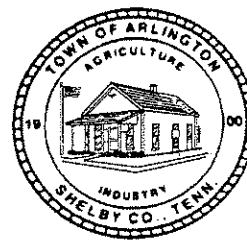


# Town of Arlington

5854 Airline Road, Arlington, TN 38002



## MINUTES

Board of Zoning Appeals

July 14, 2014

6:00 P.M.

### I. INVOCATION

Gerald McGee led the opening prayer.

### II. CALL TO ORDER AND ESTABLISHMENT OF A QUORUM

#### Present

Gerald McGee  
Russ Campbell  
Samuel Murrell  
Don Hinkle  
Josh Holtgrewe

#### Others Present

Gerald Lawson, Attorney  
Heather Sparkes, Planner  
See List

Gerald McGee called the meeting to order, and noted that a quorum was established.

### III. ELECTION OF OFFICERS – CHAIRMAN, VICE CHAIRMAN AND SECRETARY

Gerald McGee stated that as this is the first meeting since 2012 and some members have resigned and been replaced; therefore, it was time for the Board of Zoning Appeals (BZA) members to elect a Chairman, Vice Chairman and Secretary.

**Main Motion:** Russ Campbell made a motion to elect Gerald McGee for the position of Chairman. Don Hinkle seconded the motion.

Mr. McGee called for discussion. Hearing no response, he called for a motion.

**Vote on Motion:** The motion carried unanimously.

**Main Motion:** Russ Campbell made a motion to elect Samuel Murrell for the position of Vice Chairman. Don Hinkle seconded the motion.

Chairman McGee called for discussion. Hearing no response, he called for a motion.

**Vote on Motion:** The motion carried unanimously.

**Main Motion:** Russ Campbell made a motion to elect Don Hinkle for the position of Secretary. Josh Holtgrewe seconded the motion.

Chairman McGee called for discussion. Hearing no response, he called for a motion.

**Vote on Motion:** The motion carried unanimously.

#### IV. APPROVAL OF MINUTES

Chairman McGee called for a motion to approve the December 4, 2012, minutes.

**Motion:** Russ Campbell made a motion to approve the minutes of the December 4, 2012, meeting as presented. Don Hinkle seconded the motion. The motion carried unanimously.

#### V. OTHER AS PROPERLY PRESENTED

There was no old business to come before the Board.

#### VI. NEW BUSINESS

- A. Reading of Request – A request presented by SR Consulting, LLC, on behalf of Tennessee Equine Hospital, to grant a variance for building setback requirements on property located at 12314 Highway 64, Arlington, TN 38002.

Chairman McGee noted that due to traffic, the applicant's representative would be late arriving and requested the Board hear Agenda Item B first.

Upon completion of Agenda Item B, Chairman McGee recognized Heather Sparkes, Town Planner, who provided the analysis (on file). She stated that this is a request for a variance from the required rear yard setback to permit an encroachment of ten feet to establish a clinic for horses. She noted that the property is 1.105 acres, 350 feet wide, 137 feet deep, and is located in the B-2 General Business Zoning District. She noted that the applicant plans to keep the existing 2,423 square foot single-story building and proposes an open canopy addition to the rear of the existing structure. Ms. Sparkes advised that the B-2 district requires a rear yard setback of 25 feet and they are proposing to locate the

canopy within 15 feet of the property line. She advised that the applicant believes that the existing building combined with the site shape and shallow nature presents a hardship. She reviewed the surrounding properties, noting zoning districts, current land uses and anticipated future land uses. Ms. Sparkes advised that she included in the staff report the criteria from Chapter 10, Section 10.5.4.3) c) of the Zoning Ordinance for granting a variance and two staff conditions should the BZA grant approval. She stated that the project must go to the Planning Commission and Design Review Committee for site plan approvals. Ms. Sparkes noted on the site plan there is an existing septic field and nothing can go over that area, which limits building on this parcel. Ms. Sparkes advised that on July 3, 2014, a public notice was published in The Commercial Appeal. She advised that the applicant was present. Chairman McGee called for a motion.

Chairman McGee called for a motion.

**Main Motion:** Russ Campbell made a motion to grant a variance for building setback requirements on property located at 12314 Highway 64 subject to compliance with Staff conditions as presented and any additional conditions levied by the Board of Zoning Appeals (**as amended**). Don Hinkle seconded the motion.

Chairman McGee called for discussion and recognized Cindy Reaves, SR Consulting, 5909 Shelby Oaks Drive, Suite 200, Memphis, TN, who thanked the Board for their consideration. She advised that her client wishes to keep the existing building, and this creates a hardship. She noted that the location is excellent for a horse clinic. She noted that the new horse arena being attached to the existing building will be used to ensure that horses recover after their procedures. She advised that the 100-acre estate adjacent to this property is vacant and it is anticipated that any buildout will not go up to the 25 foot setback. Ms. Reaves asked the Board to take this into consideration. Ms. Sparkes passed around boards showing elevations of the proposed addition and renovations to the existing structure. Ms. Reaves noted that to keep the horses safe, there will be a three-rail fence surrounding the property. Chairman McGee recognized Mr. Campbell who asked if an approval runs with the land and he wanted to know if there is there a way to ensure that this open canopy structure remains a permanent open area and cannot be enclosed in the future without coming back to the BZA. Gerald Lawson, Town Attorney, advised that a condition could be added that the structure will remain open-air and not be permanently enclosed. Ms. Sparkes advised that this would need to be a primary amendment to the main motion. Mr. Campbell asked the Board if they agreed with this amendment. There was discussion on how the amendment would affect future development.

**Primary Amendment:** Russ Campbell made a motion to amend the main motion and require that the proposed structure addition shall remain open-air

and shall not be permanently enclosed. Don Hinkle seconded the motion.

Chairman McGee asked if the applicant owns the property. Ms. Reaves responded that sale is contingent upon approval of this request. Mr. Murrell asked about the hours of operation, and Ms. Reaves replied that the clinic is open 24-hours. Chairman McGee called for further discussion on the primary amendment before the Board. Hearing no reply, he called for a vote.

**Vote on Primary Amendment:** The motion carried unanimously.

Ms. Sparkes advised that the Board is now in discussion on the main motion as amended. Chairman McGee asked about the antique store and its distance from the property line. Ms. Sparkes advised that the B2 district has a required side yard setback of ten feet. It was determined that the wall-to-wall measurement was 82 feet, and that was acceptable. Chairman McGee called for further discussion. Hearing no reply, he called for a vote on the main motion as amended.

**Vote on Main Motion as Amended:** The motion carried unanimously.

Conditions of Approval:

1. Satisfactory completion of all Planning Commission conditions and Development Staff requirements related to the plan of site improvements is required.
2. Design Review Commission approval of building elevations, landscaping and lighting are required.
3. **The proposed structure addition shall remain open-air and shall not be permanently enclosed.**

- B. Reading of Request – A request presented by Danny Benard, Owner, to grant a variance from a required side yard setback requirement on property located at 11895 Wagon Cove, Arlington, TN 38002.

Chairman McGee recognized Heather Sparkes, Town Planner, who provided the analysis (on file) and stated that this is a request for a variance to permit a five foot encroachment into the side yard setback. She noted that the property is 12,590 square feet. She stated that she has a correction to the staff report in the second paragraph of "Facts/Analysis:" to change the proposed attached garage measurement of 20' x 60' to 20' x 23'. She advised that the garage would be constructed to the side of the principal structure and noted the principal structure's location from the closest point to the property line. She noted that the proposed addition requires a variance to encroach five feet into the required ten foot side yard setback, but not into the five foot utility easement along the side property

line. Ms. Sparkes stated that the applicant advises that the additional five feet would allow the addition's roof pitch to match the existing house and provide a more cohesive look. She noted that the applicant advised that placing an addition in front of the house would locate it too close to the front property line and the backyard has a pool and patio that takes up much of the usable space. She advised that surrounding properties are all single family land uses in the RS-15 zoning district. Ms. Sparkes advised that she included in the staff report the criteria from Chapter 10, Section 10.5.4.3)c) of the Zoning Ordinance for granting a variance and also included two staff conditions should the BZA grant approval. Ms. Sparkes advised that on July 3, 2014, a public notice was published in The Commercial Appeal. Chairman McGee called for a motion.

**Main Motion:** Samuel Murrell made a motion to grant a variance from the required side yard setback requirement on property located at 11895 Wagon Cove subject to compliance with Staff conditions as presented and any additional conditions levied by the Board of Zoning Appeals. Russ Campbell seconded the motion.

Chairman McGee opened the floor for public comments. He advised that anyone wishing to speak for or against this item come to the podium and state name and address for the record. Hearing no comments, he closed the floor and called for Board discussion.

Chairman McGee recognized the applicant, Danny Benard, 11895 Wagon Cove, who noted that the principle structure is actually located 26.7 feet from the property line and a 20 foot addition would leave a distance of six feet to the property line. Mr. Benard advised that he wants to enclose his existing concrete slab to store his boats, etc. He stated that he wants to add an additional bedroom and bathroom upstairs, over the existing principle structure and the proposed attached garage. He stated that the drawing submitted wasn't exactly what he had in mind, because the architect had some structural issues to resolve. Mr. Benard noted that there is a driveway-to-driveway connection with the neighbor on the right of his property and access to the back yard is not an issue. He advised that his neighbor doesn't have a problem with this addition. Chairman McGee thanked Mr. Benard and called for Board discussion. He recognized Mr. Campbell who asked why not locate the garage in the back yard behind the breakfast and gathering room area. Mr. Benard replied that the back yard contains an in-ground pool, a 10' x 16' porch, and it slopes off towards the rear property line. Mr. Campbell asked if it was possible to build on the left-hand side of the existing double garage. Mr. Benard replied that the house is already at the required front yard setback for the neighborhood. There was a brief discussion about alternate locations. Chairman McGee noted that utilities are not always located in the five foot utility easement and noted that if approved, this structure will be right at the utility easement. He suggested that Mr. Benard determine the exact location of the utilities prior to construction. Ms. Sparkes advised that she

included a condition to address this concern and noted that if utilities are outside the easement, the owner should work with the utility companies to relocate them. Chairman McGee recognized Mr. Campbell who asked if the patio and pool were already there when Mr. Benard purchased the house. It was advised that the builder installed the patio and the pool was installed in 2007. Chairman McGee recognized Ms. Sparkes who clarified that the house is 26.7 feet from the property line as Mr. Benard pointed out. Chairman McGee called for a vote on the main motion.

**Roll Call Vote on Motion:** Murrell – Yes; Hinkle – Yes; Holtgrewe – Yes; Campbell – No; McGee – Yes.

The motion passed with 4 – Yes and 1 – No vote.

Conditions of Approval:

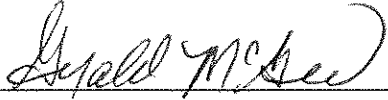
1. A building permit is required prior to construction of the building addition.
2. No portion of the building addition shall encroach into any easement. The applicant shall contact all utilities prior to construction to ensure that there are no easements or utilities located within the proposed building area.

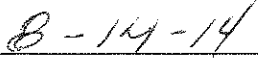
C. Other as Properly Presented

No other new business was presented to the Board.

**VII. ADJOURNMENT**

**Motion:** Josh Holtgrewe made a motion to adjourn the meeting. Russ Campbell seconded the motion. The meeting was adjourned. -

  
\_\_\_\_\_  
Gerald McGee, Chairman

  
\_\_\_\_\_  
Date

Submitted By: Theresa Smith