Town of Arlington
Board of Zoning Appeals

October 13, 2015
6:00 P.M.
AGENDA

Board of Zoning Appeals
Tuesday, October 13, 2015
6:00 p.m.

I. Invocation

II. Call to Order and Roll

III. Approval of Minutes from October 30, 2014 Meeting

IV. Old Business
   A. Other as Properly Presented

V. New Business
   A. 5769 Chester Street – Request for Variance from Required Side Yard Setback
   B. Other as Properly Presented

VI. Adjournment
DATE: October 13, 2015

STAFF: Heather Sparkes, AICP, Town Planner

APPLICANT/PROPERTY OWNER: Pro 1 Construction of TN, LLC

REQUEST: Variance from Required Side Yard Setback

SITE LOCATION: 5769 Chester Street

ZONING CLASSIFICATION: RS-18

FACTS/ANALYSIS: Mr. Walter Gill with Pro 1 Construction of TN, property owner of 5769 Chester Street, is requesting approval of a variance form the required side yard setback for the subject property. The property is located on the south side of Chester Street and is located within the RS-18: Low Density Residential Zoning District.

The specific request is for a variance to permit a 10-foot side yard on one side with a total of 30 feet for both sides combined. The Zoning Ordinance requires a minimum side yard building setback of 17 feet, or a minimum of 12 feet where a side entry garage is located with a minimum of 34 feet total.

The applicant has identified several hardships in his justification of the request. Those hardships include: buried debris on the site, an existing MLGW power line easement, depth restriction required on the plat due to ability to get sewer flow to the house because of the change in elevation of the land. The applicant has provided a letter explaining the request and the hardships.

Chapter 10, Section 10.5.4.3c) of the Town of Arlington Zoning Ordinance states the BZA has the authority to grant variances from the Ordinance based on the following criteria:

1. The particular physical surroundings, shape, or topographic conditions of the specific property involved would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict application of this Ordinance were carried out.
2. The conditions upon which the petition for variance is based would not be applicable, generally, to other property within the same district.
3. The variance will not authorize activities in a zoning district other than those permitted by this Ordinance.
4. Financial returns alone shall not be considered basis for granting a variance.
5. The alleged difficulty or hardships has not been created by any person having an interest in the property after the effective date of this Ordinance.
6. That granting the variance requested will not confer on this applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.

7. The variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

8. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the area in which property is located.

9. The proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values with the area.

10. The variance is not based on the fact of nonconforming use of neighboring lands, structures or buildings in the same district.

11. Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

CONDITIONS OF APPROVAL:
Staff recommends any approval by the Board of Zoning Appeals for a variance include, at a minimum, the following conditions of approval:

1. Any permits issued for this property shall meet the setback requirements approved by the Board of Zoning Appeals, or as otherwise required by the Zoning Ordinance.
On behalf of the family I am building a home for, I would like to request a variance for the side yard setback at 5769 Chester Street. Current side yard setbacks require a 17 ft side yard with a 13 ft side yard allowed with a side load garage. We are asking for a variance that will allow us to construct the house with a 10 ft side yard on one side, with a minimum of 30 ft for both sides.

At this property we have encountered several extraordinary conditions hindering the constructing their home. The problems we have encountered are as follows:

1. Upon grading and removing some pine trees from this lot we have encountered some debris buried on this property. It appears the debris is toward the middle and back of the proposed building area causing us to select a shallower, yet wider floor plan.

2. In selecting a wider floor plan we have encroached upon an MLGW power line easement. This power line in located on the West side on the property and runs almost parallel to the property line. We would like to locate the house on the East side-yard property line in order to avoid this power line easement.

3. Because of the depth restriction we have encountered, there is limited space for the concrete driveway on the West side of the property. Having 2 more feet for the driveway would allow more room for ingress/egress for the vehicles when utilizing the garage.

As you can see we have numerous conditions that have impaired us constructing a house on this property. We are asking for some relief on the set-backs in order to be able to build this couple a home that will fit on this property. The existing neighbors on the East and West side of the property are a good distance from the property line. This allows the houses ample separation, avoiding the houses being too close to each other.

Thanks for your consideration in helping us with these problems we have encountered.

Walter Gill
Pro 1 Construction of TN
MIN FINISHED FLOOR 353.0
LOT #2
(99,951 SF.)

ANGIE KEE SUBD
ARLINGTON, TENNESSEE
ZONED: RS-18

BUILDING DESIGNER— SULLIVAN & ASSOCIATES
HOME BUILDER— WALTER GILL
DATE— SEPTEMBER 22, 2015
SCALE— 1" = 60'-0"
Town of Arlington
BOARD OF ZONING APPEALS
Variance Application

Application must be submitted 21 days prior to the scheduled meeting. The Board of Zoning Appeals meets on an as-needed basis. Please consult with Staff before submitting an application so that a meeting may be scheduled.

Street Address: 5769 Chester
Owner of Record: Pro 1 Construction of TN, LLC
Owner Address: P.O. Box 51 Ellendale, TN 38024
Daytime Phone: (901) 487-7810  Fax Number:
E-mail Address: pro1offn@gmail.com

Agent or representative authorized to prepare this application and to provide further information as requested by the staff:

Daytime Phone: E-mail Address:

Engineer/Designer Contact (if applicable):
Company Name:
Mailing Address:
Daytime Phone: Fax Number:
E-mail Address:

INSTRUCTIONS FOR SUBMITTING APPLICATION

☐ Fee Schedule: $300
  (make check payable to the Town of Arlington)

☐ See Town of Arlington Zoning Ordinance, Chapter 10, Section 10.5, Arlington Board of Zoning Appeals.

☐ A consultation with Staff before completion of this application form and prior submittal deadline date is suggested. Staff meets the first and third Monday of each month. Call the Planning Department to schedule.

☐ Included is a checklist of required items. All items must be addressed or the application may be deemed incomplete and returned to the applicant.

5854 Airline Road • P.O. Box 507 • Arlington, TN 38002-0507
Telephone (901) 867-3449 • Fax (901) 867-2638

RECEIVED
SEP 23 2015
TOWN OF ARLINGTON

Revised: 2/7/2011
BOARD OF ZONING APPEALS
VARIANCE

CHECKLIST

This checklist is compiled to aid in the preparation of the Variance; however, it is not meant to take the place of the Town of Arlington Zoning Ordinance and Subdivision Regulations. Check all items with either a “✓” or “✗” in the box. “Not Applicable” items, use N/A.

☐ Present Zoning: RS-18
☐ Requested Use: some
☐ Purposes: (attach statement) see cover letter

PRELIMINARY SUBMITTAL FOR REVIEW BY STAFF:

☐ Submit three (3) sets of the following:
  o Cover letter describing the request. The cover letter should also address the standards for a variance as attached ordinance.
  o Completed application form and checklist.
  o Property survey or plot plan of current conditions, showing all easements, setbacks, structures, etc., on the site.
  o Site plan showing all proposed setbacks, structures, parking, open space, buffers, etc.
☐ Vicinity map of all surrounding property owners.
☐ Three (3) sets of self-adhesive mailing labels and one (1) bond copy of mailing labels for all surrounding property owners.
☐ All items must be collated and compiled into individual packages. All drawings over 8-1/2” x 11” in size must be folded.

REVISED SUBMITTAL FOR PRESENTATION TO BOARD:

Once all revisions have been completed, the following is to be submitted for staff’s final review and submission to the Board for their consideration. The final staff report and meeting agenda will be e-mailed to the address provided for the applicant and property owner the Wednesday prior to the meeting date.

☐ Submit eight (8) sets of the following:
  o Cover letter describing the request. The cover letter should also address the standards for a variance as attached ordinance.
  o Completed application form and checklist.
  o Property survey or plot plan of current conditions, showing all easements, setbacks, structures, etc., on the site.
  o Site plan showing all proposed setbacks, structures, parking, open space, buffers, etc.
  o Any additional information requested by staff.
☐ All drawings must be drawn to scale.
☐ All items must be collated and compiled into individual packages. All drawings over 8-1/2” x 11” in size must be folded.
☐ One digital copy on a CD of all drawings submitted in JPEG format. Other formats are not acceptable.
BOARD OF ZONING APPEALS
VARIANCE

ACKNOWLEDGEMENTS

It is understood that:

1. The applicant and owner bear the responsibility to submit a complete application package by the submittal deadline.

2. If all required materials/documents are not submitted to and received by the Planning Department by the deadline, the application will NOT be accepted or posted on the Board of Zoning Appeals Agenda.

3. In cases where the applicant is not the property owner, it is also hereby acknowledged by the property owner that he or she is in full agreement with the content of this application.

4. By signing this document, the applicant and owner accept the above conditions.

*Owner information is required

<table>
<thead>
<tr>
<th>APPLICANT:</th>
<th>OWNER* (If different from applicant. If same, note “same”):</th>
</tr>
</thead>
<tbody>
<tr>
<td>If an Entity:</td>
<td>If an Entity:</td>
</tr>
<tr>
<td>Name of Entity: Pro I Construction, Inc.</td>
<td>Name of Entity:</td>
</tr>
<tr>
<td>By (Signature): [Signature]</td>
<td>By (Signature):</td>
</tr>
<tr>
<td>Print Name: Walter Gill</td>
<td>Print Name:</td>
</tr>
<tr>
<td>Title: General Manager</td>
<td>Title:</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>If an Individual(s):</th>
<th>If an Individual(s):</th>
</tr>
</thead>
<tbody>
<tr>
<td>Print Name:</td>
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<td>Signature:</td>
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<td>Signature:</td>
<td>Signature:</td>
</tr>
</tbody>
</table>

Copy and use additional pages if necessary
# 4.2 Bulk Regulations for Zoning Districts and Permitted Residential Densities

## 4.2.1 The following table provides information regarding bulk regulations and permitted residential densities for each zoning district. These are the minimum regulations required.

<table>
<thead>
<tr>
<th>Bulk Regulations and Permitted Residential Densities</th>
<th>Lot Area</th>
<th>Lot Width (Feet)</th>
<th>Building Setbacks</th>
<th>Building Height</th>
<th>Dwelling Units Per Acre</th>
<th>% Open Space</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>R-E-5 Residential Estate, 5 acres</strong></td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Single Family Detached Dwelling</td>
<td>5 acres</td>
<td>250</td>
<td>100</td>
<td>50</td>
<td>100</td>
<td>35' or 2.5 stories</td>
</tr>
<tr>
<td>Agriculture</td>
<td>NA</td>
<td>NA</td>
<td>100</td>
<td>50</td>
<td>50</td>
<td>35'</td>
</tr>
<tr>
<td>Other</td>
<td>5 acres</td>
<td>250</td>
<td>100</td>
<td>50</td>
<td>100</td>
<td>35'</td>
</tr>
<tr>
<td><strong>E, Estate Residential</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single Family Detached Dwelling</td>
<td>1 acre</td>
<td>200</td>
<td>50</td>
<td>20</td>
<td>25</td>
<td>35' or 2.5 stories</td>
</tr>
<tr>
<td>Agriculture</td>
<td>NA</td>
<td>NA</td>
<td>100</td>
<td>25</td>
<td>25</td>
<td>35'</td>
</tr>
<tr>
<td>Other</td>
<td>5 acres</td>
<td>200</td>
<td>50</td>
<td>25</td>
<td>50</td>
<td>35'</td>
</tr>
<tr>
<td><strong>RS-22, Low Density Residential</strong></td>
<td></td>
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</tr>
<tr>
<td>Single Family Detached Dwelling</td>
<td>22,000 sq. ft.</td>
<td>125</td>
<td>50</td>
<td>20</td>
<td>35</td>
<td>35' or 2.5 stories</td>
</tr>
<tr>
<td>Other</td>
<td>5 acres</td>
<td>200</td>
<td>50</td>
<td>25</td>
<td>50</td>
<td>35'</td>
</tr>
<tr>
<td><strong>RS-18, Low Density Residential</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single Family Detached Dwelling</td>
<td>18,000 sq. ft.</td>
<td>110</td>
<td>40</td>
<td>17 * 25</td>
<td></td>
<td>35' or 2.5 stories</td>
</tr>
<tr>
<td>Other</td>
<td>5 acres</td>
<td>200</td>
<td>50</td>
<td>25</td>
<td>50</td>
<td>35'</td>
</tr>
<tr>
<td><strong>RS-15, Medium Density Residential</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single Family Detached Dwelling</td>
<td>15,000 sq. ft.</td>
<td>100</td>
<td>35</td>
<td>15 * 25</td>
<td></td>
<td>35' or 2.5 stories</td>
</tr>
<tr>
<td>Other</td>
<td>5 acres</td>
<td>200</td>
<td>50</td>
<td>25</td>
<td>50</td>
<td>35'</td>
</tr>
<tr>
<td><strong>RS-13, High Density Residential</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single Family Detached Dwelling</td>
<td>13,000 sq. ft.</td>
<td>90</td>
<td>30</td>
<td>12 * 25</td>
<td></td>
<td>35' or 2.5 stories</td>
</tr>
<tr>
<td>Other</td>
<td>5 acres</td>
<td>200</td>
<td>50</td>
<td>25</td>
<td>50</td>
<td>35'</td>
</tr>
<tr>
<td><strong>R-MF, Residential Multiple Family</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single Family Detached Dwelling</td>
<td>10,000 sq. ft.</td>
<td>80</td>
<td>30</td>
<td>5</td>
<td>20</td>
<td>35' or 2.5 stories</td>
</tr>
<tr>
<td>Single Family Attached</td>
<td>6,000 sq. ft.</td>
<td>45</td>
<td>25</td>
<td>5/0</td>
<td>20</td>
<td>35' or 2.5 stories</td>
</tr>
<tr>
<td>Townhouse Dwelling</td>
<td>NA</td>
<td>20</td>
<td>50</td>
<td>0</td>
<td>25</td>
<td>35' or 2.5 stories</td>
</tr>
<tr>
<td>Two-Family Dwelling</td>
<td>8,000 sq. ft.</td>
<td>80</td>
<td>30</td>
<td>10/0</td>
<td>25</td>
<td>35' or 2.5 stories</td>
</tr>
<tr>
<td>Multi-Family Dwellings</td>
<td>20,000 sq. ft.</td>
<td>200</td>
<td>50</td>
<td>25</td>
<td>25</td>
<td>35' or 2.5 stories</td>
</tr>
<tr>
<td>Other</td>
<td>2 acres</td>
<td>200</td>
<td>50</td>
<td>25</td>
<td>50</td>
<td>35'</td>
</tr>
</tbody>
</table>
### R-MH, Residential Manufactured Home

<table>
<thead>
<tr>
<th></th>
<th>4,500 sq. ft.</th>
<th>50</th>
<th>30</th>
<th>10</th>
<th>10</th>
<th>35' or 2.5 stories</th>
<th>4.4</th>
<th>30</th>
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<tbody>
<tr>
<td>Single Family Detached Dwelling</td>
<td>4,500 sq. ft.</td>
<td>50</td>
<td>30</td>
<td>10</td>
<td>10</td>
<td>35'</td>
<td>6.0</td>
<td>30</td>
</tr>
<tr>
<td>Manufactured Home</td>
<td>4,500 sq. ft.</td>
<td>50</td>
<td>30</td>
<td>10</td>
<td>10</td>
<td>35'</td>
<td>6.0</td>
<td>30</td>
</tr>
<tr>
<td>Other</td>
<td>2 acres 4</td>
<td>150</td>
<td>50</td>
<td>25</td>
<td>50</td>
<td>35'</td>
<td>6.0</td>
<td>30</td>
</tr>
<tr>
<td>B-1, Neighborhood Business</td>
<td>10,000 sq. ft.</td>
<td>80</td>
<td>20</td>
<td>10</td>
<td>10</td>
<td>40'</td>
<td>100</td>
<td>30</td>
</tr>
<tr>
<td>B-2, General Business</td>
<td>10,000 sq. ft.</td>
<td>100</td>
<td>30</td>
<td>10</td>
<td>25</td>
<td>40'</td>
<td>100</td>
<td>30</td>
</tr>
<tr>
<td>B-3, Downtown Business</td>
<td>None</td>
<td>None</td>
<td>None</td>
<td>None</td>
<td>None</td>
<td>Refer to Section 4.4.3</td>
<td>40'</td>
<td>NA</td>
</tr>
<tr>
<td>SC, Shopping Center</td>
<td>10,000 sq. ft.</td>
<td>100</td>
<td>25</td>
<td>10</td>
<td>20</td>
<td>40'</td>
<td>100</td>
<td>30</td>
</tr>
<tr>
<td>O, Office</td>
<td>10,000 sq. ft.</td>
<td>100</td>
<td>25</td>
<td>10</td>
<td>20</td>
<td>40'</td>
<td>100</td>
<td>30</td>
</tr>
<tr>
<td>M-1, Light Industrial</td>
<td>10,000 sq. ft.</td>
<td>100</td>
<td>60</td>
<td>25</td>
<td>25</td>
<td>50'</td>
<td>100</td>
<td>30</td>
</tr>
</tbody>
</table>

1. One acre where public water and sewer are available, two acres where only public water is available, and four acres where public water and sewer are not available.
2. Where a side entry garage is used, a 12' side yard may be allowed on one side, with a total of 34' in side yards.
3. Where a side entry garage is used, a 10' side yard may be allowed on one side with a side yard total of 30' in RS-15 and 24' in RS-13.
4. The minimum lot size for public (governmental) uses and buildings shall be one acre.

### 4.2.2 Permitted Encroachments and Height Limit Exceptions

1. **Permitted Encroachments**: The following encroachment standards shall apply to all required setbacks unless otherwise stated, so long as they do not encroach into any public right-of-way or any easement. Structures below and covered by the ground may encroach into any required setback.

   a) Accessory structures may encroach into any required yard or setback only as permitted in Chapter 6, Section 6.5.1.

   b) **Building Features**:

      i) Chimneys, pre-fabricated chimneys, flues or smokestacks may encroach a maximum of four (4') feet.

      ii) Building eave or roof overhang may encroach up to two (2') feet, provided such encroachment is at least three (3') feet from the property line, its lower edge is at least seven and one half (7 1/2") above the ground elevation, and it is located at least five (5') feet from any other building or eave.

      iii) Bay windows, entrances and similar features that are less than ten (10') feet wide may encroach up to forty-two (42") inches but shall remain at least forty-two (42") inches from the property line.
September 30, 2015

TO: The Commercial Appeal

FROM: Hannah Taylor

Please publish the following notices on Friday, October 2, 2015.

PUBLIC NOTICE

The Arlington Board of Zoning Appeals will consider a request for a variance from the required side yard setback for property at 5769 Chester Street on October 13, 2015 at 6:00 p.m. at Arlington Town Hall, 5854 Airline Road. Contact Heather Sparkes at 901-867-3449 for more information.

Please confirm receipt of notice.

Thank you.
Angie Key SD, Lot 2
Surrounding Property Owners

Pro One Construction of TN LLC*
P.O. Box 91
Ellendale, Tennessee 38029-0091

Steven and Wendy Ray
12170 Dargie Drive
Arlington, Tennessee 38002

Schmidt Family Living Trust
Attn: Richard & Lorraine Schmidt
5739 Haley Hollow Cove
Arlington, Tennessee 38002

John and Elizabeth Lee
5734 Hayes Road
Arlington, Tennessee 38002

Barry and Sheila Bennett
5755 Chester Street
Arlington, Tennessee 38002-3802

Chris and Angela Kee
5777 Chester Street
Arlington, Tennessee 38002

John and Kimberly Wade
5759 Haley Hollow Cove
Arlington, Tennessee 38002

Allen and Nancy Sherlin
5770 Chester Street
Arlington, Tennessee 38002

Clark and Susan Knight
5749 Haley Hollow Cove
Arlington, Tennessee 38002

David and Janis Leggett
6015 Windsor Oak Drive
Arlington, Tennessee 38002
STATE OF TENNESSEE
COUNTY OF SHELBY

Personally appeared before me Patrick Maddox a Notary Public, Sherry Rios of MEMPHIS PUBLISHING COMPANY, a corporation, publishers of The Commercial Appeal, morning and Sunday paper, published in Memphis, Tennessee, who makes oath in due form of law, that she is A/R BOOKKEEPER of the said Memphis Publishing Company, and that the accompanying and hereto date was published in the following edition of The Commercial Appeal to-wit:

\[
\text{AD 722172}
\]

\[
\text{start 10/2 2015}
\]

\[
\text{end 10/2 2015}
\]

\[\underline{\text{Sherry Rios}}\]

Subscribed and sworn to before me this \[\underline{\text{Nov 12 2015}}\].

\[\underline{\text{Patrick Maddox}}\] Notary Public

My Commission expires 02/15/2016.