Town of Arlington
Board of Zoning Appeals
Meeting

September 5, 2018
6:30 P.M.
AGENDA
Board of Zoning Appeals
Wednesday, September 5, 2018
6:30 p.m.

I. Invocation

II. Call to Order & Establishment of a Quorum

III. Approval of the April 12, 2018 Meeting Minutes

IV. Old Business
   A. Other as Properly Presented

V. New Business
   A. Wallace Dyke Variance Application – 6135 Quintard Street

      PUBLIC HEARING - To consider a Lot Width variance request at 6135 Quintard Street, in order to divide an exiting lot.

   B. Other as properly presented

VI. Adjourn
I. Invocation

II. Call to Order and Roll:
   __  Oscar Brooks, Chairman
   __  Samuel Murrell, Vice Chairman
   __  Russ Campbell
   __  Tim Carter
   __  Victor Ghosheh

III. Approval of Minutes from the April 12, 2018, Meeting:

   **Main Motion:** 1st ____________________ – I move to approve the minutes from the April 12, 2018, BZA meeting as presented (or with corrections).

   2nd ____________________
   (I second motion)

   Chair states results of vote:
   Carried: _____ Failed: _____

   Approve with the following corrections: __________________________________________________________
I. Invocation

II. Call to Order and Establishment of a Quorum

Chairman Brooks called the meeting to order and noted that a quorum was present.

<table>
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<tbody>
<tr>
<td>Oscar Brooks, Chairman</td>
<td>Angela Reeder, Town Planner</td>
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<td>Samuel Murrell, Vice Chairman</td>
<td>Cathy Durant, Town Administrator</td>
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<td>Russ Campbell</td>
<td>Jim Harville, Town Fire Chief</td>
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<tr>
<td>Tim Carter</td>
<td>Jason Allen, Town Engineer</td>
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<td>Victor Ghosheh</td>
<td>Mary Helen Carmack, Planning Clerk</td>
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III. Approval of Minutes from the February 13, 2017 Meeting

**Motion:** Russ Campbell made a motion to approve the minutes of the February 13, 2017 meeting. Tim Carter seconded the motion.

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

IV. Old Business

A. **Other as Properly Presented**

There was no old business to come before the Board.

V. New Business

A. **Orion Hill Wedding Venue – Conditional Use Permit** – 12055 Donelson Road

Chairman Brooks recognized Angela Reeder, Town Planner, who provided the analysis (on file) and stated the applicants are requesting Board of Zoning Appeals (BZA) approval of a Conditional Use Permit (CUP) to create a wedding venue in a residential zoning district, in accordance with our established Zoning Ordinance.

Ms. Reeder offered some background noting the Board has some new members. She welcomed Mr. Victor Ghosheh to his first meeting and thanked him for volunteering. She stated the Zoning Ordinance allows some uses by right and others only with a Conditional Use Permit that has been approved by the BZA. Conditional uses allow cities to consider uses which may be desirable, but which are not allowed as a matter of right. Rather, they
are only permitted after BZA consideration of whether they can integrate into the region and meet both general and specific provisions of the Code.

The Code requires a preliminary site plan for CUP requests be submitted to the Planning Commission for an advisory opinion regarding proposed site plan layout and proposed improvements. As such, the applicant took this project before the PC on March 19, 2018, and received approval for recommendation subject to standard and project-specific conditions.

The property is located at 12055 Donelson Road. The site is 20 acres in size and on the south side of Donelson Road, 1/2 mile east of SR 385. A large, single-family home sits almost 800 feet back from the road, with a detached 3-car garage on one side and large open lawn areas to the southwest and along the front driveway to the east side of the property, as well as a couple ponds on the site. The remainder of the 20 acres is heavily wooded with large trees in a variety of species. She added we have learned that many of those are estimated to be well over 100 years old.

State Route 385 sits to the west, with mostly forested land between. Open fields lie to the south, and there are scattered large single-family lots to the north and east. The entrance to Dawson’s Landing, the closest subdivision, is located roughly 1/3 mile to the east on the north side of Donelson Road.

The current zoning of this property is E: Estate Residential zoning district, as is property to the north and east. To the west is a PD for a Mixed Use which allows for a variety of residential and commercial uses. Farther to the east is Dawson’s Landing which is zoned RS-18: Low Density Residential.

The applicant’s proposal is to use the existing home and grounds as a wedding venue. They have noted it would also be available for other special events such as family reunions, business meetings, etc., but the main intent is to have a wedding venue. They have referenced several similar uses in the area as an example, such as Cedar Hall, Heartwood Hall, and Carahills Estate. They have done extensive historical research on the property and they have provided copies of that data for review. They have submitted an application to Nashville for historic or heritage status for the trees on the site and are also pursuing arboretum status from the TN Urban Forestry Council. Due to the uniqueness of the site the proposal includes minimal changes with the exception of required parking and the potential of enclosing a patio area to the rear of the home.

The applicant states events could be held within the large common rooms in the home. Some events, including those with acoustic music, could be held on the rear patio area, and also in the open lawns behind the home. Any amplified music would be limited to the interior of the home. They anticipate a maximum capacity of 200 guests for any one event. No activities would be permitted after 11pm, and most activities on the site would end by 10pm.

Access to the property is through the existing driveway from Donelson Road. The drive is currently gravel but will be widened and paved to a width of 20 feet on the straight, and 26 feet wide at the circular area at the house to allow for two-way traffic in and out of the property and fire apparatus to safely access the site.

The parking lots are proposed which will provide 68 parking spaces which includes 4 ADA spaces closest to the home. At the closest point, the overflow parking is 390 feet back from
Donelson Road, weaving around some of the trees on the site. Grading and tree removal has been kept to a minimum.

The applicant has requested to utilize a limestone gravel surface for the main and overflow parking lots, with only the ADA spaces and walkways in concrete for access purpose. Their intent is to minimize impacts to the surrounding trees by having a pervious surface, and also to keep a more rural appearance similar to other meeting halls in the region. She added staff has looked at many of the similar sites around the county and found they have similar lots as well. The Town Engineer has reviewed this and has no objections to the use of limestone for non-ADA parking spaces in this circumstance.

Ms. Reeder said the Code identifies specific conditions for the BZA to consider for public assembly uses. They are listed in the packets but she summarized those conditions.

The site shall be located on a collector level road or higher. She said the Town’s Major Road Plan, which was adopted in 2014 identified Donelson as a Collector road.

The site shall be on at least five acres. The proposed site is 20 acres in size.

On-site lighting shall minimize intrusion into residential areas. This site currently has lighting along the driveway and at the entrance, and in the outdoor areas at the rear of the home and near the back pond. Lighting around the driveway will have to be moved to widen the drive and staff would recommend lighting around the parking areas for safety purposes. Staff feels confident, based on the parking lot being 125 feet at its closest point to the next property and the extent of forested area around the perimeter of the site, that lighting for the parking lot can be designed with no trespass off the site.

Outdoor activities shall be screened or fenced for an effective buffer. The buffer created by the existing trees on site would be an adequate buffer to screen uses on the property. In addition, the adjacent property to the east also has a roughly 150-foot wooded area and pond between their home and the edge of this site. The sheer distance and landscaping provides a more than adequate screening.

Another condition for review is that the use shall not materially increase traffic on surrounding streets. Jason Allen, Town Engineer, came forward to address this matter. He said that, though a formal traffic study had not been performed, he has looked at several traffic conditions and factors that would be typically reviewed. One of which is sight distance. It is a wooded street and property. The consultant has included, in the construction plans, Clear-Sight Triangles to be cleared and kept clear. That complies with TDOT guidelines in 30 mph zones. There is also an embankment that will be cleared as a result of that. The other item looked at was the amount of traffic increase as a result of this project. He estimates an increase of an average of 85 vehicles per day from this development based on an ADT (average daily traffic). In comparison they looked at other sites around town and found that TDOT had a traffic counter about 1,000 feet west of this driveway between the Donelson Farms exit and this property. In 2016 TDOT showed an ADT of this road as 480 cars in both directions. By comparison they looked at the TDOT traffic counter on Chester Street in the rural area of Chester between Milton Wilson and Griffin Road. This is a two-lane, open shoulder roadway that is also winding. The 2016 ADT for that section was 1,050 vehicles which is significantly higher than the count for Donelson Road. In addition, he looked at a 2015 traffic count done by the Town on Donelson Road east of Airline Road. That ADT was 750 vehicles per day. He said based on the information available it is the Town Engineer’s opinion that Orion Hill would not have a significant traffic impact on Donelson Road.
Ms. Reeder said another condition is the project shall not have an adverse effect on surrounding properties. The general impacts considered by staff were noise, light and glare, traffic, and the aesthetics of the site. The property lends itself to handling many of these items. The location choice, site plan and operational limitations on the site such as closing at a certain hour. The property is screened from adjacent uses by the wooded dense landscaping, which additionally provides buffers for light and noise.

The Town Ordinance sets the hours of 11pm-7am as quiet hours Town-wide. While the site is subject to this Ordinance, placing a condition of an 11pm end time for any event helps to further ensure that is met. If there are any noise issues at the site the Sherriff’s Department can respond. Since this is a permit that is issued by the Town, it can be revoked if there are ongoing issues. Typically, there is more noise as people leave an event, such as voices and car doors. Based on that, the Board may wish to consider adding a condition stating that events during the week end by 10pm to ensure any final cleanup or people leaving are gone before the 11pm quiet hours (Sun.–Thurs.).

With regard to the aesthetics of the site itself, it will remain a single-family structure on the property, will remain consistent, and look consistent with adjacent properties. Staff feels the gravel parking area would further maintain the consistency with large-lot residential and agriculture uses. A residential home there would only be required to pave the first 200 feet of their driveway and the rest could remain as gravel.

The last item called for in the specific regulations is the requirement that a preliminary site plan first be submitted to the Planning Commission for an advisory opinion. The Planning Commission considered and recommended approval at their regularly scheduled meeting on 3/19/18.

Ms. Reeder then read the specific Zoning Ordinance requirements for any request for a CUP.

Staff has gone through all of these requirements and based on our review in front of the Planning Commission and the review here and believes this site does meet them.

Staff recommends approval of the Conditional Use Permit for Orion Hill Wedding Venue on this site based on the 26 conditions attached. Conditions 8–25 are from the Planning Commission and number 26 stating events shall end no later than 11:00 p.m. has been added since that meeting.

Chairman Brooks asked the applicant to give their presentation at this time.

Cathy Wilson, applicant, wanted to assure the people in the area that they want to be good neighbors, the kind of neighbors people in the area want to have. She has tried to talk to everybody in the area that had questions or concerns and offered to talk to anyone with questions. She and her husband love Arlington and have been here for more than thirty years. When they first looked at this property they knew it was a fabulous house but then saw all the beautiful trees they could preserve. The thought of someone buying this property and subdividing it made her sad. They were thrilled with the prospect that they could come and protect a piece of Arlington history that not a lot of people knew about, and do something that will add to the community. For instance, when the arboretum status has been approved she wants to have school children out to do their leaf collections. She has been in the process of researching the property and found a rich history of Arlington that has been forgotten. Regarding concerns expressed about people drinking and then leaving the venue, she said if they saw someone inebriated they would alert a
family member, then call Uber herself, or call the Sherriff's Department. There are things they will do to ensure that not only are their guests safe, but also the people in the community are safe. She offered her cell phone number and invited people to come by and see them.

Chairman Brooks called for a motion.

**Main Motion:** Samuel Murrell made a motion to approve the Orion Hill Wedding Venue Conditional Use Permit. Victor Ghosheh seconded the motion.

Chairman Brooks called for a motion to suspend the Board of Zoning Appeals Meeting and open the Public Hearing.

**Motion:** Russ Campbell made a motion. Tim Carter seconded the motion.

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

Chairman Brooks noted that the public hearing was published in the Commercial Appeal on Thursday, March 29, 2018. He asked anyone wishing to speak for or against the request to stand and be recognized by stating his or her name and address.

**Citizen Comments:** Laura Tumminello, 12235 W. Donelson Rd. – She said she has been in opposition of event venues being allowed in residential zoned areas. However, she has taken the time to meet with the owners, Mr. & Mrs. Wilson, and they took two hours to share with her their plans and intentions for the property. She said she is quite impressed with their intentions and feel their plans set them apart from a typical event venue. It seems they have the desire to preserve the land and showcase the historical significance of the property. Upon the first few minutes of meeting she shared with them her concerns, one of which was the noise. Without hesitation, Mrs. Wilson said all of the musical entertainment will be held indoors with the exception of the occasional acoustical entertainment. That reply set her at ease quite a bit, along with the intent to host upscale events. However, as time passes, clients could request music outdoors so she asked that noise restrictions be added to the conditional use permit such as stopping outdoor musical entertainment after 8:00 pm. She said her area has one of the quietest according to real estate sites. She asked that the parking lot and driveway be allowed to be limestone gravel as opposed to concrete. The owners intend to preserve the land as well as turn it into an arboretum. Concrete has the potential to kill many of the trees due to their location along the driveway and in front of the house. The trees act as a natural buffer for the sound as well as beautifying the property. She also asked that the CUP be attached to the owners not to the property itself. This further protects the surrounding residents of any potential new owners who have less desirable plans for the property. It also offers the BZA an easy way to modify any regulations necessary for any new owners.

Kathy Hollis, 12022 Donelson Rd. – Ms. Hollis said she has no objections to the venue being proposed. She does have suggestions for the Town of Arlington, however. She said their road is a 30-mph speed zone that no one seems to obey. From time to time there will be a string of 10-12 motorcycles traveling up to 70-mph. In contrast though, there are bicycle clubs that use that street on Saturday and Sunday. Her mailbox has been knocked down completely because cars coming from west to east are going off the road and overcorrecting. There are 5-inch drop-offs at some points. One boy and girl flipped their car and skidded down the road. Another young man was also killed on this road. She asks the Town to look into the possibilities of improving that to keep those kinds of things from happening. She said they love the tree cover and the way the road winds and would like to continue to enjoy that but with less opportunity for people to get hurt.
Hearing no further response, Chairman Brooks called for a motion to close the Public Hearing and resume the BZA Meeting.

**Motion:** Russ Campbell made a motion. Tim Carter seconded the motion.

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

Ms. Reeder announced that she had provided the Board members with documentation of phone calls and emails she had received just today from additional citizens who were unable to attend the meeting. Each of them is a resident of Dawson’s Landing and their concerns were primarily about noise and traffic.

**Discussion:** Russ Campbell asked if the Town would be installing a fire hydrant on the property.

Jim Harville, Fire Chief, said there have been extensive meetings on the fire prevention plan for this property. When it is finished at approximately 8,000 square feet, the assembly use will require a fire protection system. The building will be sprinkled and there has to be a hydrant at the home. Ledford Engineering did a study on the fire flow needed for the structure. There are two mains that run along Donelson, a 16-inch and an 18-inch main, and the 16-inch main needs to be taken to the house. As a Fire Department connection must be within 100-feet of the hydrant, it can be brought closer to the roadway, which would decrease the length of the 16-inch line.

Chairman Brooks asked Chief Harville if the driveway is adequate. He said it is adequate. The only stipulation for the Code is that it has to support 75,000 lbs. which is the average weight of firetruck loaded with water.

Tim Carter asked how many trees would be removed by the street.

Lance Lanier, Ledford Engineering and Planning said seven large trees and some smaller trees in between. Most are to the left of the driveway as you are leaving which is where the hill has to be graded down to make the sight distance work. The two cedar trees will remain because they are set back but the removal area is only about 100 feet of the trees along the top of the bank. Looking back to the right as you exit there are a few large trees that will have to be removed but they are not cedars or anything that is historically significant.

Victor Ghosheh wanted to know how guests will see the site. Ms. Reeder said opening it up some will make it more visible. Some small signage will be added at some point.

Mr. Ghosheh asked if the applicant had considered, on event nights, hiring someone to direct traffic when cars are leaving at the same time.

Ms. Reeder said it was considered whether they needed a parking attendant. Looking at the property, however, there is quite a long space for queuing cars when leaving. The greater concern had been when people are arriving to avoid a back-up on Donelson. Mr. Allen added they don’t anticipate everyone will be leaving or arriving at the exact same time. From the research he has done if you send out 200 wedding invitations you can expect about 75% of those people will come and 10% will come an hour or more prior to the event, the remainder will stagger in within that last hour. He found the same with leaving.

Mr. Carter said he thinks there would be a lot of people arriving and leaving at the same time. Mr. Allen reiterated the long driveway will easily accommodate a line of 24 cars. He said he feels confident that people can get off and on Donelson Road and not create a safety issue.

Cathy Durant, Town Administrator added the Town needs to go out there prior to opening to look at the road and signage and that it is properly spaced and signed.
Mr. Ghosheh asked if there are street lights. There is not.

Chairman Brooks noted there is some sort of lighting at the gate to the property. Lance Lanier said for the DRC submittal they will include a photometric plan to ensure the property is properly lit.

Mr. Ghosheh asked what the maximum occupancy of the venue is. Chief McMillen said he will determine an occupant load, prior to opening, as part of the fire protection plan.

Mr. Carter noted the staff report mentioned both an 11:00 pm cutoff and a 10:00 pm cutoff and asked for clarification. Ms. Reeder said currently the Town’s noise ordinance sets 11:00 pm as the start of quiet time. The applicant has stated they do not intend to have an event past 11:00 pm. Ms. Reeder has added a condition that 11:00 pm be stipulated as the ending time for events. However, there have been conversations on other projects in the past about moving it back an hour to ensure the event has ended and everyone has left the premises by 11:00 pm.

Mr. Campbell suggested Sunday through Thursday events end at 10:00 pm. He then asked Ms. Durant if that would be a condition or a motion to amend. Ms. Durant responded it would be considered an amendment.

Shelby Hartman, with the applicants, said she has been in the wedding industry for eight years and, based on her experience, all venues have an ending time of 10:30 pm at the latest. Most wedding venues do not stay open later than 11:00 pm. Usually the couple makes their exit at 10:00 pm and then the vendors and caterers clean up and are gone by 10:30 pm.

**Motion to Amend:** Tim Carter made a motion to amend Condition 26 to read: Events shall end no later than 10:00 pm on Sunday through Thursday and 10:30 p.m. on Friday and Saturday and Russ Campbell seconded it.

**Vote on Motion to Amend:** The motion carried unanimously

Chairman Brooks called for a vote on the Main Motion as amended.

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

**Conditions of Approval**

1. It is found that the application as presented, with plans dated March 28, 2018, and with the conditions of approval meets the provisions of the Town Zoning Ordinance and any other applicable regulations, and the project shall be constructed in accordance with those regulations.

2. This CUP approval shall become effective thirty (30) days from the date on which it is granted. No building permit shall be issued prior to the effective date of approval and verified compliance with any applicable site plan, nor prior to any required subsequent approvals from the Planning Commission, DRC and BMA.

3. The applicant shall begin construction of the conditional use authorized by the BZA within one (1) year of approval, and/or fully establish the conditional use within two (2) years of approval in conformance with all applicable provisions of the Zoning Ordinance and any conditions of approval imposed by the BZA and other boards and commissions. Failure to begin construction or establish the conditional use within the prescribed time period shall result in the voiding of the approval.

4. The applicant may request an extension from the BZA not to exceed one (1) year if the conditional use is not established in the time period prescribed.
5. All approved plans, conditions, restrictions and requirements made part of the approval by the BZA shall run with the land once the conditional use is established as provided in the Arlington Zoning Ordinance.

6. Any future changes or expansion will require separate review and approval by the BZA and Planning Commission.

7. Any revisions to landscaping, lighting, building elevations and signage shall be reviewed and approved by the Design Review Committee in accordance with the Town of Arlington Design Review Manual.

8. This project must comply with the Tennessee Department of Environment and Conservation NPDES Regulations governing stormwater discharge during construction activity.

9. Prepare and submit to the State of Tennessee (with a copy to Arlington) a notice of intent and a Stormwater Pollution Prevention Plan for the site.

10. Erosion control measures as approved by the Town Engineer shall be implemented in compliance with the applicant’s filed Notice of Intent, and approved Notice of Coverage prior to any earth disturbance activity.

11. Any future signage design and location is subject to the review and approval of the DRC.

12. The applicant is required to have a pre-construction meeting with the Town of Arlington staff prior to commencing improvements.

13. Any sidewalk path across a driveway shall be ADA compliant.

14. Revise the Construction Plans to address comments as noted on the marked-up plan sheets provided by the Town Engineer and provide for Town review and approval.

15. The project shall meet the Town adopted 2012 International Fire Code, including all referenced appendices. Building will be required to be sprinkled to NFPA 13 standards.

16. Driveway and drive turnaround shall have driving surface capable of supporting a minimum of seventy-five thousand (75,000) vehicle pounds per fire code, during all weather conditions.

17. Driveways shall have turning radius to accommodate fire apparatus, including entry from street and the circle drive turnaround.

18. Minimum fire flow shall be per fire code with any allowable reductions for sprinkler system, plus required fire flow for fire sprinkler system demand.

19. Ultimate Fire hydrant location on the site is to be determined, with approval from the Town of Arlington Fire Department.

20. Provide a paved surface consisting of either asphalt or concrete along all driveway surfaces.

21. Obtain approval for the use of limestone surface for the proposed parking areas.

22. Obtain approval from the Shelby County Health Department for the expected increase in wastewater flow to the existing septic system and disposal field.

23. Widen the existing driveway to 20’ along the main driveway beginning at Donelson Road, and 26’ width throughout the circle drive.
24. Sight triangles at the driveway along Donelson Road shall be cleared and maintained clear of obstructions in perpetuity, at the owner’s expense,

25. A plat shall be prepared and submitted to the Town for administrative approval prior to recording. The site being presented is 20 acres carved out of an 87 acre, more or less, tract of land.

26. Events shall end no later than 10:00 p.m. on Sunday through Thursday and 10:30 p.m. on Friday and Saturday.

B. **Other as Properly Presented**

There was no other new business to come before the Commission.

VII. **Adjourn**

Chairman Brooks called for a motion to adjourn.

**Motion:** Russ Campbell made the motion. Victor Ghosheh seconded the motion.

The motion carried unanimously.

Meeting adjourned.

__________________________________________  ________________________
Oscar Brooks, Chairman                Date

Submitted By:  Mary Helen Carmack, Planning Clerk
IV. Old Business (Chairman introduces item)

A. **Other as Properly Presented**

Chair recognizes staff for presentation: (if any)
Chair restates item (motion needed)

**Main Motion:** 1st ______________ I move to approve (always in the affirmative) ________________

2nd ______________

(1 second motion)

**Discussion:**

Vote on Main Motion -

Carried: _____ Failed: _____ Roll Call:

(Chairman states result of vote)

(If an amendment is necessary, it is done prior to the vote on the main motion)

**Primary Amendment:** Shall we amend by ________________ (Chairman poses the question)

1st ________________ 2nd ________________

All in favor of this amendment:

Carried: _____ Failed: _____ Roll Call:

(Chairman states result of vote)

(If secondary amendment is necessary, it is done prior to the vote on the main motion)

**Secondary Amendment:** It is moved and seconded to amend the amendment by ________________

1st ________________ 2nd ________________

Carried: _____ Failed: _____ Roll Call:

(Chairman states result of vote)

**Note:** Vote on Secondary Amendment first, then Primary Amendment and last the Main Motion

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V. New Business (Chairman introduces item)
   A. Wallace Dyke – Rezoning Request – to consider a Lot Width Variance request at 6135 Quintard Street, in order to divide an existing lot.
      Chair recognizes staff for presentation: (if any)
      Chair restates item (motion needed)

Main Motion: 1st ________________ I move to approve (always in the affirmative) ____________________________

2nd ________________
(I second motion)

Discussion:

Vote on Main Motion -
Carried: ______ Failed: ______

(Roll Call: Yes No)

(Chairman states result of vote)

Brooks
Campbell
Murrell
Carter
Ghosheh

(If an amendment is necessary, it is done prior to the vote on the main motion)

Primary Amendment: Shall we amend by ____________________________

1st ________________ 2nd ________________

(Chairman poses the question)

All in favor of this amendment:
Carried: ______ Failed: ______

(Roll Call: Yes No)

(Chairman states result of vote)

Brooks
Campbell
Murrell
Carter
Ghosheh

(If secondary amendment is necessary, it is done prior to the vote on the main motion)

Secondary Amendment: It is moved and seconded to amend the amendment by ____________________________

1st ________________ 2nd ________________

Carried: ______ Failed: ______

(Roll Call: Yes No)

(Chairman states result of vote)

Brooks
Campbell
Murrell
Carter
Ghosheh

Note: Vote on Secondary Amendment first, then Primary Amendment and last the Main Motion
Wallace Dyke Minor Subdivision
VARIANCE REQUEST

DATE: September 5, 2018

STAFF: Angela Reeder, AICP, Town Planner

SUBJECT: Variance Request

APPLICANT: Wallace Dyke

DESIGN PROF./CONSULTANT: Arc Surveying & Mapping, Inc.; Representative: Jeremy Loudenbeck

SITE LOCATION: 6135 Quintard Street

SITE ACREAGE: 0.93 Acres

ZONING: RS-15: Medium Density Residential

EXHIBITS: Location map; Minor Subdivision Plat

PROPOSAL: The applicant, Mr. Wallace Dyke, is requesting Board of Zoning Appeals consideration of a Variance Request for a reduced lot width, with the goal to subdivide an existing lot.

The Zoning Ordinance allows for consideration of variance requests from adopted Ordinance regulations, subject to a set of procedures.

Project Site: The property in question is located at 6135 Quintard Street, and is zoned RS-15. The lot is just under one acre in size (0.93 ac.) and is improved with one single-family home. It is within Arlington’s older, downtown neighborhood, which has a variety of lot sizes and dimensions. Adjacent uses include other single-family homes and the Arlington Methodist Church (next door).
Proposal: The applicant would like to keep the existing home and detached garage, and subdivide the southern portion of the lot to allow for construction of a new home for his daughter. The RS-15 Zoning for this property requires minimum 15,000 square foot lots, with minimum lot width of 100 feet.

The lot is large enough to divide and the proposed subdivision would result in a 16,140-sf lot and a 24,453-sf lot; each exceeding the minimum lot size required. However, it only has 187 feet of frontage on Quintard St. which would not allow for two 100 ft wide lots. In addition, the lot cannot be evenly divided, as there are existing structures on-site and in order to maintain the necessary setback for the detached garage, one lot would be 104 ft wide and the new lot would be 83 feet wide. As such, the applicant has identified the new lot width regulations as creating a hardship and a Variance is requested for this lot to be subdivided.

Specific Standards for Variance:
The BZA may hear a Variance request only when, by reason of exceptional situation, a situation exists where strict adherence to the Ordinance would cause an undue hardship on the owner, and when the provided relief would not cause substantial detriment to the public.

Specific standards for consideration of a Variance are summarized below in italics (Section 10.5.4.3), with staff analysis and comments following each.

1. *The particular physical conditions of the property would result in a hardship if strictly applied.*
   – If strictly applied, the applicant would not be able to subdivide his lot and he would end up with a lot over twice the minimum size for this area. He would also retain an almost 100-foot side yard on the south side of his house.

2. *The condition would not be applicable generally to other property in the district.*
   – This condition would not generally apply to all lots in the district, rather only to especially oversize lots.

3. *The variance will not authorize activities not permitted in the district.*
   – The variance would not authorize any activity not permitted in the RS-15 zone.

4. *Financial returns alone are not a basis for granting.*
   – While the applicant could sell the lot for financial gains, it is not the basis for granting the variance. In addition, his intent is to allow a home to be built for a family member and caregiver next door.

5. *The alleged difficulty or hardship has not been created by the person with an interest in the property after the Ordinance went into effect.*
   – The property in question was much larger at one point, extending all the way to Greenlee and Campbell. The frontage on Quintard was originally created when the lot was subdivided into two lots in 2001. At that time, a 90-foot lot frontage was acceptable, as that is the size of the new, corner lot that was created. That being the case, Mr. Dyke would have left himself enough frontage to further subdivide at a later date (with 187-foot frontage remaining on the big lot). Thus, the Ordinance was revised after his lot creation and the hardship caused by an Ordinance change, not his action.

6. *The Variance will not confer any special privilege denied to other lands in the district.*
   – The Variance would allow for use of a residential lot and would not confer any special privilege.
7. The variance is the minimum variance that will make possible the reasonable use of the land. – The proposal is set at the minimum setback from the existing structure, thus is the minimum variance option without creating another situation on the existing lot.

8. The granting will not be detrimental to the public welfare. – The granting of the variance would have the result in permitting another residential lot in this area of Town. The lot will be of minimum size, but narrower at the street than current regulations. There are several lots in the immediate vicinity of similar or smaller size, and thus no detriment to public welfare is anticipated.

9. The variance will not impair adequate supply of light and air to adjacent properties. - The proposed Plat shows how the site would be subdivided and could still meet setback requirements of the area, while allowing space for a home to be constructed.

10. The variance is not based on nonconforming use of neighboring lands. – It is not related to adjacent lands.

11. The variance will not permit a use that is not permissible under the Ordinance. – It would only allow for a residential lot, which is permitted in the RS-15 district.

RECOMMENDATION:
Staff recommends approval of the requested Variance at 6135 Quintard Street, allowing for the creation of two lots, one with a lot width of less than 100 feet, subject to the following conditions:

1. A minor plat shall be processed through the Town for the subdivision of the proposed lot, consistent with plans submitted on August 7, 2018.
2. Any deviation from the approved request requires Board of Zoning Appeals approval.
Location Map  Wallace Dyke  6135 Quintard Street
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: 6135 Quintard Street
Owner of Record: Wallace Dyke
Owner Address: 6135 Quintard Street, Arlington, Tennessee 38002
Daytime Phone: 901-867-8105 Fax Number:
E-mail Address:

Agent or representative authorized to prepare this application and to provide further information as requested by the staff: Jeremy Loudenbeck, PLS
Daytime Phone: 901-867-5333 E-mail Address: jloodenbeck@arcsurveyors.com

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

Revised: 2/7/2011
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.

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**APPLICANT:** Jeremy Loudenbeck, Arc surveying

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**OWNER* (If different from applicant. If same, note “same”):**

*Owner information is required

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*Copy and use additional pages if necessary*
Chair calls for:
Motion to suspend Board of Zoning Appeals Meeting and open Public Hearing to consider a variance request to increase frontage setback.

Notice of a Public Hearing was published in the Commercial Appeal on Tuesday, August 21, 2018. Anyone wishing to speak for or against this request, please stand to be recognized. State your name and address for the record.

Main Motion: 1st __________ I move to approve (always in the affirmative) suspend the Board of Zoning Appeals Meeting and Open the Public Hearing

2nd __________
(I second motion)

Discussion:
Vote on Main Motion ·

Carried: ____ Failed: ____

Chair Calls For:
Motion to close Public Hearing and resume Board of Zoning Appeals Meeting.

Main Motion: 1st __________ I move to (always in the affirmative) close the Public Hearing and resume Board of Zoning Appeals meeting.

2nd __________
(I second motion)

Discussion:
Vote on Main Motion ·

Carried: ____ Failed: ____

Resume Board of Zoning Appeals Meeting.
PUBLIC HEARING

AN APPLICATION HAS BEEN FILED FOR A VARIANCE

A PUBLIC HEARING TO BE HELD:

SEPTEMBER 5, 2019 AT 6:00PM

WILLOWTON TOWN HALL

1804 ARPLINE ROAD
PUBLIC NOTICE

The Board of Zoning Appeals will hold a public hearing on Wednesday, September 5, 2018 at Town Hall, 5854 Airline Rd., at 6:30 PM to consider a Lot Width Variance request at 3165 Quintard Street, in order to divide an existing lot.

Thank you for your business. Our commitment to a quality product includes the advertising in our publications. As such, Gannett reserves the right to categorize, edit and refuse certain classified ads. Your satisfaction is important. If you notice errors in your ad, please notify the classified department immediately so that we can make corrections before the second print date. The number to call is 901-529-2700. Allowance may not be made for errors reported past the second print date. The Memphis Commercial Appeal may not issue refunds for classified advertising purchased in a package rate; ads purchased on the open rate may be pro-rated for the remaining full days for which the ad did not run.
V. New Business (Chairman introduces item)

   B. Other as Properly Presented

       Chair recognizes staff for presentation: (if any)
       Chair restates item (motion needed)

Main Motion: 1st __________________ I move to approve (always in the affirmative) ________________________________

       2nd __________________ (I second motion)

Discussion:

   Vote on Main Motion -

       Carried: _____  Failed: _____

       (Chairman states result of vote)

   Roll Call: 

       | Yes | No |
       |-----|----|
       | Brooks |    |
       | Campbell |   |
       | Murrell |   |
       | Carter |     |
       | Ghosheh |   |

(If an amendment is necessary, it is done prior to the vote on the main motion)

Primary Amendment: Shall we amend by ________________________________ (Chairman poses the question)

       1st __________________  2nd __________________ (Chairman poses the question)

       All in favor of this amendment:

       Carried: _____  Failed: _____

       (Chairman states result of vote)

       Roll Call: 

       | Yes | No |
       |-----|----|
       | Brooks |    |
       | Campbell |   |
       | Murrell |   |
       | Carter |     |
       | Ghosheh |   |

(If secondary amendment is necessary, it is done prior to the vote on the main motion)

Secondary Amendment: It is moved and seconded to amend the amendment by ________________________________

       1st __________________  2nd __________________

       Carried: _____  Failed: _____

       (Chairman states result of vote)

       Roll Call: 

       | Yes | No |
       |-----|----|
       | Brooks |    |
       | Campbell |   |
       | Murrell |   |
       | Carter |     |
       | Ghosheh |   |

Note: Vote on Secondary Amendment first, then Primary Amendment and last the Main Motion
VI. Adjourn

Chair calls for motion.

**Main Motion:** I move to adjourn.

1st ______________ 2nd ______________

Carried: _____ Passed: _____

(Chairman states results.)

Meeting adjourned.