

MINUTES OF THE
GATLINBURG MUNICIPAL BOARD OF ZONING APPEALS
July 24, 2014
Thursday, 3:00 p.m., City Hall

MEMBERS PRESENT

Joe Waggoner, Chairman
Kenny Maples
Cyndi Bowling

MEMBERS ABSENT

Jack Miller, Jr.
Ron Smith

OTHERS PRESENT

Jay DeFoe
Brandon Parrott
James Embry

Staff Representative: David Ball, City Planner

The meeting was called to order at 3:00 p.m., with Chairman Joe Waggoner presiding. The minutes, of the June 26, 2014, meeting, were unanimously approved following a motion by Mrs. Cyndi Bowling and a second by Mr. Kenny Maples.

Petitions and Communications from the public

Staff Report

Old Business

New Business

a) Review and consideration for a proposed administrative review of the building height for “Smoky Mountain Resort,” located at 404 Historic Nature Trail, C-1 Zone, requested by Trotter & Associates.

Staff presented the request for relief from Article VIII, being the Area, Yard, and Height Provisions of the Municipal Zoning Ordinance. Staff stated that the subject property is located in a C-1 (Tourist Commercial District) which establishes a 48’ average and a 60’ maximum height from finished grade for hillside development. Staff added that the maximum height of 60’ from finished grade is the allowable height for level lot development. Staff noted that the architects for this project have designed retaining walls for this property to raise the finished grade line that adjoins the building to establish a level building site on all sides of the building. Staff also stated that the applicants are requesting that the retaining wall on the west side of the building, between the proposed building and the existing parking garage, be eliminated due to the fact that the wall and the finished grade line cannot be seen from any public view point. Staff further stated that the applicant contends that the construction of the retaining wall imposes an unnecessary financial hardship upon the developer. Staff pointed out that the purpose in the variance/administrative review is that Staff’s interpretation of the proposed building heights, without the retaining wall, are technically in violation of the limits established under Article VIII.

Staff stated that the original Phase I development was approved and developed under C-2 (General Business) District height limitations of 72’ average and 84’ maximum. Staff noted that this was achieved through the Planning Commission approval process based on previous

ordinance provisions (**no longer an option in the ordinance**) which allowed for additional height in the C-1 Zone if on-site parking was provided for and additional and enhanced open-space was incorporated into the development. Staff added that the original plan included extensive and enhanced landscaping throughout the development but especially in the front yard portions of the development. Staff also noted this added landscaping and open-space was to be installed as each phase of the development was constructed. Staff explained that since Phase I there has been an ownership change in the property and the development concepts have significantly changed for the site. Staff further stated that the site is now being developed with this proposed expansion of the multi-family timeshare facilities along with an indoor water park, and "Holiday Inn Express" hotel on the north end of the property.

Staff explained that the height limitations in the Zoning Ordinance are established to maintain vertical open-space, reduce visual impacts of structures, and to manage building heights to limits which can be reasonably serviced by the local community and its resources such as emergency management agency i.e. fire department and public infrastructures serving the property. Staff noted that this specific request does not negatively impact the ability of the City to service the development either from an emergency management or infrastructure perspective; nor does the proposed request impact open-space any more than existing structures located on the property and other adjacent properties.

Staff further stated that the lot does not appear to pose any unusual topographical issues or hardships nor has the applicant indicated any physical hardship that prevents compliance with the Zoning Ordinance Provisions. Staff finally stated that the construction of the retaining wall to raise the finished grade to accommodate the proposed number of floors and building height is not a requirement of the City but rather an option that the developer has chosen to meet the height standards of the ordinance and achieve their desired amount of development.

Mr. Jay DeFoe, project architect, was present and gave a brief overview of the project. Mr. DeFoe explained that the finished grade was being established with a series of retaining walls in accordance with the building code that requires the grade be extended a minimum of six (6) feet out from the building. Mr. DeFoe further noted that the adjoining proposed pool building and existing parking garage prevent the developer from extending the proposed walls around the entire parameter of the proposed building. Mr. Maples inquired about the proposed pool building and what would happen if the building was not installed as planned? Mr. DeFoe noted that at that point arrangements would have to be made by the owners to extend the proposed wall into that area to raise the grade. Kenny Maples discussed that it did not seem logical to require the wall immediately adjoining the parking garage because there would be no visible impact from the public way view point. Mr. Maples stated that the man-made structure would seem counterproductive to preserving open-space. Mr. Maples then inquired about the building setback from Historic Nature Trail/Airport Road. Mr. DeFoe stated that the building would be approximately 100 feet from the right-of-way. Staff added that the terraced wall located on the east side of the building will provide landscaping opportunities that will help with the depth

perception from Historical Nature Trail as well as break the vertical elements with mature vegetation. Mr. Maples stated that the proposed building seemed to be less in height to adjoining property structures in the immediate area. Staff added that it appears that the adjoining properties utilized the additional height provisions of Article VIII, which previously existed in the Zoning Ordinance. Mr. Maples added that the structure seems to be of less impact due to the proposed building setback, the fact that the building is three (3) stories less in height than the adjoining structure, and if mature plantings are placed in terrace wall area.

After further discussion, Mr. Kenny Maples made the motion to approve the request due to unique circumstances associated with the property. Mrs. Cyndi Bowling seconded the motion with all members voting aye.

b) Review and consideration for a proposed side yard setback variance for Tax Map 127H, Group A, Parcel 29.13, located at 222 West Pinnacle Drive, R-2 Zone, requested by Peter Pacheco.

Staff presented the request for review and consideration of a proposed 5.2 foot side yard setback variance from the required 15 foot side yard requirement leaving 9.8 feet of setback to the existing porch addition. Staff noted that the closest point to the roof overhang is 9.8 feet; the deck is located 13 feet from the property line.

Staff stated that the porch structure has been constructed at this time. Staff pointed out that the original house was built to comply with R-2 Zone setbacks which previously required a 12' side yard setback. Staff explained that the change to Article VIII, in 2008, changed the side yard setback requirements for R-2 to 15 feet. Staff further stated that as such, the newly constructed porch addition does not comply with the current setback standards and thus the reason for the request. Staff finally stated that the impact of the new porch is minimal due to the fact that the porch does not extend beyond the outermost extremities and dimensions of the existing house footprint. Staff added that the lot is steep as is most adjoining properties in this area. Staff finally stated that no other physical hardships have been presented by the applicant.

Mr. Brandon Parrott was present and stated that he was the contractor on the project and mistakenly proceeded with the construction of the porch without the proper permits. Mr. Parrott stated that he wasn't aware that permits were required for the minor addition but would make sure future projects would be properly permitted prior to construction. The Board briefly discussed the request and the steepness of the property.

After further discussion, Mrs. Cyndi Bowling made the motion to approve the 5.2 foot side yard setback variance from the required 15 foot side yard requirement leaving a 9.8 feet setback to the existing porch addition due to steepness of the property. Mr. Kenny Maples seconded the motion with all members voting aye.

Unscheduled Items

Mr. Jim Embry was present on behalf of “Alibi’s” Restaurant,” and asked the Board to discuss a potential roof sign for the business. Mr. Embry gave a brief overview of the business and discussed the difficulties of signing the business due to the existing State Right-of-way boundary and building location. After lengthy discussion with regard to the sign, site issues, and alternative sign locations, the Board took the information under advisement understanding that no official action was needed because the item was not an official item for review by the Board.

Adjournment

There being no further business to come before the Board, the meeting was unanimously adjourned at 4:15 p.m., after a motion by Mrs. Cyndi Bowling and a second by Mr. Kenny Maples.

Approved by:

MBZA CHAIRMAN

DATE