



**AGENDA
CITY OF HARRISONVILLE
BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
CITY HALL
MARCH 23, 2021
6:00 PM**

- 1. Call to Order**
 - A. Roll Call**
- 2. Approval of Minutes**
 - A. Board of Zoning Adjustments - Regular Meeting - Feb 23, 2021 6:00 PM**
- 3. Agenda Items**
 - A. PUBLIC HEARING GREENLIGHT DISPENSARY**
 - B. GREENLIGHT DISPENSARY SIGN VARIANCE**
 - C. PUBLIC HEARING - SMITH VARIANCE 700 E. CHESTNUT**
 - D. SMAITH VARIANCE 700 EAST CHESTNUT**
- 4. Discussion Items**
- 5. Adjourn**

Posted on City Hall Bulletin Board this 19th day of March, 2021.

Daniel Barnett , City Clerk



DRAFT
MINUTES
CITY OF HARRISONVILLE
BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
VIA ZOOM
FEBRUARY 23, 2021
6:00 PM

1. Call to Order

The meeting was called to order at 6:22 PM by Roger Kroh.

Attendee Name	Organization	Title	Status	Arrived
April McLaughlin	Harrisonville		Present	
Viola Wieberg	Harrisonville		Present	
Shannon Sipple	Harrisonville		Present	
Gerald Saling	Harrisonville		Present	
Charles Hotchkiss	Harrisonville		Present	

Also in attendance were Jim Mueller, Managing Partner THF; Casey Efting, Director of Retail Sales for THF; Kaitlyn Maciel, Budtender; Jami Lehnkuhl, Budtender; Mary Ward, Budtender; Johnathan Harper, Budtender; Roger Kroh, Community Development Planner; Lynn Hicks, Court Reporter; and Jamie Martin, Recording Secretary.

2. Approval of Minutes

A. Board of Zoning Adjustments - Regular Meeting - Jan 26, 2021 6:00 PM

With no additions or corrections, the minutes from the January 26, 2021, were unanimously accepted.

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	April McLaughlin
SECONDER:	Shannon Sipple
AYES:	McLaughlin, Wieberg, Sipple, Saling, Hotchkiss

3. Agenda Items

A. SELECTION OF AN ACTING CHAIR

Roger Kroh said that state law says the BZA is to annually select a chair. He said that the BZA can either select an acting chair for this meeting or a permanent chair for the year. Gerald Saling nominated April McLaughlin to be chair for 2021. Mrs. McLaughlin said that she appreciated the nomination but declined as she is new to the BZA. Mr. Kroh asked for other nominations. April McLaughlin nominated Gerald Saling to be chair for 2021. The motion was seconded by Shannon Sipple. A voice vote was taken and the motion passed unanimously making Gerald Saling the Chairman for 2021.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	April McLaughlin
SECONDER:	Shannon Sipple
AYES:	McLaughlin, Wieberg, Sipple, Saling, Hotchkiss

B. PUBLIC HEARING - GREEN DISPENSARY SIGN VARIANCE

The Public Hearing was opened at 6:43 PM. There were no comments or questions from the public. The Public Hearing was closed at 6:44 PM.

C. GREENLIGHT DISPENSARY SIGN VARIANCE

Roger Kroh introduced the application from Sign Design and THF Partners, LLC, for the new Greenlight Dispensary at 1408 State Route 291. He asked that the staff report be made a part of the meeting record. Roger said the applicant had greatly improved the appearance of the abandoned Texaco station and removed one of the two hi-rise signs on the property. This application is for a variance to allow the Greenlight Dispensary to re-use the remaining hi-rise sign. Mr. Kroh stated that there are three issues that the BZA will have to address. First, the proposed sign face is 324 sq. ft. and the regulations do not allow sign faces in excess of 100 sq. ft. Second, the height of the sign and support structure will be 70 ft. and the regulations do not allow the height to exceed 50 ft. Third, pole signs are no longer allowed, and the existing sign is a pole sign.

Mr. Kroh said that the sign had been abandoned and not maintained since the gas station closed 10 years ago. It has long since lost its legal non-conforming grandfathered rights. Thus, staff he has to review the sign as a new sign.

Mr. Kroh said he also checked to see if the sign was in the Highway Overlay District which allows the BZA to approve variances for signs taller than 50 ft. if highway sight lines dictate. He said the dispensary is just outside the Highway Overlay District.

Mr. Kroh said he looked to see if there is anything that makes this location different or unique in terms of topographic or physical conditions from any other property in the same zoning district which is generally all development along State Route 291 and Commercial Street. He said that he did not find anything that made the Greenlight Dispensary property unique from the other properties along 291 and Commercial Street. Mr. Kroh said that the only thing unique to the dispensary property is the abandoned 70-ft. sign structure. But, he said that it is no longer a grandfathered legal non-conforming use. He also said that the cost of making it legal may be considered a financial hardship, but financial hardships are not legal reasons for variances. Given that city staff finds nothing unique about the Greenlight Dispensary property, Mr. Kroh stated that it would not be fair to the other businesses in the same zoning district to give a sign variance to the dispensary.

Mr. Kroh said he wanted to comment on the 75-ft. Arby's sign behind the Greenlight Dispensary. He recognizes that the applicant may be asking how the city can deny the Greenlight request for a variance when it approved the variance for the Arby's sign. Mr. Kroh said the Arby's sign is at a lower elevation than the Greenlight sign because its base is at a lower elevation than the dispensary sign. He also said that he does not believe the City applied the correct reasons for granting a variance to Arby's. Since the Arby's sign was approved, the city has done a major review and update of the sign regulations and been administering them as written. As this is the first request for a variance since the sign regulations were updated and approved, staff recommends that the BZA not approve this variance as there are no situations or hardships different from

other tracts in the same zoning district. Mr. Kroh said that more specific reasons for the recommendation of denial are contained in the staff report.

Chairman Saling called on Jim Mueller for comments. Mr. Mueller is a managing partner with THF. Mr. Mueller said many of the individuals in the online meeting are staff of the Greenlight Dispensary and many are also residents of Harrisonville. Mr. Mueller talked about the rehabilitation work they have done to the building, including removal of one of the two 70-ft. sign structures and the canopy over the old gas pumps. Mr. Mueller said they believe the proposed sign is on a tract separate from the dispensary which is also in Highway Overlay District. Mueller said that the visibility of the sign from the interstate is one of the reasons they selected the site.

Chairman Saling opened the public hearing. There were no comments from the public. The chair closed the public hearing.

April McLaughlin asked Mr. Mueller if they will remove the sign if the variance is not approved. Mr. Mueller said they will not remove the sign if the variance is not approved.

Charles Hotchkiss asked Mr. Mueller to comment on how much of their business is based on visibility. Commissioner Hotchkiss said it seems to him that visibility of a sign from the interstate will not increase business because only customers with medical marijuana cards can shop there. Mr. Mueller said that the next dispensary south of Harrisonville is in Nevada. He believes they can pick up considerable business from individuals with medical marijuana cards leaving Kansas City and those who live south of Harrisonville.

Chairman Saling closed discussion and asked for a motion from the members.

Roger Kroh said the BZA has two alternatives. One is to vote on the variance based upon the information the BZA has received. The second option is to continue the application so that he and the applicant can confirm whether the sign is in the Highway Overlay District.

April McLaughlin said that she is inclined to not be in favor of the variance, but also does not want to vote against the variance because the sign is not in the overlay district if, in fact, it is in the overlay district. April McLaughlin moved, and Viola Wieberg seconded the motion to continue the application to the March BZA meeting.

Mr. Kroh said the meeting will need to be held on Tuesday, March 23, 2021 to allow time to meet the requirements for publishing a legal notice and sending letters to property owners within 185 ft. He asked that the motion be amended to continue the application to the March 23, 2021 BZA meeting. April McLaughlin and Viola Wieberg concurred with the amendment to continue the application to the BZA meeting on March 23, 2021. A voice vote was taken, the motion was unanimously approved.

RESULT:	TABLED [UNANIMOUS]
MOVER:	April McLaughlin
SECONDER:	Viola Wieberg
AYES:	McLaughlin, Wieberg, Sipple, Saling, Hotchkiss

4. Discussion Items

None

5. Adjourn

With nothing further to come before the Board, Charles Hotchkiss made a motion to adjourn. April McLaughlin seconded. The meeting was adjourned at 6:54 PM.

Respectfully Submitted,

Jamie Martin, Recording Secretary

Minutes Acceptance: Minutes of Feb 23, 2021 6:00 PM (Approval of Minutes)



STAFF REPORT

TO: Board of Zoning Adjustments
FROM: Roger Kroh, Planner
DATE: March 18, 2021
SUBJECT: PUBLIC HEARING GREENLIGHT DISPENSARY

Type of Item: *Approval*

General Information:

Date: Original Report February 23, 2021
 Updated Report March 23, 2021

Applicant: Maddie Ferson, Sign Designs, 1720 W. 7th Street, Joplin,
 Location: 1408 State Route 291, Harrisonville, MO 64701
 (Former Texaco Station next to Quik Trip)

Property Owner: Jim Mueller, THF Partners, LLC., 10777 Barkley, OP, KS

Business: Greenlight Dispensary

Zoning: C-2 Service Business District

Request: Variance to allow use of an existing pole sign and to exceed the maximum sign face size and height allowed by Ch. 435, Sign Regulations.

City of Harrisonville, MO
 Notice of Public Hearing
 Board of Zoning Appeals

Notice is hereby given that the Harrisonville Board of Zoning Appeals (BZA) will conduct a public hearing on Tuesday, March 23, 2021 at 6 PM at the Harrisonville City Hall at 300 E. Pearl Street, Harrisonville, MO 64701 to receive public testimony on a variance application from Sign Design and THF Partners LLC., for a sign at the Greenlight Dispensary at 1408 Rte. 291 in Harrisonville, MO 64701. The applicant requests a variance from provisions in Ch. 435, Sign Regulations, regarding use of a pole sign, maximum size of a sign face, and maximum height of a sign.

Please confirm on the City website (<https://www.ci.harrisonville.mo.us/>) the location of the meeting prior to the meeting date. Due to the threat of coronavirus infection, the meeting may have to be moved to the large meeting room at the Harrisonville Community Center at 2400 Jefferson Parkway, Harrisonville, MO 64701 or held as an online video-conference-style meeting on www.zoom.com <<http://www.zoom.com>>. If held online, the access and pass codes will be available on the agenda on the City website by choosing the “Agendas and Minutes” button in the middle of the home page and then the “Board of Zoning Adjustments” in the Meeting Group box. Individuals are invited to make oral comments in the meeting or by sending comments prior to the meeting to Roger Kroh, City Planner, at rkroh@harrisonville.com <<mailto:rkroh@harrisonville.com>> or (816) 380-8922. The application may be viewed at City Hall, 300 E. Pearl St., Harrisonville, MO 64701.

Jamie Martin

Secretary to the Board of Zoning Adjustment

A. Action Item (ID # 3821)

PUBLIC HEARING GREENLIGHT DISPENSARY



STAFF REPORT

TO: Board of Zoning Adjustments
FROM: Roger Kroh, Planner
DATE: March 18, 2021
SUBJECT: GREENLIGHT DISPENSARY SIGN VARIANCE

Type of Item: *Approval*

General Information:

Date: Original Report February 23, 2021
 Updated Report March 23, 2021

Applicant: Maddie Ferson, Sign Designs, 1720 W. 7th Street, Joplin,
 Location: 1408 State Route 291, Harrisonville, MO 64701
 (Former Texaco Station next to Quik Trip)

Property Owner: Jim Mueller, THF Partners, LLC., 10777 Barkley, OP, KS

Business: Greenlight Dispensary

Zoning: C-2 Service Business District

Request: Variance to allow use of an existing pole sign and to exceed the maximum sign face size and height allowed by Ch. 435, Sign Regulations.

Update for March 23, 2021 Meeting

This application was continued at the February 23, 2021 Meeting for the applicant and staff to verify whether the existing hi-rise pole is in the Highway Overland District or not. Since it appears to city staff that the pole is on the line, staff and the applicant have agreed to the following compromise.

1. Staff will agree that the sign is in the Highway Overlay District and the applicant will reduce the face size of the sign from 324 sf to 144 sf, the maximum size permitted without a variance in the Highway Overlay District. A variance for the sign face is no longer needed.
2. The applicant will reduce the height of the poles so that the distance from the base to the top of the sign is 50 ft., the maximum height allowed without a variance. The abandoned Texaco sign is 77 ft. tall. A variance for the sign height is no longer needed.

3. Staff will recommend approval of variance to allow reuse of the existing pole signs.

STAFF RECOMMENDATION: Approval of a motion to approve a variance for the Greenlight Dispensary at 1408 State Route 291 to allow the reuse of existing pole signs as the sign face will not exceed 144 sf in size and the height of the sign from the base to the top of the sign will not exceed 50 ft.

February 23, 2021 Staff Report

Background:

The recently opened Greenlight Dispensary at 1408 St Route 291 has acquired and remodeled the former Texaco service station that closed 11 years ago and left two unused 70-ft. pole signs. The Greenlight Dispensary is now seeking a variance to reuse one of the signs. They recently removed the second sign.

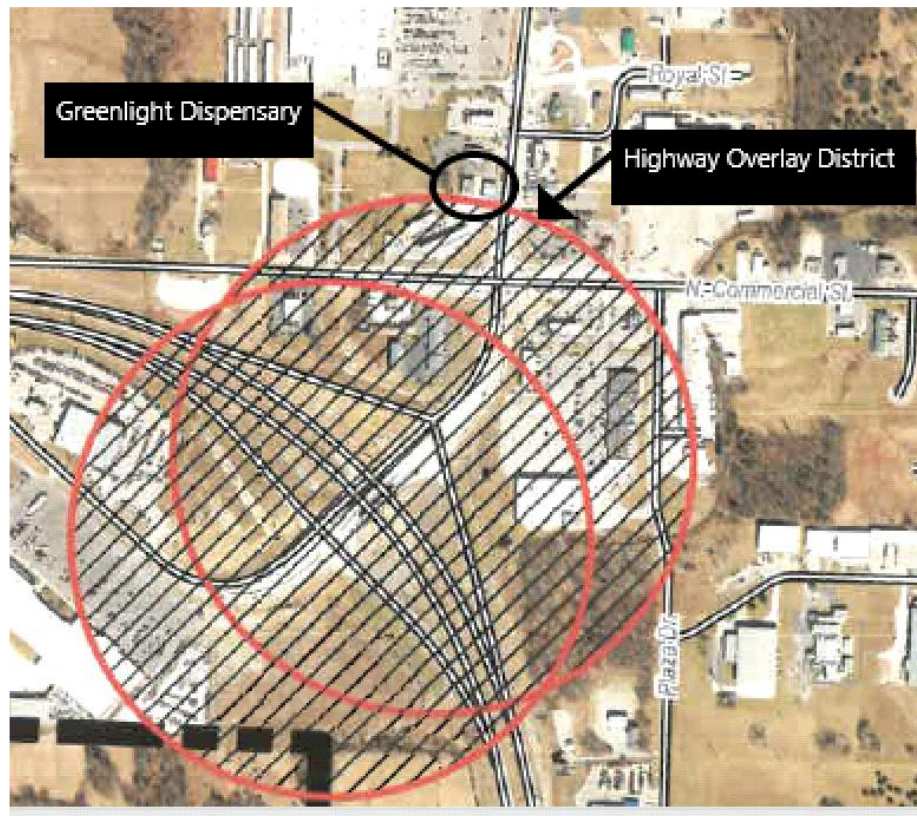
The height and size of the sign faces far exceeds what is allowed in the C-2 zoning district. The maximum height that is permitted is 50 ft. The maximum size sign face allowed for single tenant buildings is 100 sq. ft. As no unique situation or hardship exists, staff cannot support the request.

Pole signs are now listed as a prohibited sign in Section 435.100 of the sign regulations. However, Section 435.110, Amortization of Certain Prohibited Signs, states pole signs may remain in use if regular maintenance is provided, existing sign faces may be changed or modified, and existing pole signs are not a threat to traffic safety. As this sign has fallen into disrepair and sign faces removed, it cannot be used unless the Board of Zoning Adjustment approves a variance.

If the applicant would reduce the height and size of the sign so as to not exceed the maximums in the sign regulations, staff would support a variance to reuse the poles as they are large enough in diameter that they do not appear to be the typical bare poles prohibited in the sign regulations.

If the site were in the Highway Overlay District, the Sign Regulations would permit the city to increase the maximum height permitted with a sign variance if highway sight lines dictate. In this instance, the Green Dispensary property is just outside the Highway Overlay District. See below.

Highway Overlay District



Greenlight Dispensary



Proposed Greenlight Dispensary Sign

Retrofit existing 18-ft. x 18-ft. hi-rise sign with new faces and new led corn bulbs



Existing Hi-Rise

SIGNDesigns
SIGN • NO • VISION

1720 West 7th Street - Joplin, MO 64801
417-624-8688 Phone - 417-624-0933 Fax
www.sign-designs.com

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This drawing is provided for the purpose of illustrating the proposed project. Unauthorized use, copying, scanning or sharing is strictly prohibited and protected by law.

Electrical hookup by others. Electrical requirements: 120V (or as indicated)
All landscaping by others

Customer Approval

Survey A: T102

Authorization

Proof: 11/5/2020
Page: 11/11/2020Rev 1: 10/16/2020
Rev 2:

Rev 3: _____

Rev 4: _____

Rev 5: _____

Zoning Ordinance Provisions

Regarding the Board of Zoning Adjustment

Chapter 405.610 to 405.625 of the zoning ordinance of the city provides the following guidance regarding matters before the Board of Zoning Adjustments.

Section 405.610 Purpose

The Board of Zoning Adjustment may grant variances from the provisions of this Chapter in harmony with its general purpose and intent and may vary them only in specific instances hereinafter set forth. The Board of Zoning Adjustment, based on standards hereafter prescribed and after hearing, may decide that there are practical difficulties or hardship in the way of carrying out the strict letter of these regulations. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement or decision of the party appealed from or to issue an order or variance or to decide in favor of an appellant.

Section 405.615 (A) Standards

The Board of Zoning Adjustments may vary the provisions of this Chapter as authorized in this Section, but only when it shall have made findings based upon evidence presented to it in the following specific cases:

1. Can the property in question yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located?

Applicant: The visibility of the hi rise sign was one of many reasons the owner chose this property. Adhering to current code would result in less visibility among other hi rise signs in the area which may limit property value and economical return.

Staff: We believe that the property can yield a reasonable return with a sign that meets the maximum height and size requirements permitted in the C-2 district.

2. Is the plight of the owner due to unique circumstances?

Applicant: Significant engineering, design and construction activities would be required to bring the sign into adherence with sign code. Owner is seeking variance based on visibility from highway and surrounding hi rise signs permitted within zone C-2.

Staff: In this situation, we do not believe there are unique circumstances such as shape, topographical conditions, or physical surroundings. Financial hardship is not considered to be a unique circumstance.

3. Will the variance, if granted, alter the character of the locality and/or neighborhood?

Applicant: No. Owner is seeking to add sign faces to an existing structure resulting in minimal changes to the current signage landscape.

Staff: Even with a new sign face, we believe that a 70 ft. sign with a 324 sq. ft. sign face negatively affects the appearance of the area. If this variance is approved to provide for increased visibility, neighboring businesses could obtain variances and signs that are taller and larger for the same reason. based on the precedent being set and the visual impact on the area would be negative. The cumulative effect would negatively impact the appearance of the area.

Section 405.615 (B)

For the purpose of supplementing the above standards, the Board of Adjustment shall also, in making the determination of whether there are practical difficulties or hardship, take into consideration the extent to which the following facts, favorable to the applicant, have been established by the evidence:

1. Will the physical surroundings, shape or topographical conditions of the specific property involved bring a hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulation were to be carried out?

Applicant: Yes, adhering to the current sign code would require the owner to perform significant design, engineering, and construction alterations to the existing structure.

Staff: We recognize that modifying the existing sign in order for it to meet the Sign Regulations is far less costly than using the sign as is. However, financial hardship is not a unique situation on which a variance can be based.

2. Will the conditions upon which the petition for variance is based not be applicable generally to other property within the same zoning classification?

Applicant: Generally, this variance would not be applicable to other properties in this zone that are currently occupied. It may be applicable to former vacant properties that were constructed in accordance with former code requirements.

Staff: The conditions upon which the petition for a variance is based would be applicable generally to other properties in the C-2 zoning classification. If a variance justified by increased visibility is approved for this application, it would set a precedent for other neighboring businesses.

3. Has the alleged difficulty or hardship not been created by any person having an interest in the property at any time after the effective date of this Chapter?

Applicant: No, it has not been created by anyone having an interest in the property.

Staff: We believe that the alleged difficulty or hardship is one that is created by the applicant.

4. Will the granting of the variance not be detrimental to the public welfare in the neighborhood in which the property is located?

Applicant: No, it will not be detrimental as the sign we are requesting a variance for is an existing dilapidated sign. Owner wishes to update the sign and improve overall appearance.

Staff: We believe that allowing a 324 sq. ft. sign that is 70-ft. tall will be detrimental to the public welfare in the neighborhood in which the property is located, particularly if the other nearby businesses are allowed to subsequently have 324 sq. ft. signs that are 70 ft. in height.

5. Will the proposed variance impair an adequate supply of light and air to adjacent property or substantially increase the danger of fire or otherwise endanger the public safety or substantially diminish or impair property values within the neighborhood?

Applicant: No, the desired updates to the existing sign will not result in any of above risks.

Staff: Although difficult to measure, we believe that the unsightliness of a sign of the requested height and size requested by the applicant will diminish or impair property values. This will certainly be the case if a new precedent is established that will allow other neighboring businesses to erect signs that are 70 ft. in height and 324 sq. ft. in size.

Recommendation:

Approve motion to deny a request for a variance for a sign at 1408 State Route 291 that is 70-ft. in height and has a sign face that is 324 sq. ft. in size based upon the following findings.

- 1) The property in question will yield a reasonable return if used with an elevated sign that meets the height and size requirements of the City.
- 2) The plight of the owner is not due to unique circumstances such as shape, topographical conditions, or physical surroundings of the property.
- 3) The physical surroundings, shape or topographical conditions of the specific property involved will not bring a hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulation were to be carried out.

- 4) The conditions upon which the petition for a variance is based would be applicable generally to other properties in the C-2 zoning classification. If a variance justified by increased visibility is approved for this application, it would set a precedent for other neighboring businesses.
- 5) The alleged difficulty or hardship is one that is created by the applicant.
- 6) Allowing a 324 sq. ft. sign that is 70-ft. tall will be detrimental to the public welfare in the neighborhood in which the property is located, particularly if the other nearby businesses are allowed to also have 324 sq. ft. signs that are 70 ft. in height.

Although difficult to measure, we believe that the unsightliness of a sign of the requested height and size requested by the applicant will diminish or impair property values, especially if a new precedent is established that will allow other neighboring businesses to erect signs that are 70 ft. in height and 324 sq. ft. in size.

B. Action Item (ID # 3820)

GREENLIGHT DISPENSARY SIGN VARIANCE



STAFF REPORT

TO: Board of Zoning Adjustments
FROM: Roger Kroh, Planner
DATE: March 18, 2021
SUBJECT: PUBLIC HEARING - SMITH VARIANCE 700 E. CHESTNUT

Type of Item: *Approval*

General Information:

Applicant: William F. Smith, Jr.
 Location: 700 E. Chestnut, Harrisonville, MO 64701

Property Owner: William and Kathy Smith
 Zoning: R-2B Near Downtown 2-Family Residential
 Request: Variance to the 25 ft. front yard setback and 5 ft. side yard setback to allow a carport that will

- a. encroach into the front yard by 6 ft 8 inches and be 18 ft. 4 inches from the front property line, and
- b. encroach 4 ft into the 5 ft. sideyard setback and be 1 ft from the side property line.

City of Harrisonville, MO

Notice of Public Hearing

Board of Zoning Appeals

Notice is hereby given that the Harrisonville Board of Zoning Appeals (BZA) will conduct a public hearing on Tuesday, March 23, 2021 at 6 PM at the Harrisonville City Hall at 300 E. Pearl Street, Harrisonville, MO 64701 to receive public testimony on a variance application from William Smith at 700 E. Chestnut for a front yard setback variance to allow a carport. The applicant requests a variance from the 25 ft. front yard setback requirement in the R-2B zoning district.

Please confirm on the City website (<https://www.ci.harrisonville.mo.in a.us/<https://www.ci.harrisonville.mo.in%20a.us/>>) the location of the meeting prior to the meeting

date. Due to the threat of coronavirus infection, the meeting may have to be moved to the large meeting room at the Harrisonville Community Center at 2400 Jefferson Parkway, Harrisonville, MO 64701 or held as an online video-conference-style meeting on www.zoom.com <<http://www.zoom.com>>. If held online, the access and pass codes will be available on the agenda on the City website by choosing the “Agendas and Minutes” button in the middle of the home page and then the “Board of Zoning Adjustments” in the Meeting Group box. Individuals are invited to make oral comments in the meeting or by sending comments prior to the meeting to Roger Kroh, City Planner, at rkroh@harrisonville.com <<mailto:rkroh@harrisonville.com>> or (816) 380-8922. The application may be viewed at City Hall, 300 E. Pearl St., Harrisonville, MO 64701.

Jamie Martin

Secretary to the Board of Zoning Adjustment

C. Action Item (ID # 3822)

PUBLIC HEARING - SMITH VARIANCE 700 E. CHESTNUT



STAFF REPORT

TO: Board of Zoning Adjustments
FROM: Roger Kroh, Planner
DATE: March 18, 2021
SUBJECT: SMAITH VARIANCE 700 EAST CHESTNUT

Type of Item: *Approval*

General Information:

Applicant: William F. Smith, Jr.
 Location: 700 E. Chestnut, Harrisonville, MO 64701

Property Owner: William and Kathy Smith
 Zoning: R-2B Near Downtown 2-Family Residential
 Request: Variance to the 25 ft. front yard setback and 5 ft. side yard setback to allow a carport that will

- a. encroach into the front yard by 6 ft 8 inches and be 18 ft. 4 inches from the front property line, and
- b. encroach 4 ft into the 5 ft. sideyard setback and be 1 ft from the side property line.

Background:

The City has received a variance application from William Smith at 700 E. Chestnut for front and side yard setback variances to allow a 20 ft. x 20 ft. metal carport. The applicant requests a variance from the 25 ft. front yard setback requirement and 5 ft. side yard setback requirement in the R-2B zoning district to allow him to install a 20 ft x 20 ft metal carport over the existing driveway in the front yard. There is no garage on the front of the house.

In the application, the applicant states that the primary reason for the application is medical. He goes on to state:

“Front of home with driveway. I want covered parking to help wife’s disability getting into home along with covered parking . I will add a no-steps walkway to house from covered (parking) and this walkway would be covered also by eaves on the house.”

On the next page is a letter from the applicant.

Carport for 700 E Chestnut

We are asking a variance for a carport at our home with a accessible walkway on the front of our home. Kathy has severe rheumatoid arthritis. this has given her difficulty walking and can't do stairs as well. ~~after~~ after just doing the 2 steps from sidewalk to house is tuff and I help her up and down any steps. that is why I'm building the walk way with handrail with carport. When we leave or arrive home if the weather is poor she wants to get in or out of vehical after it lets up. She does all she can but her knees cant take much walking.

To do all this it requires me to add on to drive and widening it also but just 1.5 ft. drive will go all the way to house which would give us the cover we need. Walkway is covered with the eaves of the roof and handrail on outer edge. all of this will be done quick as possible and look good at the end of work. We are both on disability. hers is the AA and she has had 2 hearth attacks in the last 2 years and now they are worried about her Kidneys biopsy was prePromed tuesday. this May I was diagnosed with stage 4 cancer. this involes my lung, Liver, and Kidney. I lost my right Kidney to cancer 10 years ago. We have lived in this home since Dec. of 1996 and have no plans of ever leaving. Thank You for giving us a chance. *Art & Kathy Smith*

Front Elevation

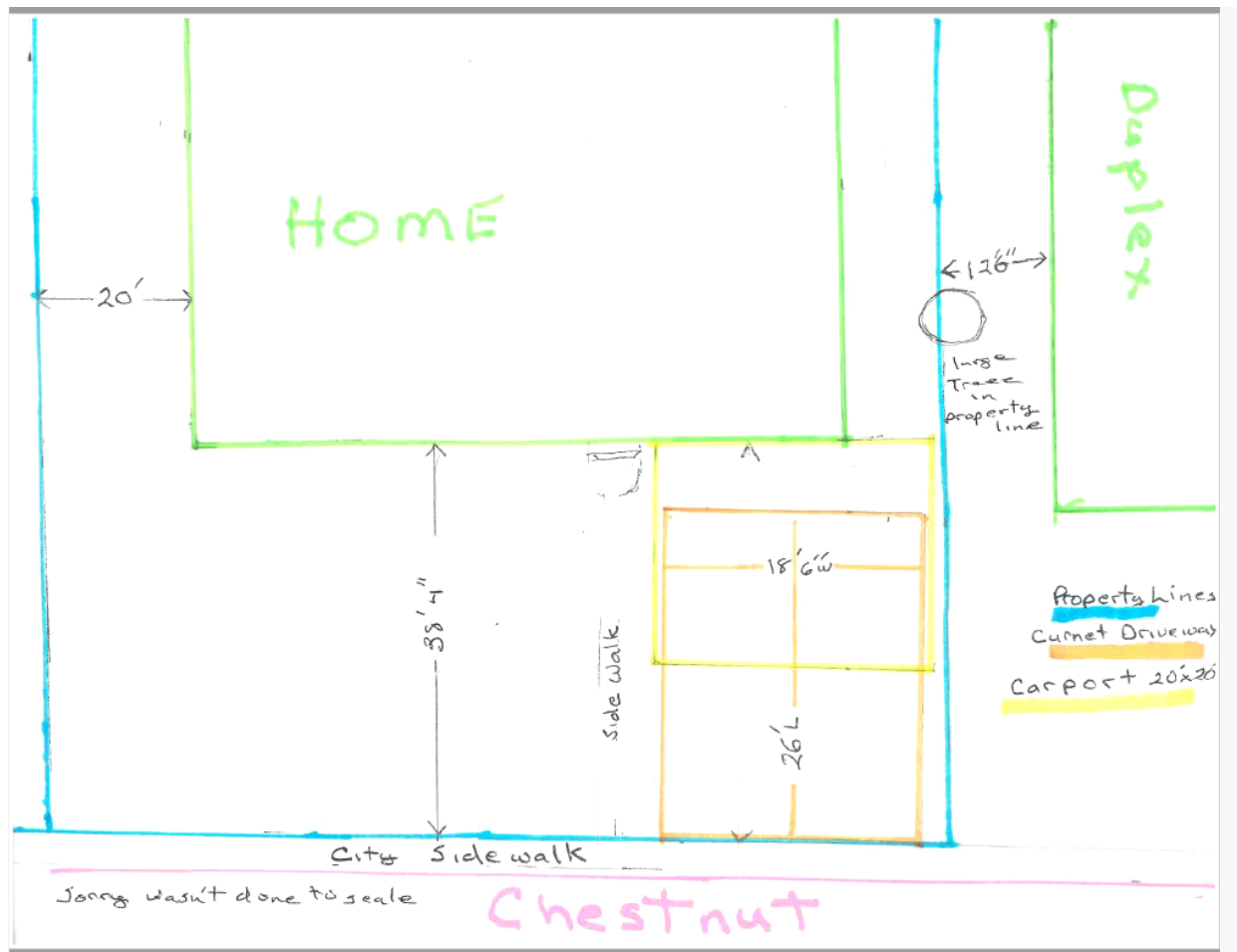


Front Elevation



Proposed Carport





Zoning Ordinance Provisions

Regarding the Board of Zoning Adjustment

Chapter 405.610 to 405.625 of the zoning ordinance of the city provides the following guidance regarding matters before the Board of Zoning Adjustments.

Section 405.610 Purpose

The Board of Zoning Adjustment may grant variances from the provisions of this Chapter in harmony with its general purpose and intent and may vary them only in specific instances hereinafter set forth. The Board of Zoning Adjustment, based on standards hereafter prescribed and after hearing, may decide that there are practical difficulties or hardship in the way of carrying out the strict letter of these regulations. The concurring vote of four (4) members of the Board shall be

necessary to reverse any order, requirement or decision of the party appealed from or to issue an order or variance or to decide in favor of an appellant.

Section 405.615 (A) Standards

The Board of Zoning Adjustments may vary the provisions of this Chapter as authorized in this Section, but only when it shall have made findings based upon evidence presented to it in the following specific cases:

1. Can the property in question yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located?

Applicant: Yes. This would make getting into the house much easier for Kathy plus give us better vehicle protection plus we feel it would look good to the property.

Staff: We believe that the property can yield a reasonable return without the metal carport.

2. Is the plight of the owner due to unique circumstances?

Applicant: Yes. Not enough room to build a garage onto house from either side and this helps getting into home quicker and also gives more security for property.

Staff: Although we are very sympathetic to the medical hardships shared by Mr. Smith, they are not unique circumstances for which variances are granted such as property shape, topographical conditions, or physical surroundings.

3. Will the variance, if granted, alter the character of the locality and/or neighborhood?

Applicant: No. Quiet neighborhood in which everyone takes care of their property and other properties have garages on their homes.

Staff: Again, we are very sympathetic to the medical needs of Mr. and Mrs. Smith. However, we do have concerns that metal carports detract from the character of a neighborhood if located in the front yard setback.

Section 405.615 (B)

For the purpose of supplementing the above standards, the Board of Adjustment shall also, in making the determination of whether there are practical difficulties or hardship, take into consideration the extent to which the following facts, favorable to the applicant, have been established by the evidence:

1. Will the physical surroundings, shape or topographical conditions of the specific property involved bring a hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulation were to be carried out?

Staff: This is an unusual application because the reasons for the request are not physical surrounding, shape or topographical conditions. Not having a garage at street level would typically be considered an inconvenience. However, I am sure that the Smith's, due to their health situations, consider it a hardship.

2. Will the conditions upon which the petition for variance is based not be applicable generally to other property within the same zoning classification?

Staff: The applicant bases the justification on medical needs of the Smiths. A variance based on this need would only apply to individuals with severe medical needs who are asking for a variance to allow a new carport to extend into the front yard setback.

3. Does the request arise from a condition which was created by an action(s) of the property owner or the applicant?

Applicant: Yes. Wife's disability is getting more difficult for her getting into home. If weather is bad, she waits it out in vehicle till it calms down and she doesn't do steps well. I think this would make her comfortable leaving or arriving home.

Staff: This is a situation related to the applicant and their medical needs.

4. Will the variance adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare?

Applicant: No. Everybody watches the neighborhood activity and we get along well with them.

Staff: We do not believe that a metal carport encroaching into a front yard will negatively affect the public health, safety, morals, order, convenience, or general welfare. Although the City does allow metal carports, we do not believe it is good for property values to be extending in the front and side yard setback.

5. Will the proposed variance impair an adequate supply of light and air to adjacent property or substantially increase the danger of fire or otherwise endanger the public safety or substantially diminish or impair property values within the neighborhood?

Staff: The proposed variance not impair an adequate supply of light and air to adjacent property or substantially increase the danger of fire or otherwise endanger the public safety within the neighborhood. Although

the City does allow metal carports, we do not believe it is good for property values to be extending into the front or side yard setback.

Recommendation: Although staff is very sympathetic to the medical situation of the Smiths, staff cannot support the request as it sets a precedent for allowing carports to encroach on front and side yard setbacks. Two to three times a month, staff has to advise callers that the municipal code does not allow carports in the front and side yard setbacks.

D. Action Item (ID # 3823)

SMAITH VARIANCE 700 EAST CHESTNUT