

**ALCOA BOARD OF ZONING APPEALS
ALCOA, TENNESSEE
Monday, August 24, 2020, 3:30 P.M.**

The Board of Zoning Appeals of the City of Alcoa met, at the call of the Chairperson, on the 24th day of August, 2020, 3:30 p.m., in the Alcoa Municipal Building Council Chambers. William Cochran presided as Chairperson, with board members Lynn Bolton and John (Rocky) Rochelle also present. The staff members present were Jeremy Pearson, Ashley Miller and City Attorney, Stephanie Coleman. The applicants, Derick Jones, Chris Rosser, Karla Gourley, Kevin Gourley and Jeff Wallace were also in attendance.

Call to Order:

The Chair called the meeting to order and requested a roll call of present members and asked that the applicants and other participants identify themselves for the record.

Determination of Necessity of Electronic Meeting:

Chairman Cochran read aloud the following statement:

A determination is needed by the Alcoa Board of Zoning Appeals regarding the necessity of electronic meetings pursuant to the Governor's Executive Order Number 51, extending Executive Order Number 16, executed on June 29, 2020, and recommendations from the Tennessee Comptroller of the Treasury, issued on March 20, 2020, and other applicable laws in effect. The Governor's Order allows government agencies to amend or rescind certain requirements under the Tennessee Open Meetings Act regarding the electronic meetings in lieu of in-person attendance and participation. The Comptroller's Office recommends that boards make a determination regarding the necessity of electronic meetings for continued function of government agencies and to protect public health, safety and welfare during the outbreak of COVID-19. Such determination is to be placed on the record in the Board's minutes.

Mr. Rochelle made a motion to approve that the meeting be held electronically, pursuant with the Governor's Executive Order Numbers 16 and 51. Mr. Bolton seconded the motion, and it passed unanimously.

Approval of Minutes:

There being no corrections to the minutes of March 9, 2020, the minutes were declared approved, and requested to be filed.

Election of Officers FY 2021 and Review of By-Laws:

Mr. Rochelle moved to retain the current slate of officers:

William Cochran, Chairman
Lynn Bolton, Secretary

Mr. Bolton seconded the motion, and it passed unanimously. There being no corrections voiced to the by-laws by the board, said by-laws were reaffirmed.

Requests:

Consideration of a request by Derick Jones (Sterling Engineering, Inc.), on behalf of Pistol Creek Properties, LLC, for a variance from the rear yard setback provision of Residence District "B" (Blount County Tax ID 047A A 014.01), located at 442 N. Wright Road.

Staff advised that the request was due to the fact that the surveying crew employed by Sterling Engineering, Inc. (hired by the contractor/Pistol Creek Properties, LLC) had mistakenly laid-out the home on the lot—a home that would have otherwise been discovered to not be feasible for construction within the lot's allotted building envelope—as the rear yard setback had not been considered when the staking occurred. Staff noted that the error resulted in an encroachment of 6.05 feet into a required setback of 30 feet, with the setback provided in violation being 23.95 feet. Consequently, as staff then informed the commission, a rear yard setback variance was requested in the amount of 6.05 feet.

Staff further advised that some of the major purposes of setbacks were in line with the purpose of all city planning: to allow people to live together in harmony and to promote the health, safety, and welfare of city residents. Staff stated that this purpose was accomplished by preserving the look and character of neighborhoods through consistency of use and design, which in turn aided in the protection of property values. Staff added that it was also accomplished by encouraging the planning of useable outdoor space and open greenspace. Staff noted that inasmuch as the minimum setback lines on a lot must strictly be adhered to, sometimes exceptions must be made for extenuating circumstances while doing the best to uphold the purposes described above.

Specific to the request, staff outlined the circumstances in the case by stating the following:

1. Neither the contractor nor the engineer had made a mistake such as this before, nor had either sought a variance for such a mistake from the BZA in the past. This was the first such request for both.
2. Both the engineer and the contractor had taken on numerous challenging building projects within the city limits and had routinely laid-out and constructed in-fill housing on lots left vacant by other contractors.
3. The particular error was an honest mistake on the part of the engineer, and both the engineer and contractor had worked to explore other, though ultimately impossible, solutions to the problem prior to seeking the variance.
4. Removal of the encroaching portion of the structure at this point would require cutting and removal of a portion of the foundation, complete relocation of all utilities to the home, and massive reconstruction of the garage, making such removal a practical difficulty.
5. The neighboring rear property owners had been approached and had expressed their support for the variance.
6. The distance to the rear wall of the immediately adjoining house to the rear was still greater than 60 feet. Though the house in question did encroach on the rear setback area, the construction of the neighboring properties was such that the goal of maintaining open greenspace between houses was preserved.
7. Both the contractor and engineer had been counseled by staff regarding steps to take in the future to prevent repeat offenses.
8. In response to the issue, staff had adjusted the process for tracking the progress of residential construction projects to improve efficiency and help prevent this type of problem in the future. This issue had presented a learning tool for improving the processes currently in place.

Staff concluded that based on the extenuating circumstances in the case, as stipulated above, staff believed that a variance could be granted while preserving the purposes and standards of Alcoa's city planning. Staff recommended the rear yard setback variance of 6.05 feet for Blount County Tax ID 047A A 014.01 (Lot 15R-2 of Cochran's First Addition), with said setback variance being measured from the property's NE boundary line, subject to meeting all city requirements, which included securing a Certificate of Occupancy.

Mr. Rochelle moved to approve the rear yard variance in the amount of 6.05-feet for Blount County Tax ID 047A A 014.01, located at 422 N. Wright Road, subject to meeting all city requirements, which included securing a Certificate of Occupancy. Mr. Bolton seconded the motion, and Chairman Cochran opened the floor for discussion.

Mr. Rochelle questioned if the variance were to be granted would the property's deed need to reflect the variance. Stephanie Coleman, City Attorney, noted that if granted, the variance would be of record with the city and run with the property. Ms. Coleman stated that the Certificate of Occupancy was the document needed for the closing on the property. Mr. Rochelle questioned setting a precedence with the granting of a variance. Ms. Coleman noted that looking back over the past 20 years of action taken by the Alcoa Board of Zoning Appeals, the circumstances in the current case were most similar to two other variance requests in the past, thus not setting a new precedence. Mr. Rochelle cautioned all parties in the future to be very careful. Related to Item #5, Mr. Bolton questioned if the rear property owner had provided approval. Mr. Bolton further questioned the requirement of the board to get a written approval from the rear property owner. Mrs. Coleman explained that the board did not have a requirement to obtain an approval from the neighbor, but staff wanted to convey the rear owner's approval. Mr. Bolton then also questioned if by granting the variance there would be a premise to sue the City of Alcoa. Chairman Cochran questioned if the rear property owner provided approval in writing or was it merely at the word of the applicants. Mrs. Coleman reiterated that there was not a requirement that you canvas a neighborhood and obtain a written approval for a variance or vice versa. Ms. Coleman noted that public notice was required for the Alcoa Board of Zoning Appeals meetings, and the City of Alcoa had provided an opportunity for the public to provide comment. Chairman Cochran again expressed concern over lack of written approval from the rear property owner. Mrs. Karla Gourley stated that she had documentation in the form of emails and text messages that could be provided to the board. Mr. Rochelle asked if the lender on the property was aware of the current variance request. Mrs. Gourley noted that the lender was aware. Mr. Derick Jones, of Sterling Engineering, addressed the board and noted that this was a situation where their client constructed the home per the location staked out by Sterling Engineering. Mr. Jones apologized for the error that occurred and assured the board it would not happen again within the City of Alcoa.

Chairman Cochran made a motion to amend the previous motion of approval to require the property owner to the rear be agreeable in writing to the variance requested. Mr. Rochelle seconded the amendment. Chairman Cochran stated that the motion before the board was to approve the rear yard variance in the amount of 6.05-feet for Blount County Tax ID 047A A 014.01, located at 422 N. Wright Road, subject to meeting all city requirements, which included securing a Certificate of Occupancy and also the submission of a written statement of approval

from the rear yard property owner agreeing to the variance. At the request of the City Attorney, Chairman Cochran called for a roll call vote, with all members voting aye. The motion was unanimously approved.

Other Business:

None.

Adjournment: There being no further business to come before the board, the meeting was adjourned at 4:09 p.m.


Chairman


Secretary

Exhibit A: Rear Yard Property Owner Letter

EXHIBIT A

August 24th, 2020

RE: Setback variance for parcel 047A A 014.01, Lot 15R2, Cochran 1st Addition
442 N Wright Rd.
Alcoa, Tn. 37701

To Whom It May Concern,

This letter serves as documentation that Mr. Nicholas R. Carrington, owner of parcel 047A A 019.00, Lot 52R of Cochran First Addition does not object to the city of Alcoa granting a 6.05 ft setback variance to the adjoining parcel owner Pistol Creek Properties, LLC for parcel 047A A 014.01, Lot 15R2 of Cochran First Addition.

With Regards,



Nicholas R. Carrington
471 Cochran St.
Alcoa, Tn. 37701