas and John Straussberger

Members Absent: Ladell Peoples

Staff Members Present: Karen Hundt, Angela Wallace and Phil Noblett

Applicants Present: John Wise, Matt Winget and Ethan Collier

**Jason made a motion to approve the Minutes from the December and January meetings. The motion was seconded by Matthew and unanimously approved.**

### ***OLD BUSINESS***

None

### ***NEW BUSINESS***

#### **Case #17-FB-00001 – 710 Cherokee Boulevard**

##### **PROJECT DESCRIPTION:**

The applicant, Matt Winget of Sergeant Properties, has applied for the following modification:

- Setback variance
  - Front from 15 feet maximum to existing (varies)
  - Rear from 15 feet minimum to 5 feet
- Parking variance from 30 feet to existing

Karen Hundt presented the PowerPoint presentation and staff report. Asked for a setback to 0 feet on the rear but that is not necessary because it is against Highway I-27. They will be demolishing the existing center building.

Discussion: John Wise addressed the Committee. This was one of the first apartments we built years ago. I have had trouble leasing this building mainly due to the fact that it doesn't have enough parking to survive. Now I want to tear the building down and add apartments. I want to make the entire development better.

Matt Winget – You see the existing sewer easement does not leave a developable footprint at the street edge. We are doing the best we can with what is there. We have done the best we feel with the lot.

William S. – What is the amount of parking spaces. Matt – 26 are required and we are providing 36 spaces. Heidi – Do you have street parking? Karen – No. Matt – We will add parking islands and add all trees we have been requested to have. There will be a heavy landscape edge to the street. We are adding about 16 trees to the plan.

Karna – This landscape plan has not been submitted for review by the City yet. When they apply for permitting we will review and make sure it meets all the codes for FBC. They have not asked for a modification for landscaping.

John – The applicant is only asking for a variance for setback and parking. William – How does your plan compare to the existing? Heidi – So you have enough room for the buffer zone with the existing plan? The existing buffer is about 5 feet. Karna – The existing trees are in the right of way. When their plans come in we will determine where they are and if they are outside the code they will have to come back to the FBCC. John Wise – There is a 4-6 foot island there now. I don't know if it is on the property line or in the right of way.

Community Comments: Dr. Paul Carico – I have the adjacent building on the side of the existing apartment building. I have had some issues with this building. We have been in our building since 2005 and I had an option on this land. At that time I was unable to put the building I wanted because of the sewer easement. The seller backed out of the deal. When we set our building on our property, I was assured that it would be difficult for anyone to build next to our building. The building next to our property should have never been built. It is over the building lines on several sides. The state told me all the buildings were not 25 feet from the state right of way. I have talked to Dallas Rucker twice about the building being over the right of way. My concern is if the variance is approved does he have to buy that land from the state. The drainage system runs right along that space. The state spent lots of money putting it in behind his building and my building. If it has to be replaced, who pays for it? I question Mr. Wise doing it because he built a wall next to us. I have a lot of concerns with this application. I do not want our drainage system behind us affected. I don't know if the state has to become involved with this. I am also concerned about the parking.

Garnet Chapin – There are 2 neighborhood associations in this area. To get on the agenda they have to request to be added to the agenda. John – Garnet your time is up.

Did the applicant meet with the neighborhood associations? Angela – Yes I have the sign in sheets.

Jason – I got a call from John and told him he needed to meet with the Northside/Cherokee Association. John and Eric tried to make connection with Mr. Chapin and that did not happen after several attempts. Mr. Chapin asked if we could do a joint meeting with Wise and Hill City to aid Mr. Wise in being able to present at this meeting. I agreed that we could do that.

Angela - The sign in sheets note that both the Hill City and the Northside/Cherokee Neighborhood Associations were in attendance.

Jason – Is there a requirement for ingress /egress in the code? Karen – It is limited about curb cuts but they have existing.

If we grant this variance the landscape buffer will still be required right? Karna – Yes. John – Yes. Karna – The intent of the code is to make the streets attractive. There was no landscape variance requested with this application. It would be cleaner if it was all done at the same time.

Matt - That is why we did not ask for a landscape variance, we plan to make it in compliance with the landscape requirements of the code. David – You said your number of spaces is discounted by your bicycle parking. Where is that located? Matt – It has not been determined yet but we will get it on the lot. Matthew – When do you bring your sidewalk plan? Karna – Typically CDOT makes that call. They make sure that there is a minimum of ADA compliance. William – Are we being asked to approve the parking variance? Karen – You may want to change the wording of the request in your motion. David – How wide is the sewer easement? Karen – 25 feet.

**Gabe made a motion to approve Case #17-FB-00001 – 710 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: as requested.**

**Heidi seconded the motion. The motion did not carry – 3 opposed; 4 approved and 1 abstained. The by-laws state that a majority of the body has to have an affirmative vote**

A roll call was done

Jason – The FBC says quorum, do we still have a quorum? Yes a quorum is 5.

**Matthew Whitaker made a motion to approve Case #17-FB-00001 – 710 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: the setback for the parking will be defined as the minimum required providing full landscape buffer required by FBC.**

**Gabe seconded the motion. Motion carries with 7 yes and 1 opposed.**

### **Case #17-FB-00002 – 729 N. Market Street**

#### **PROJECT DESCRIPTION:**

The applicant, Ethan Collier, has applied for the following modification:

- Setback variance from 5' to 6' on one side
- Setback variance from 5' to .5' on other side
- Variance on lot size from 5,000 sf to 4,000 sf
- Variance of protected zone from 15' to 10'
- Variance of lot width from 50' to 28.5'

Karen Hundt presented the PowerPoint presentation and staff report. Initially the applicant asked for a reduction in the lot width but it has been determined that the FBCC does not have the authority to make that determination so that variance will not be considered today. They still have to provide landscape buffers.

Discussion: Ethan Collier addressed the Committee: FBC does not allow 0 foot lot lines for homes. We have had 0 foot lot lines in some other properties. There is a lot of neighborhood opposition to a 3 story development. We just built a house on the lot next to this proposal. We have seven 0 foot lot line homes on Harper. There is no protected zone between the houses. Here we are being required to have 7 foot landscape buffers between the homes. I don't think this makes sense. We want that 10 foot setback not be a protected zone but normal landscaping. We have met with the neighborhood. This property has been zoned several different things. They didn't take a formal vote but I explained it was zoned for townhomes but we want to do detached homes.

William – Is it clear that you want to drop the protected zones? Ethan – I don't know that it is clearly stated in the application. I asked it to be reduced from 15' to 10' and that it not be a protected zone. Heidi – If you maintain the 10 feet you will not be able to access your garage. Ethan – That would present a problem. We cannot put a driveway or sidewalk in this area. I understand the code was written that way but it just does not make sense. The neighborhood is detached and we are building detached. William – I think we are approving something that is not in the application and that is not fair to the neighborhood. Phil – If you vote on this you would be doing it without notice to the public. Ethan – The public did receive notice of the meeting so if they were interested, they would be here. Phil – The application states what you are requesting and if you modify the request at the meeting, they would not be aware that there is a difference in what they think you are asking for. Heidi – Karna what is the staff's opinion? Karna – There is no question to what they want. I understand not wanting to do the buffer. If the board feels that way I would ask that you at least clarify in the motion what is included. If you are looking at a protected zone the standards are in the landscape section so it would be preferable to staff that. . 2 elements, fence or wall and you cannot have pavement or structures in the protected zone.

Community Comments: Garnet Chapin – I am concerned about the transparency. Ethan has met with us several times. I want to go back to that Ms. Wallace would not give me a copy of the agenda. I want to talk about the procedures here. .

John – Do you have anything to speak to this case? Garnet – Yes I do. I am concerned about the neighborhood meetings. Ms. Wallace is lying and she should be the one under oath.

John – You have been asked to speak to this case and you are not. Last time, do you have anything about this case? Garnet I am concerned . . . (Garnet spoke on unrelated issues and continued discussion of previous case until his time was up.)

David – Staff concluded that we not address the lot size. Ethan – We have been told we have to go before Planning Commission with the lot width variance. David – If the piece of land that is zoned E CX 3, will he have to rezone that portion of the land? Ethan – We may run into that problem later. The language and the maps do not agree. Karen – When they go to Planning Commission to have it replated and reduce lot size, they have to come back to the FBC Committee. I don't think the request today will be impacted by that. Gabe – They are proposing

single family detached. Karen - This is one of those glitches we are coming across with the code. Ethan – I think staff is doing a good job with this code but we are going to have to add a detached home with protected zones and 0 foot lot lines. You can't do 0 foot lot lines in RD zones either. I would like to resolve all my problems today if possible.

Heidi – We want to help people do the right thing. You want to do away with the protected zone. Is that what you (Karen) want? Karen – Our thought was that if single family detached is next to attached there should be a protected zone. Ethan – I think asking for a variance for the protected zone here will be a good thing. John – Because of public notice we do not have the right to change the variance from what was on the initial application. David – Does it state on the application that they are changing to detached housing? Ethan - But notice was given that there was to be a reduction in the protected zone. But you will not change the application request because of the public notice. Public notice was given. John – We can set conditions to the request but we cannot change what you ask for. If the zoning was changed he would have the opportunity do this. He can apply to change the protected zone and we will be able to rule on that. Ethan – I disagree but I will ask for the variance on setback as in the application.

**Heidi made a motion to approve Case #17-FB-00002 – 729 N. Market 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: it is a difficult lot and the applicant has made great effort with the neighborhood and we have had no opposition from the neighborhood; approve the setback to 6' and .5'; we are denying the protected area.**

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

**Gabe recused himself from the vote.**

## ***OTHER BUSINESS***

Update on open house – We are offering people to come and see what had been happening and our proposed changes. Some comments were about the neighborhood meetings. Some thought we should not even require these meetings. Some said that letters should be sent even if no neighborhood associations. More information be provided at meeting with neighborhood associations.

John – What is the procedure to notify? Karen – The applicant contacts the president and requests a meeting. Phil – There should be something on file with the application. It's possible to have several requests. An application should be provided to the neighborhood association. Karen – I would love to get any feedback from the committee on how to handle it. John – I want to get this behind us somehow. William – All items should be noted on public notice. Phil – How many requests are you going to have at one time? You may want to limit the number of variance requests at one time. Heidi – I don't think we should be allowing people to hijack our meetings. Can we take some action when that occurs? Phil – I think that you may want someone to remove them (security). It is a public meeting. There is an obstruction of public business. On the other hand it is a civil right issue. I recommend that you have a security person and if you ask someone 2-3 times to leave then they be removed. John – We have to stay on the case. If staff says

neighborhood requirement has been made then that issue goes away. I don't want the neighborhood association thing become an obstruction. Karen – There are 12 associations and only 4 of those meet monthly. That may be a problem. Karen read code how it was worded. John – It might be something you need to look at. Jason – This today has been coming for quite some time. Mr. Chapin arranged for a dual meeting and we do not want to do that. He did because he wanted to get Wise in front of us. If he didn't want that he could have come to our meeting but he would not have fulfilled our requirements. Mr. Chapin's association meets on the internet not in person. I don't think it will happen again, it may. It was uncalled for and I apologize for it. He wanted to complain about it. John – Unless we can get a reasonable procedure, we are going to be fighting battles. We need to have it where if they don't meet it won't stop the review of the project. Karen – It would help if some of you could attend the City Council meeting and let them know some of the challenges.

Karen - Some didn't want the presubmittal meetings. Some wanted more parking and some felt parking requirements were too high for existing buildings. Building heights we are missing some categories. Some felt we didn't have any height requirements downtown. Some wanted more clarification. Some requested that the new zones be on the GIS maps. Post agendas and minutes on web. Some said good process.

Schedule has changed for presenting the proposed changes. City Council has asked for more detail and we are doing that next week. Will go to Planning Commission at March 13 meeting.

William – What about the special exemptions being turned over to us from BOZA? Karen – Some specific uses are allowed in these zones but only with special permits. The City Council wondered why it was not going to FBC. William – It seems like a lot of extra things to look at. Phil – You are going to get more when the code is actually put on the web.

***NEXT MEETING DATE:*** March 9, 2017

**Heidi made a motion to adjourn.**

**William seconded the motion. The motion was unanimously approved.**

**The meeting was adjourned at 3:55 pm.**

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John Straussberger, Chair

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Angela Wallace, Secretary