

The Town of Collierville **Board of Zoning Appeals** met in regular session on Thursday, August 18, 2016 at 5:00 p.m. in the Board Chambers of Town Hall, at 500 Poplar View Parkway.

Staff members present were: Town Planner, Mr. Jaime Groce; Planner, Mr. Matthew Wilkinson; and Administrative Specialist, Mrs. Sandi Robbins.

Roll Call:

Vice-Chairman Hamilton asked Mrs. Robbins to call roll.

Kelsey – present, Luttrell – present, Hamilton – present, Oakes – absent, Counts – absent.

Quorum Present

Approval of the Minutes:

Vice-Chairman Hamilton asked if there were any corrections or deletions to the minutes from the June 16, 2016 meeting.

Hearing none, he called for a motion to approve the minutes as presented.

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

Hearing no further discussion, Vice-Chairman Hamilton asked Mrs. Robbins to call the roll.

Roll Call:

Kelsey – yes, Luttrell – yes, Hamilton – yes.

Motion approved

Approval of the Agenda:

Vice-Chairman Hamilton asked if there were any additions or changes to the Agenda.

Mr. Jaime Groce stated there are none.

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

Hearing no further discussion, Vice-Chairman Hamilton asked Mrs. Robbins to call the roll.

Roll Call:

Kelsey – yes, Luttrell – yes, Hamilton – yes.

Motion approved

Formal Agenda:

BZA16-03 The Bank 1905 (Ballard Property PD, Phase 9) — Request a Variance to allow fewer than one parking space per 200 square feet of gross floor area for a bank

Mr. Matthew Wilkinson gave the staff presentation. The property is zoned R-1 Low Density Residential, but located in Ballard Property PD, which allows for SCC: Shopping Center Commercial uses. He explained parking ratio required for a bank based on the zoning ordinance. He stated there are alternatives to provide less parking that don't require a variance. The applicant could cut into the slope to the south of the property with a retaining wall and install parking in the recovered buildable land. This approach would change drainage patterns through the site, creating an additional issue of more complex runoff management systems. He stated by preserving the current slope, it will allow for more conventional runoff and drainage management. Also, there is a 20' landscape buffer to the south, where parking cannot be installed regardless of the terrain or anything else. Another alternative to providing fewer than the required number of parking spaces is to reduce the size of the building to the point where the proposed 27 parking spaces meet the 1:200 ratio, or to a point where a sufficient number of parking spaces could be added to meet the 1:200 ratio. This reduction in the building's square footage could greatly impact the bank's ability to operate at the site. The applicant also considered different traffic and parking patterns on the sight, but such augmentations to the proposed traffic and parking pattern led to violations of other Town requirements, such as the 24' drive requirement for emergency vehicles, including fire trucks.

The applicant has two primary reasons for requesting this variance, including issues with the lot and changes in how the modern bank functions. The lot, which will need to be formally platted, which is a part of the Ballard Property PD. The outline plan for this PD requires a 40' landscape plate along Houston Levee Rd. and a 20' landscape plate along the southern property line. The landscape plates do not allow for the placement of parking within them, greatly reducing the area of the lot available for parking placement. Additionally, there is a significant slope at the southern end of the property that makes the inclusion of parking in this area a difficult and costly endeavor.

The applicant and the bank assert that modern banking practices have changed in the last few years through the advent of smartphones and the wide adoption of mobile and internet banking. These changes, the applicant contends, have greatly reduced the amount of daily visitors to bank branches and, thus, the need for parking. He explained the applicant conducted a one day survey and it showed the demand parking ratio was lower than the 1-200 ratio parking. There is potential that if there is insufficient parking at the site of the bank, then bank patrons will utilize the parking of surrounding businesses, such as Lifetime Fitness. Several of these businesses have the minimum amount of parking required and their lots may not be able to handle additional cars attracted by the bank, should the bank's parking lot not be large enough.

The lot, which will need to be formally platted, is a part of the Ballard Property PD. The outline plan for this PD requires a 40' landscape plate along Houston Levee Rd. and a 20' landscape plate along the southern property line. The landscape plates do not allow for parking which greatly reduces the area of the lot available for parking placement. There is also a slope at the southern end of the property that makes the inclusion of parking in this area a difficult and costly. The landscape plates and setbacks within the Ballard Property PD are

EXHIBITS

1. Applicant's Cover Letter (7/21/16)
2. Letter from the Bank Owner (7/21/16)
3. Parking Demand Study (7/21/16)
4. Existing Survey (7/21/16)
5. Proposed Site Plan (7/21/16)
6. Rendered Site Plan (7/21/16)
7. Aerial of Subject Property
8. Ballard Property PD Outline Plan, pages 1, 3, & 4

more restrictive than what the Town's Design Guidelines require. What the applicant is requesting is not applicable to properties outside of the PD. The Town only requires a 10' buffer between commercial zones while The Ballard Property PD requires a 20 foot landscape buffer. The variance will not authorize activities or uses other than those permitted by ordinance in the SCC district, as allowed by the PD. There are factors other than financial gain being considered, such as physical characteristics and easement restrictions of the lot. Neither the applicant nor the property owner created the planned development and therefore is not responsible for the creation of the alleged hardships. The variance makes possible a reasonable use of the property as a bank by allowing the property owner to have less than the 1:200 minimum parking ratio required, allowing the construction of the proposed bank building with as many parking spaces as can be provided given the constraints on the property. Should the bank require more parking than is provided, then the variance could become detrimental to surrounding property owners if bank patrons utilize the parking of neighboring businesses, taking parking away from those business' patrons. The variance will not be detrimental to the public welfare or improvements in the area in terms of general safety. The requested variance will not impair an adequate supply of light and air to adjacent property, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the area. The requested variance will not interfere with or encroach upon a recorded public or private easement.

Vice-Chairman Hamilton asked if there were any questions of staff

Commissioner Kelsey asked if Lifetime cared about the bank using their parking as over flow.

Mr. Wilkinson stated they sent out notices to Lifetime but never heard from them.

Mr. Wilkinson explained a break down of the one day survey as per request by Vice-Chairman Hamilton.

Commissioner Kelsey asked if they were to comply with the required parking ratio then would the biggest issue just be the drainage.

Mr. Wilkinson stated if the applicant was forced to comply with the required parking it is questionable if there is enough space to have the 24' drive isle for the fire trucks to turn around, and they would have to cut into the slope to build a retaining wall. The applicant would also be limited for space due to the 20' buffer to the south.

There was a discussion over the deviation of the elevation.

Vice-Chairman Hamilton wanted to confirm that this building does not yet exist.

Mr. Wilkinson stated no, the applicant has decided to pursue the variance before submitting any plans. Based on the outcome of this variance will determine what they will submit.

Hearing no further questions, Vice-Chairman Hamilton called the applicant to the podium.

Mr. Michael Rogers, Fisher & Arnold, 9180 Crestwyn Hills Drive, Memphis, TN 38125, stated he will be happy to answer any questions. He stated there is a solid line for the setbacks and explained the changes in grade around the property. He stated that there wouldn't be an issues with the over flow of parking into surrounding business because of the experience with the other bank properties they never used all of their parking spaces. He stated if anything it might be the reverse where surrounding businesses over flow parked at the purposed bank. He stated the architect had less parking spaces on their original site plan then what is currently be proposed because they feel like they need even less then they are currently requesting.

Vice-Chairman Hamilton asked if there were any questions of applicant.

Vice-Chairman Hamilton stated the hardship that is being presented in the President of the bank's letter it states the code is out of date with current banking techniques.

Mr. Rogers stated it's the topography with the slope and restrictions of the landscaping which make it very difficult to be able to put in all the parking places with the size of the building. The building size is what the bank needs and the amount of parking spaces is not what they need.

There was a discussion over the other Bank 1905 locations and comparing their parking and buildings size as well as the amount of employees who work there to what is currently being proposed on this lot.

Mr. Groce stated a big portion of this building devoted to office. Our typical office parking requirements is 1:300 square feet. If this was strictly an office building they would meet the requirements.

Vice-Chairman Hamilton wanted Mr. Rogers to explain the south side with the drop in slope and the extensive drainage consideration.

Mr. Rogers explained how the wall will cut into some of the 20' buffer. He stated they will need to figure out how to capture the drainage and get it to go under wall so it will drain where it is supposed to. The fear is the material used for all of this will take up some of the 20' causing the need for another variance on the width of the parking spaces.

There was a discussion over the height and width of the retaining wall due to the grade and the slopes to prevent worse drainage issues.

Commissioner Luttrell stated he understands the argument for how banking has changed through phones and computers.

Vice-Chairman Hamilton stated if the applicant is saying the code is incorrect the BZA is not the people to be answering that. By his interpretation of the law and rules the BZA is here if there is a hardship and respond to that hardship. The hardship being that banking communication have changed, they don't need as big of a building, and they don't need as many parking spaces. Why not make the bank a little smaller and comply with code or see alternatives for adding a few extra spaces?

Commissioner Kelsey stated the Ballard requirement of 20' buffer is hindering their ability to have more spaces. The drainage issues are created if they add the required amount of parking space. He also agrees with the change in banking and believes in the next 5 years there will be less visitors to the banks then there are today.

There was a discussion over the drainage issue and how the amount of water is same no matter where you direct it, but the outcome of where the water ends up matters.

Hearing no further questions or discussion, Vice-Chairman Hamilton called for a motion.

Motion by Commissioner Kelsey and seconded, to approve the applicant's request to allow less than one parking space per 200 square feet of gross floor area for a bank.

1. *Future uses of the site, other than financial services (i.e., bank, credit union), shall meet the minimum off-street parking requirement for that use per §151.117 of the Zoning Ordinance.*
2. *Any deviation from the approved variance shall require the approval of Staff and/or the Board of Zoning Appeals.*

Hearing no further comments, Vice-Chairman Hamilton asked Mrs. Robbins to call the roll.

Roll Call:

Kelsey – yes, Luttrell – yes, Hamilton – no.

Motion Approved

BZA16-04 10800 Whisper Hollow Cove — Request a Variance to allow a covered screened-in patio to encroach into the required 30-foot rear yard setback

- EXHIBITS**
1. Applicants’ cover letter with Standards for a Variance (rec’d 8/4/16)
 2. Applicants’ Exhibits 1 through 10 (rec’d 8/4/16)
 3. Survey of applicants’ property
 4. Plat of Whisperwoods Subdivision, Phase 1
 5. Survey of 4506 Whisperwoods Drive

Mr. Jaime Groce gave the staff presentation. He stated this is a standard R-1 lot in a standard R-1 neighborhood. He stated this home has a three car garage which extends beyond the front door of the home which pushes the living space to the back of the lot. The location of the three car garage is usual on this lot. The applicant does have a patio that is

covered. As an alternative they could technical screen it in but it is a really small porch, so shallow the furniture actual hangs out from underneath the covered area. The applicant would like to spend more time outside and have a screened in porch to have the ability to get away from bugs and the elements. Another alternative would have been when the house was built to have the garage built in the back which would allow the applicant to have a larger living space further from the setback. The applicants are the first buyers of the home and have been here since 2005. They did buy the home knowing it was in this condition and have lived there for 10 years. He explained the covered patio they want to build that will be in the same location as the existing one. He showed neighboring lots and explained how the addition will not be right against the neighboring house.

He explained the standard of criteria for this house to receive a variance. He stated it has a three car garage which is on the front of the home and if the house was built differently it would have taken the living space away from the rear property line and this wouldn’t have been an issue. Typically other houses in town in R-1 Districts don’t have three car garages on the front of the home. The applicant is claiming factors other than finical gain such as the physical characteristics of the lot and the three car garage. The applicant did not create the lot, but they did purchase the property in 2004 and have lived in it knowing the configuration. The minimum amount they are requesting they believe will make this lot livable with the small screened in patio. The applicant does not believe this will be detrimental to the public because of the separation from the neighboring house. This should impact light or air because of the minimal encroachment into the yard. There are no easements that are being impacted.

Vice-Chairman Hamilton asked if there were any questions of staff.

Hearing no further questions, Vice-Chairman Hamilton called the applicant to the podium.

Mr. Errol Keel, 10800 Whisper Hollow Cove, stated they have been in the house since 2005 and if they have had any knowledge of the setback and rules for adding a screened in patio that may have influenced their decision to purchase this lot. They did notice the shallow depth of the overhang of the back patio. It really wasn't useable for anything but to store their BBQ grill. They spend a lot of time out side and in 2007 he purchased a screened in gazebo which a big storm came through and destroyed it. When he turned in his permits he learned for the screened porch of the setback issues which bring him here today.

Vice-Chairman Hamilton asked if there were any questions of applicant.

Vice-Chairman Hamilton asked if he has discussed this with his neighbor on lot 37.

Mr. Keel stated he had discussed it with the neighbors to the left and right of his lot and his wife made two efforts to speak with the neighbor behind on lot 37 but was never successful.

Vice-Chairman Hamilton stated he empathize completely with the applicant moving into the house and not anticipating the need for this request.

Commissioner Luttrell stated he agrees having that much of a garage in front limits what the applicant can do. He believes what the applicant is asking is reasonable and will bring value to the house.

There was a discussion over how there would be a reasonable distance from the proposed addition to the neighboring house (lot 37).

Hearing no further questions or discussion, Vice-Chairman Hamilton called for a motion.

Motion by Commissioner Luttrell, and seconded, to approve the applicant's request of a variance to allow the principal structure to encroach 12 feet 3 inches into the required 30-foot rear yard setback at 10800 Whisper Hollow Cove, per Exhibits A & B, subject to the following conditions.

- 1. The screened covered patio shall not be enclosed by adding solid walls so as to create additional heated/cooled building square footage.*
- 2. Any deviation from the approved variance shall require the approval of Staff and/or the Board of Zoning Appeals.*

Hearing no further comments, Vice-Chairman Hamilton asked Mrs. Robbins to call the roll.

Roll Call:

Kelsey – yes, Luttrell – yes, Hamilton – yes.

Motion Approved

OTHER BUSINESS

Vice-Chairman Hamilton asked if there was any other business.

Mr. Groce stated we are still trying to get credit hours for the BZA for this year that are required by the State. Most Commissioners have almost all the required hours. If the BZA has interest on a local topic they may be able to have a customized training session.

There was a discussion over topics MTAS has to offer and other possible State law that may be helpful for the BZA to have extra training on.

Hearing no further business, Vice-Chairman Hamilton adjourned the meeting at 6:01 pm

Commissioner Carr Kelsey, Secretary

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