

**BOARD OF ZONING APPEALS MINUTES
JANUARY 16TH, 2014**

The Board of Zoning Appeals met in the Council Chamber at Bartlett City Hall on Thursday, January 16th, 2014 at 6:30 p.m. for a regular meeting. Alderman David Parsons presided over the meeting.

The following members were present:

Alderman David Parsons
Russ Abernathy
Henry Miller
Charles Jowers

Members Absent:

Bill Simpson

The following advisors were present: Terry Emerick, Director of Planning; Kim Taylor, Planner; Jim Brown, Director, Code Enforcement and Will Wyatt, Attorney.

Mr. Jowers made a motion to approve the minutes from the November 21st, 2013 regular meeting. Mr. Abernathy seconded the motion. Roll Call Vote: All members voted yes. The minutes were approved.

NEW BUSINESS

PUBLIC HEARING

- 1. McNeill Commercial Real Estate, 64 Kate Hyde Partners – Spence Ray and Phillip H. McNeill, property owners, are requesting a variance from Article VI, Section 23 of the Bartlett Zoning Ordinance for a reduction in the minimum 35% green/open space requirement and reduction in the commercial streetscape requirement. The subject property is located on the Northeast corner of Kate Hyde Boulevard and Highway 64 within the “C-H” Highway Business Zoning District.**

INTRODUCTION: Ms. Kim Taylor, Planner, explained that the Master Plan for this subdivision was approved by the Planning Commission on December 2, 2013. The ordinance requires 35% green/open space. However, this request is for 30% green/open space overall for the three lots. The other variance included is for reduction in the size of the streetscape from 20 feet wide to 10 feet wide. Variance would be for 5% reduction in green/open space and 10% reduction in streetscape.

Mr. Emerick stated that one thing to consider, is that the property has a slope issue on the eastern property line next to Wal-Mart. There is right in only access from U.S. Highway 64 which affects the site plan circulation pattern. With two businesses needing drive-up windows this will require additional pavement. Those are issues to consider.

BACKGROUND: The subject property consist of three lots and is located along the west side of Kate Hyde Boulevard (in between Lowes and Wal-Mart) and on Highway 64. The lot that fronts on Kate Hyde is a part of Lowes Subdivision, and the other two lots are a part of the Walton Subdivision.

On December 2, 2013, the Planning Commission approved the Master Plan for the Kate Hyde Subdivision for three commercial lots with sizes ranging from 1.2-acres to 1.78-acres. Access to the lots will be from Kate Hyde Boulevard and Highway 64. The Master Plan reconfigures the existing 3-lots that are a part of the Walton and Lowes Subdivision plats, and creates an entirely new subdivision. The new lot configuration will allow for the future development of four commercial buildings.

REQUEST/DISCUSSION: The applicant /property owners are requesting two variances from the Bartlett Zoning Ordinance which includes: 1) to allow the overall Master Plan of Development for the new Kate Hyde Subdivision to have less than 35% overall green space; and, 2) to reduce the minimum required depth of the streetscape on both Kate Hyde Boulevard and Highway 64 from twenty (20) feet wide to ten (10) foot wide. The Zoning Ordinance requirements and explanation of the request are as follows:

- 1) **Green Space:** According to Article VI, Section 23 of the Bartlett Zoning Ordinance, “A minimum of thirty-five percent (35%) of the total land area of the lot, excluding building footprints and pavement, shall be in green/open space;” and, “where land is subdivided in a manner that distribution of green open space required on each lot is impractical, such distribution may be approved through submittal and approval by the Planning Commission of a Master Plan for compliance with these requirements over the entirety of the property to be developed,” *The proposed overall green space for the Master Plan is thirty percent (30%) which is less than the Planning Commission can approve.* According to the applicant, the need for the variance is due to the narrow size and shape of the lots, slope issues, and needing access (egress/ingress) from Kate Hyde Boulevard.
- 2) **Streetscape:** Article VI, Section 23 of the Bartlett Zoning Ordinance states that, “On all street frontages, a landscape depth of at least twenty (20) feet from the right-of-way line shall be provided, with or without berms, depending on the topography.” *The applicants are proposing that the streetscape depth be ten (10) feet wide.* According to the applicant this variance will help meet the parking needs of future tenant, Panera Bread.

Should the Board of Zoning Appeals grant these variances, the amount of required overall green space for the Kate Hyde Master Plan will be reduced from thirty-five percent (35%) to thirty percent (30%), resulting in a five (5%) variance; and the landscape/streetscape depth will be reduced from twenty (20) feet to ten (10) feet, resulting in a ten (10) foot variance.

Comments:

1. The ten (10) foot wide streetscape was originally approved on both the Lowes and Walton Subdivision plats.
2. The attached site plan has not been submitted to the Planning Commission for approval. The Final Plan and Construction Plan will need to be submitted to the Planning Commission for approval.

Chairman questioned the applicant about a December 8th meeting with staff to improve the open space percentage, 15 parking spaces were eliminated and the size of the rear building was reduced leaving larger landscape area. This will highlight the corner.

Hearing opened at 6:42 p.m.

Chairman questioned whether we had received any correspondence for or against this application. None has been received.

Chairman requested anyone wishing to speak for this application to come forward to the podium. Seeing none,

Chairman requested anyone wishing to speak against this application to come forward to the podium. Seeing none,

Chairman requested the applicant come forward to the podium and state their names. Mr. Spence Ray, McNeill Commercial Real Estate, 7700 Wolf River Blvd, Suite 103, Germantown, came forward. He discussed the different areas which were owned by Lowes and Wal-Mart and the old lot owned by Ruby Tuesday. This difficulty about this site is Wal-Mart has covenants on site. Thought the area where the carwash property was located was okay for several months. By that time, getting Wal-Mart and Lowes to let us do this was a miracle. Difficulty to get all parties to agree with it. Lowes went out of their way to make it work.

Chairman asked for any questions from the board. He had none.

Hearing Closed at 6:47 p.m.

Opened the floor for discussion.

Motion was made by Mr. Abernathy to approve both variances, i.e. the reduction in green space to 30% and the second the reduction of width of landscape screen from 20 feet to 10 feet based on the fact that the Applicant has met the requirements of the applicable ordinances; that the reasons set forth justify the granting of the variance; that the variance is the minimum variance that will make possible the reasonable use of this property; and the general purpose and intent of the zoning ordinance and will not be injurious to the neighborhood or detrimental to the public welfare. Mr. Jowers seconded the motion. Roll Call Vote: All members voted yes. Motion was carried.

There being no further business, the meeting was adjourned at 6:50 p.m.

Respectfully submitted by Kit Markham, Administrative Secretary