

The Town of Collierville **Board of Zoning Appeals** met in regular session on Thursday, February 20, 2020 at 5:00 p.m. in the Board Chambers of Town Hall, at 500 Poplar View Parkway.

Staff members present were: Town Administrator, Mr. James Lewellen; Development Director, Mr. Jay Cravens; Town Planner, Mr. Jaime Groce; Assistant Town Planner, Mrs. Nancy Boatwright; and Administrative Specialist, Sr., Mrs. Shari Michael.

Chairman Luttrell asked Mrs. Michael to call the roll.

Roll Call:

Oakes – present, Frazier – present, Luttrell – present, Floyd – present, O’Hare – absent,

Quorum Present

Approval of the Minutes:

Chairman Luttrell asked if there were any corrections or deletions to the minutes from the January 16, 2020, meeting.

Hearing no corrections, Chairman Luttrell called for a motion to approve the minutes as presented.

Motion by Commissioner Oakes, and seconded, to approve the minutes as presented.

Hearing no further discussion, Chairman Luttrell asked Mrs. Michael to call the roll.

Roll Call:

Oakes – yes, Floyd – yes, Frazier – yes, Luttrell – yes.

Motion approved.

Approval of the Agenda:

Chairman Luttrell asked if there were any additions or changes to the Agenda.

Mr. Groce explained that there are none.

Chairman Luttrell asked for a motion to approve the agenda as presented.

Motion by Commissioner Oakes, and seconded, to approve the agenda as presented.

Hearing no further discussion, Chairman Luttrell asked Mrs. Michael to call the roll.

Roll Call:

Frazier - yes, Floyd – yes, Oakes – yes, Luttrell – yes.

Motion approved.

Formal Agenda:

BZA19-005 – 1950 W. Poplar Avenue – Crisscross Lodge – Request approval of a Variance to allow for a different minimum off-street parking requirement for a real estate agent office.

Mrs. Boatwright gave the staff presentation. She explained this is a reapplication after the request failed due to a tie vote on January 16th, 2020. This reapplication is initiated by the Development Director and is requesting to reduce the minimum required parking for the real estate office.

The existing building contains 3,386 square feet and was last used as a law office and that required 1 parking space per 300 square feet of building, equating to 12 spaces. The owners wish to use the building as a real estate office which requires 1 parking space per 200 square feet of building, equating to 17 spaces. There are 13 existing parking spaces on the site.

The owners wish to add 1,590 square feet to the building. The real estate office with the addition would require 25 parking spaces. The requested parking ratio calls for 1 space per 237 square feet of building, equating to 21 spaces. The owners would need an additional 8 parking spaces.

The DRC denied requests to reduce the required minimum front yard open space. The Design Guidelines prevents parking within the 40-foot front yard open space and this would have allowed parking between the brick landing and street as an alternative to requesting a variance.

The building is known as the Crisscross Lodge and is on the National Register of Historic Places, but that does not provide protection from alterations. The shape of the structure, the size of the lot, and historic significance result in a hardship as distinguished from a mere inconvenience. The historic residence does not sit parallel to the property lines due to its hexagonal shape. There is a historic pump house structure at the northeast corner of the property, and the parcel has been reduced over the last century from 4.26 acres to 0.685 acres as surrounding properties have developed. There was a dedication of 35-feet of Poplar Avenue in 2006.

The variance is the minimum variance that will make possible the reasonable use of the land, building or structure. The request is for a reduction in the parking and not an increase, that will allow the real estate office to adaptively re-use the historic building, while preserving the property's historic significance.

The national parking studies provide evidence that the parking demand for a real estate office is less than 1 space for every 200 square feet of building. The Zoning Practice Parking Reform recommends eliminating off-street parking requirements and allow developers to decide.

The property owner's analysis suggests that the 21 parking spaces exceeds the needs of the building occupants. The Family Cancer Center, east of Crisscross Lodge, was granted a variance in 2003 to reduce the required parking from 1 space for every 100 square feet, to 1 space for every 200 square feet for a medical office.

Alternatives to the variance could be to reduce the building addition size to coincide with existing parking, use the existing building without an addition, seek an off-site parking agreement, or place parking in the front or rear. Alternatives could reduce the historic significance of the property and then there would be a limited

- | EXHIBITS | |
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| 1. | Conditions of Approval (2/14/20) |
| 2. | Property Owner's Variance Request Information (12/19/19) |
| 3. | Property Owner's Needs Analysis (2/10/20) |
| 4. | Exiting Site Plan for 1950 W. Poplar Avenue (12/19/19) |
| 5. | Revised Site Plan for 1950 W. Poplar Avenue (12/19/19) |
| 6. | Shelby County Assessor Property Record Card |
| 7. | Crisscross Lodge National Register of Historic Places Registration Form (10/17/88) |
| 8. | Standards for Variances Staff Analysis (2/14/20) |
| 9. | Draft BZA Minutes (1/16/20) |
| 10. | Draft DRC Minutes (12-12-19) |

number of business types that could use the property. A small, low impact real estate office will preserve the historic property, which is at risk of being lost if not adapted.

The parking requirement reduction would not be injurious to the other property in the area. Limiting the asphalt reduces the stormwater runoff. Per the applicant, parking demand for the real estate office would be less than the proposed 21 spaces and the owner intends to provide a right turn lane for exiting the site. The Conditions of Approval will limit adverse, off-site impacts.

In order to grant a variance, the Board must find that there are exceptional physical conditions with the property that make a strict application of the requirements of the Zoning Ordinance an undue hardship or practical difficulty that would deprive the owner reasonable use of the property. The Zoning Ordinance states that a variance may only be granted if it will not cause “substantial detriment” to the public good, and it will not substantially impair “the intent of the Zoning Ordinance.”

Mrs. Boatwright discussed the Standards for a Variance and gave the individual responses for this situation. She reviewed the example motion contained in the staff report.

Mr. Groce explained that staff has added additional evidence to the application, and the Development Director is bringing this application back before the BZA.

Mrs. Boatwright has added some important additional information that did not come out well last time, particularly related to the historic nature of the property and how it is atypical. The applicant supplied more information about their business model and how it relates to their parking demands. We wanted to talk about the minimum parking requirement and how that might apply to other uses or other formulas and how they might apply outside of Collierville and how parking demand might apply to a real estate office .

There are three things we wanted to touch on that were different from the last review of the request: the historic significance of the building and site; the parking formulas for this use that you might find in other municipalities; and the applicant’s individual business model.

Commissioner Floyd asked has there been any consideration by the Town to changing the parking requirement rather than asking us to do something that would go against the standards that we use to make our decision related to the hardship being financial and the other things that we are considering. If the evidence is that overwhelming why is this not a consideration of the Town to change the parking requirement for real estate offices and/or historical buildings?

Mrs. Boatwright explained that has been suggested but it’s a lengthy process to amend the Zoning Ordinance. To do it just for this property, it would require the applicant to initiate it which would be lengthy and the fee is several thousand dollars. The applicant wishes to get into the building and start using it as soon as possible. The Town has not updated the parking requirements in a long time and staff will look in to updating the regulations when time allows.

Mr. Floyd asked would this standard be for adopted historical sites or real estate offices, or would a precedent be set for real estate offices and/or historical sites. Mrs. Boatwright explained that only the Central Business (CB) district doesn’t require any parking. This being outside of the HD, makes it very unusual. Every request has very specific circumstances. This site used to be 4-acres and the building is an unusual shape, there are no other buildings in Town that have those circumstances, so this would not set a precedent.

Mr. Jay Cravens, the Development Director for the Town, addressed the commissioners. He explained that staff got together recently, and discussed the fact that it is time to update the parking requirements in the Zoning

Ordinance soon. Parking regulations have always been a problem in Zoning Ordinances. They are not based on rocket science, but looking at other communities to see what the requirements might be. The Town has a rule that if the applicant doesn't agree with the ITE suggestions, then they can ask for a variance based on the parking requirement study. This site is unique and the building is located on the odd area of the property. It should be noted that they are asking for less parking and Mrs. Boatwright has noted those reasons earlier in her presentation. The Cancer Center to the east, has less parking based on its use, but they have not had any issues with parking congestion since the variance was granted. The owner knows how their parking will be used and staff does agree with their request. The BZA can apply conditions to the approval if they feel it is necessary to ensure that a precedent is not set for future uses.

Chairman Luttrell asked if the parking requirements could be changed now, what would the ratio be.

Mr. Cravens stated that it would be less than it is now.

Chairman Luttrell stated that when the BZA looks at a case, they are looking at the use in the future. Does their decision now, affect the use for a business there in the future? Mrs. Boatwright pointed out that the conditions of approval limits the variance to only a real estate use.

Mrs. Boatwright explained that the biggest hardship that staff has found, is that it is a historical building and a reuse of the property is much better than having it demolished just so it can accommodate a parking requirement that doesn't really fit the use. Each decision on parking in the future would be based on the use and hardship on its own merits.

A discussion continued about the historical value of the building for the Town and the hardship that would be caused to the community if the building were to be demolished.

Commissioner Oakes asked if the proposed addition would significantly impact the historic value of the building. He understands that every case they review is to stand on its own merits and every decision they make should not be based on past precedence.

Mr. James Lewellen, Town Administrator, addressed the commissioners. He explained that when a new building is built, the Town wants to be able to make sure that enough parking spaces are built on the front of end, so that if the building has different tenants over the next 50 years, its parking spaces will accommodate that use. If we limit what they can do with that space then we limit how that building can be used, and it cannot be used to its full extent if we get the parking ratio wrong. If anyone comes in town tomorrow and wants to build an office for a real estate use, we would not be allowing them to ask for a variance. The only really important decision that the BMA asked for a reconsideration on, is to consider the request, because of historic value. The most important qualifying reasons for allowing the variance is that it is historic and needs to be preserved. The variance has the power to make the decision. You cannot use this house as another business with this variance. The variance is a powerful tool and you cannot use this building if you have a greater parking demand.

Commissioner Floyd stated that the precedence and the appeal process beyond this process is what the BZA has to consider when voting on a variance.

Mr. Lewellen agreed.

Mr. Michael Walker came to the microphone and explained that he is the architect for this project. He fully understands the worry about setting a precedence. If they can't obtain the variance for the parking requirement, then they would have to demolish the building and build something else. The historic value of this home is the

hardship and we need to find a good working compromise to preserve this home. Mr. Walker explained the most parking spaces they have used so far is 16 and allows them to have more greenspace.

Hearing no further questions or discussion, Chairman Luttrell called for a motion.

Motion by Commissioner Oakes, and seconded, to reduce the required minimum parking to one space for every 237 square feet of building area for a real estate office use at 1950 W. Poplar Avenue, subject to the conditions in Exhibit 1.

CONDITIONS OF APPROVAL:

1. This variance is only applicable to the real estate use.
 - This variance does not apply to uses with a higher parking demand per §151.117 Table of Off-Street Parking Requirements and Off-Street Loading Berth Codes such as a physician or dentist office.
 - The intensity of this use shall not be increased by increasing the building size beyond 4,976 square feet or by more intensive uses, such as a call center or the introduction of accessory uses that would increase the parking demand (e.g., closing attorney, title insurance, etc.).
2. Submit a Site Plan Modification/Exterior Alteration Application for any improvements to the property, including the expansion of the building and parking.
3. The landscaping for the revised parking shall meet the requirements of the Design Guidelines including, but not limited to, street trees and evergreen screening for the parking.
4. New parking areas shall meet the requirements of the Zoning Ordinance and the Design Guidelines (e.g., landscaping, lighting, buffer yards, dimensions, surfaces, etc.).
5. Any deviation from the approved variance shall require the approval of Staff and/or the Board of Zoning Appeals.

Chairman Luttrell did not feel happy leaving the meeting last month after having voting no. Based on the evidence tonight, he feels that he will be able to support approval of the variance.

Commissioner Oakes agreed, along with Commissioner Floyd who agreed, and stated that he would like to see staff make necessary changes to the Zoning Ordinance as needed to amend the parking space requirements.

Commissioner Frazier agreed.

Hearing no further comments, Chairman Luttrell asked Mrs. Michael to call the roll.

Roll Call:

Floyd –yes, Oakes - yes, Frazier –yes, Luttrell – yes.

Motion approved.

OTHER BUSINESS

Chairman Luttrell asked if there was any other business.

Mr. Groce explained that there will be some upcoming training opportunities.

Hearing no further business, Chairman Luttrell adjourned the meeting at 5.54 pm.

