MINUTES KINGSPORT BOARD OF ZONING APPEALS (BZA)

Thursday January 5, 2012

NOON
Bob Clear Conference Room, on the first floor of the Development Services Building

MEMBERS PRESENT:
Leland Leonard, Chairman
Bill Sumner
Diane Hills
Bob Winstead Jr

MEMBERS ABSENT:
Frank Oglesby, Vice Chairman

STAFF PRESENT:
Karen Combs
Lynn Tully

VISITORS:
Evelyn Widner
Jonathan Lewis
Tim Kuykendall
Lester Tomlinson
Chris Little

Chairman Leonard called the meeting to order.

Chairman Leonard then explained the meeting procedures.

Public Hearing:

Case: 11-701-00018 – Property located at 1329 Magnolia Avenue; Tax Map 61C, Group A, Parcel 2.6 Requested a variance of 8 feet to [Sect.114-192.(e)(1)(d)] to construct Carport in a R1-B Single Family Residential area. The code requires an 8 foot side yard setback. Ms. Widner was sworn in by the Secretary. Ms. Widner presented the case to the Board. In her presentation, she stated that with the shape of her lot (pie shaped), the steep topography of her back yard, the placement of the heat pump on the rear of the house and the location of the curb cut the City of Kingsport made for the driveway, it was impossible to locate the driveway and future carport any place else on her property. She stated that she had talked with her neighbors and they had no objection. Staff received no phone calls on this item. Ms. Widner further stated that the construction of the carport would be from materials that matched the existing house, will be attached to the house and will be opened on all other sides. No one spoke for or against this item.

Case: 11-701-00019 – Property located at 1810 Fairview Avenue; Tax Map 29K, Group C, Parcel 11.6 Requested a variance of 2,000 square feet to [Sect.114-139.(2)] to construct an accessory building in a R1-B Single Family Residential area. The code allows 1,100 square feet for accessory structures. Mr. Tomlinson was sworn in by the Secretary. Mr. Tomlinson presented the case to the Board. In his presentation he stated wished to build a 20x40 accessory building so that he may store his RV. Staff pointed out the lot in question contain roughly1.45 acres and was

in a somewhat secluded area. Chairman Leonard pointed out that in fact with all the buildings on the property in order to bring this property into compliance the variance would actually have be 2720. Staff explained that this property was annexed as is containing the existing buildings. Staff also confirmed that an ordinance change to the allowable square footage of an accessory building was being reviewed and a new ordinance would be coming in the future. No one spoke for or against this item and staff received no phone calls concerning this item.

Case: 11-701-00020 – Property located at 1241 Jan Way; Tax Map 76A, Group C, Parcel 5.0 Requested a landscaping variance of 15 feet to [Sect.114-207.(f)(1)(c)] to construct a building in a M1-R Light Manufacturing District. This parcel is also located within the Gateway District. The code states that there shall be a 50 foot front yard setback and that a minimum of 20 feet of the required setback shall be landscaped with grass, trees, and shrubs. Landscaping must be accomplished prior to any occupancy and use of the property. Mr. Lewis was sworn in by the Secretary. Mr. Lewis presented the case to the Board along with Mr. Kuykendall who was sworn in before speaking to the Board. In the presentation, Mr. Lewis stated that they had worked with staff and were able to push back the building 5 feet. So they were asking for a 10foot variance to the landscaping instead of a 15foot variance. Mr. Lewis stated that he recognized that the City had requirements but that his client Kendall Electric also had requirements of their site plan which included the drive lane and parking because they receive front door deliveries. He also stated that they were already going into the bank. Chairman Leonard stated that he understood why they couldn't go back any further and that Kendall Electric has certain requirements but that the City does too. Chairman Leonard asked why the drive lane could be cut down to one land and parking angle so that the site plan would gain the needed 10 feet to meet the requirement. Mr. Lewis answered that the front door deliveries would block the drive lane because the vehicles would not use the parking spaces. Then Mr. Kuykendall was sworn in and stated that the problem is that the contractor picking up supplies, in pickup trucks, from the store would park in the drive lane expecting to be in the store briefly and then ending up spending and extensive period of time in the store. Board member Sumner pointed out that there is a delivery dock area presented on the plan. Mr. Kuykendall stated that the delivery dock was used for the once per day deliveries to the store from the distribution center and for deliveries from companies such as UPS. Board member Diane Hills asked if the building could be elongate so that no square footage was lost but that the building would be narrower. Mr. Kuykendall stated that due to the racking system that Kendall Electric uses the racks would not fit if the building was narrowed. Board member Sumner asked if the building could be modified and Mr. Kuykendall stated that it couldn't. Then Board member Sumner asked if they had looked at other alternatives in order to meet the ordinance. Mr. Kuykendall state yes, they had. Such as moving the parking spaces to side. Mr. Kuykendall stated that this was not possible because the sales counter was located in the middle of the building and that moving it was not functional to his client. Chairman Leonard and Board member Sumner both stated they did not understand why. At this point, Chairman Leonard asked what the hardship was which is a requirement of granting a variance. Mr. Kuykendall stated that the lot was too narrow for the type and size of the building. Chairman Leonard pointed out that all the adjacent lots were the same size and Mr. Kuykendall agreed that variance would have to be granted to those lots as well. Mr. Kuykendall agreed that the perceived hardship was their hardship because of the building type and size; to which Chairman Leonard pointed out was considered a self imposed hardship. Board member Sumner asked staff if it was possible to angle the parking and have a one way drive; staff responded that yes it was possible but not what they want to do. Mr. Lewis stated that the company would not allow that configuration which Chairman Leonard pointed out was another self imposed hardship. After further discussion, Mr. Lewis agreed that a building could be built on that property. No one spoke for or against this item and staff received no phone calls concerning this item.

Seeing no one else wishing to speak, Chairman Leonard closed the Public Hearing.

Other Business:

On a motion by Bill Sumner, the Board voted unanimously to approve the December 1, 2011 minutes as mailed.
The BZA stated for the public record the next application deadline on January 15, 2012 at noon and that the next meeting date would be on February 2, 2012.

Chairman Leonard reminded staff that it was time to elect new officers for 2012. With that, nominations from the floor were accepted; Bob Winstead nominated Leland Leonard as Chairman with Bill Sumner's second. With no other nomination the floor was closed and Chairman Leonard was elected on a 3-0 vote. Next, the floor was opened for nominations for Vice Chair. Bill Sumner nominated Frank Oglesby with Bob Winstead's second. With no other nominations the floor was closed and Frank Oglesby was elected to Vice Chair on a 3-0 vote.

Staff reported that the Board members have the new (SOP) for the BZA. Staff explained that the standard operating procedures are how staff handles the cases that come before this Board. The SOP's were handed out for review from the Board so that a discussion may be held at the next meeting.

Adjudication of Case:

Case: 11-701-00018 – Property located at 1329 Magnolia Avenue; Tax Map 61C, Group A, Parcel 2.6

There was a brief discussion concerning the need for an eight foot variance. While the Board was visiting the site, it became clear that only a 7 foot variance was needed. The Board discussed the following requirements.

PROOF PRESENTED:

1. The specific conditions in detail which are unique to the applicant's land. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity. *The house and lot existed prior to 1981 when zoning was put into place. The pie shape of the lot and step topography in the rear of the lot along with the City's placement of the driveway header are unique to this property and were not caused by the applicant.*

2. The manner in which the strict application of this chapter would deprive the applicant of a reasonable use of the land.
With the configuration of the house and the shape of the lot, the carport could not be installed without a variance. Others in the neighborhood including a next door neighbor have carports for their vehicles.

3. The unique conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption or amendment of this chapter.
The house and neighborhood were constructed prior to 1981 when zoning was adopted by the City of Kingsport. The placement of the house, topography of the rear yard and the placement of the driveway header by the City of Kingsport are unique to this property and were not result of any action taken by the applicant.

4. Reasons that the variance will preserve not harm the public safety and welfare and will not alter the essential character of the neighborhood.
With other properties having attached carports to the main dwelling, the variance would in fact maintain the character of the neighborhood. The carport would not harm the public safety and welfare.

MOTION: made by Bill Sumner; seconded by Bob Winstead – To approve the request of a 7 foot side yard variance in order to construct an attached carport contingent upon the carport will remain opened on the other three sides and that the materials used for construction match the existing house.

VOTE: 3-0 to grant the variance request as presented with conditions.

Case: 11-701-00019 – Property located at 1810 Fairview Avenue; Tax Map 29K, Group C, Parcel 11.6

There was a brief discussion concerning the location of this property and its proximity to the Interstate. It was stated that this property was approximately 1.5 acres. The request was adjusted to 2720 square feet to include all structures on the property. This property was annexed into the City as is and contained the existing structures at the time of annexation.

PROOF PRESENTED:

1. The specific conditions in detail which are unique to the applicant's land. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity. *This property is larger than most lot located in the City Limit. It contains approximately 1.5 acres and is irregular shaped. The property was annexed into the City as a land locked piece of property and borders the right of way for a major Interstate.*

2. The manner in which the strict application of this chapter would deprive the applicant of a reasonable use of the land.
The application of 1100 square feet for accessory structures was designed to control the accessory structure for small urban lots. City staff is looking at how to apply a ratio of accessory structures to acreage in order to be more proportional.

3. The unique conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption or amendment of this chapter.
These conditions are not the result of any action taken by the applicant as to noncompliance. In the County, prior to annexation, the applicant's actions were permitted.

4. Reasons that the variance will preserve not harm the public safety and welfare and will not alter the essential character of the neighborhood.
This structure would be consistent with other structures in the area and will not harm the public safety and welfare.

MOTION: made by Bob Winstead; seconded by Bill Sumner – To approve the request of an additional 2720 square feet of accessory structure in order to construct an accessory building (2400 sqft) and bring existing accessory structures into compliance.

VOTE: 3-0 to grant the variance request as presented for an additional 2720 square feet of accessory structure so that the owner can construct a 2400 sq foot accessory building.

Case: 11-701-00020 – Property located at 1241 Jan Way; Tax Map 76A, Group C, Parcel 5.0

The Board discussed the uniqueness of the variance request to landscaping of the front yard setback in a M1-R district which is also located within the Gateway District. The Gateway District is an overlay governing aesthetics of property located in the District and landscaping is a big part of their regulations. Also Board members recognized that the developer had work diligently with their customer and with City staff to meet the ordinance but didn't seem to get there because of the demands of the owners and that is a self imposed hardship.

PROOF PRESENTED:

1. The specific conditions in detail which are unique to the applicant's land. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity. *The Board could not find a hardship that was specific and unique to this property. Though there is a steep bank in the rear of the property; that bank runs along the rear of several pieces of property adjacent to this site. This bank does not impede the construction of any building; it will not allow the proposed building fit as presented to the Board.*

2. The manner in which the strict application of this chapter would deprive the applicant of a reasonable use of the land.
None

3. The unique conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption or amendment of this chapter.
These lots were graded after 1981and after the adoption of the Gateway standards. The Board offer several suggestions and modifications to the plan that would require a smaller or no variance to the landscaping; all of which were denied by the applicant's representative.

4. Reasons that the variance will preserve not harm the public safety and welfare and will not alter the essential character of the neighborhood.
Granting a variance of this type in the Gateway would have been detrimental to the standards set by the Gateway Commission which were adopted by the Board of Mayor and Aldermen and inserted as part of the Zoning Code for the City of Kingsport.

MOTION: made by Diane Hills; seconded by Bill Sumner – To deny the request because there was no hardship presented that was not self imposed.

VOTE: 3-0 to deny the variance request.

_____ Karen B. Combs, Principal Planner