

DAVID BRILEY
MAYOR



METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY

DEPARTMENT OF CODES & BUILDING SAFETY

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PLANNING TRANSMITTAL

**TO: METRO PLANNING COMMISSION- LISA MILLIGAN, MICHAEL BRIGGS,
AND LATISHA BIRKELAND**

FROM: CODES ADMINISTRATION-ZONING APPEALS

DATE: 5/14/19

CASE NUMBER: 2019-298

Section 17.40.300: "In its review, the Planning department shall advise on the nature of existing and future land uses in the general vicinity of the proposed Special Exception use."

Section 17.40.340: "Further, the Board shall not act on a variance application within a planned unit development, urban design overlay or institutional overlay district without first obtaining a recommendation from the planning commission."

Type of review Staff _____ Commission _____

Date of Hearing 2/18/19

Appeal Application 2019 002 8060

Permit Application _____

Tracking Sheet _____

Site Plan ✓

Submitted by *[Signature]*



Metropolitan Board of Zoning Appeals
Metro Howard Building
800 Second Avenue South
Nashville, Tennessee 37210

Appellant: Rob Turner Date: 5-14-2019
Property Owner: Frank May Case #: 2019-298
Representative: Rob Turner Map & Parcel: 09306205300
Council District: 19

The undersigned hereby appeals from the decision of the Zoning Administrator, wherein a Zoning Permit/Certificate of Zoning Compliance was refused:

Purpose: Requesting a variance from the sidewalk requirements 17.20.12 does not want to build new sidewalk
Activity Type: Ice Cream Shop
Location: 123 2nd Ave. N

This property is in the DTC Zone District, in accordance with plans, application and all data heretofore filed with the Zoning Administrator, all of which are attached and made a part of this appeal. Said Zoning Permit/Certificate of Zoning Compliance was denied for the reason:

Reason: variance

Section: 17.20.120

Based on powers and jurisdiction of the Board of Zoning Appeals as set out in Section 17.40.180 Subsection ___ of the Metropolitan Zoning Ordinance, a Variance, Special Exception, or Modification to Non-Conforming uses or structures is here by requested in the above requirement as applied to this property.

Appellant Name: Rob Turner Representative: Same
Phone Number: (661) 364-2546 Phone Number: _____
Address: 2854 Logan St Address: _____
Nashville, TN 37211
Email address: robt@wrnewman.com Email address: _____

Appeal Fee: _____

RJB



Metropolitan Government
of Nashville and Davidson County, Tennessee
Department of Codes and Building Safety
800 Second Avenue South, Nashville, TN 37210



3669455

ZONING BOARD APPEAL / CAAZ - 20190028060
Inspection Checklist for Use and Occupancy
This is not a Use and Occupancy Notification

PARCEL: 09306205300

APPLICATION DATE: 05/14/2019

SITE ADDRESS:

123 2ND AVE N NASHVILLE, TN 37201
PT LOT 30 ORIGINAL TOWN OF NASHVILLE

PARCEL OWNER: MAY, FRANK C.

CONTRACTOR:

APPLICANT:

PURPOSE:

remodel main floor 1784 sq.ft. for MOTTHESEN ICE CREAM
POC MC WINBUSH 615-390-7214

*Before a Use and Occupancy Letter can be issued for this project, the following approvals are required.
Inspections Foundation = before concrete poured, Framing = before covering wall and after rough-in inspections.*

There are currently no required inspections

Inspection requirements may change due to changes during construction.

APPLICATION FOR A VARIANCE REQUEST

After your appeal is filed, Zoning staff will visit the site to take photographs for the Board members. So they will have a better ideal of the nature of your request. Zoning staff will notify the district council member of the hearing. You will be responsible for preparing the envelopes and notices for mailing to the owners of property within 600 feet pf the property at issue in the case. The envelopes must include the return address for the BZA and case number. Fold and insert notices into envelopes, seal the envelopes, and apply first class postage. These neighbor notices must be delivered to Zoning staff at least twenty-three (23) days before the public hearing. Additionally, you will be responsible for purchasing, posting, and removing the red Zoning Appeal signs for the subject property. (See attached Metro Code of Laws requirements regarding, sign placement.)

The day of the public hearing, it will be your responsibility to convey to the Board the nature of the hardship in your request that makes it difficult/impossible for you to comply with the Zoning Code. **It would be to your benefit to let your neighbors know about your request prior to all notices being sent to them from our office.**

Any party can appeal the Board's decision to Chancery or Circuit Court within sixty (60) days from the date the order in the case is entered. **Should your request be granted, we would remind you that it is your responsibility to obtain the permit for which you have applied.** You should also be aware that you have two (2) years to obtain the permit or you would have to re-file your request with the board.

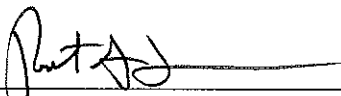
Once your request is filed, the staff will review your request to verify that the submittal is complete. Incomplete submittals will not be scheduled for hearing until complete.

Any correspondence to the Board must be submitted to our office by noon, the Monday prior to the public hearing to be included in the record. You must provide eight (8) copies of your information to staff.

We hope that this information will be of help to you in understanding the variance procedure and if our office can be of further assistance, please do not hesitate to contact us.

METROPOLITAN BOARD OF ZONING APPEALS (615) 862-6510

I am aware that I am responsible for posting and also removing the sign(s) after the public hearing.



APPELLANT

5-14-19

DATE

Standards for a Variance

The Metropolitan Board of Zoning Appeals may grant variances from the strict application of the provisions of the Zoning Code based upon findings of fact related to the standards in section 17.40.370. This Section is included as follows:

Physical Characteristics of the property- The exceptional narrowness, shallowness or shape of a specific piece of property, exceptional topographic condition, or other extraordinary and exceptional condition of such property would result in peculiar and exceptional practical difficulties to, or exceptional or undue hardship upon the owners of such property.

Unique characteristics- *The specific conditions cited are unique to the subject property and generally not prevalent to other properties in the general area.*

Hardship not self-imposed- The alleged difficulty or hardship has not been created by the previous actions of any person having an interest in the property after date of Zoning Code.

Financial gain not only bases-Financial gain is not the sole basis for granting the variance.

No injury to neighboring property- The granting of a variance will not be injurious to other property or improvements in the area, impair and adequate supply of light and air to adjacent property, or substantially diminish or impair property values within the area.

No harm to public welfare- *The granting of the variance will not be detrimental to the public welfare and will not substantially impair the intent and purpose of this Zoning Code.*

Integrity of Master Development Plan- *The granting of a variance will not compromise the design integrity or functional operation of activities or facilities within an approved Planned Unit Development.*

The Board shall not grant variances to the land use provisions of section 2.3, nor the density of Floor Area Ratio (FAR) standards of Tables 3-B and 2-C, nor the required size of residential lots approved by the Planning Commission under the authority of section 3.7 (Lot Averaging), section 3.8 (Cluster Lot Option) or Section 9. E.3 (PUD). Further the Board shall not act on a variance application within a Planned Unit Development (PUD), Urban Design Overlay or Institutional Overlay district without first considering a recommendation from the Planning Commission.

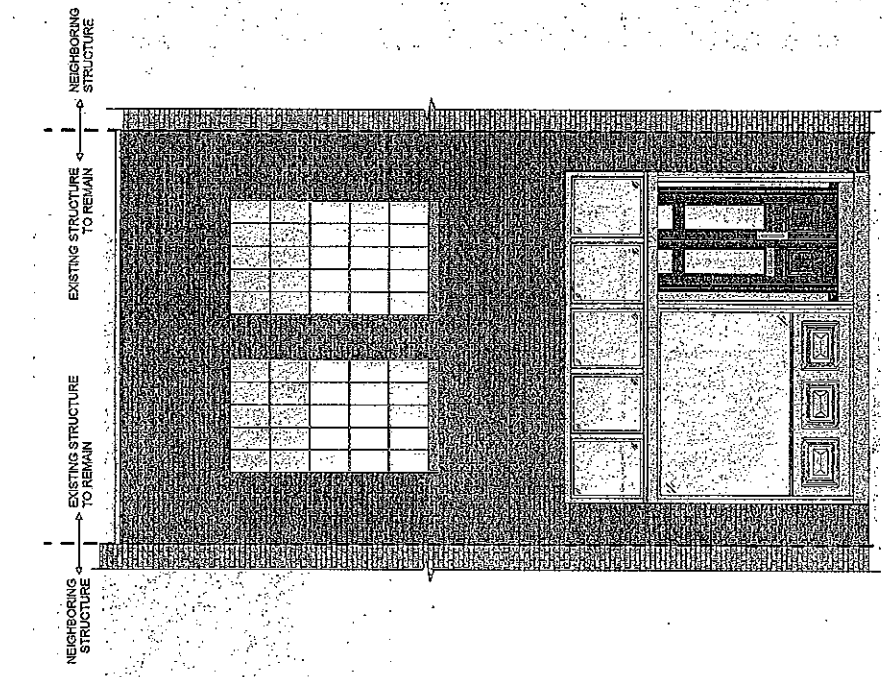
In Simple terms, for the Board to gran you a variance in the zoning ordinance, you must convey to the Board what your hardship is. Hardships are narrowness, shallowness, irregular shape, and topography of property. The Board can also consider other practical difficulties such as mature trees, easements, and location of disposal systems which can affect your plan. Consideration can be given to the characteristics of neighborhood and the way it is developed. One or more of these conditions must affect your inability to build or occupy the property to provide your case.

At the public hearing, please be prepared to tell the Board what your hardship is, why you cannot build in accordance with zoning without requesting a variance and why you feel you have legitimate hardship.

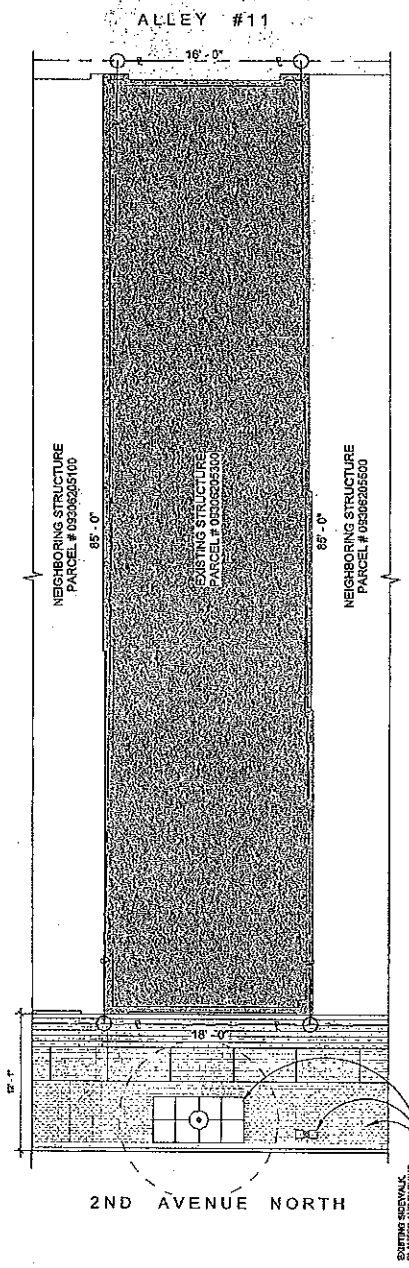
The Board cannot grant a variance based solely on inconvenience to the applicant or solely on a financial consideration. It is incumbent on you as the appellant to complete this form by conveying a HARDSHIP as outlined. At the meeting it is important that you explain this hardship as effectively as possible.

WHAT SPECIFIC AND UNIQUE CIRCUMSTANCES (HARDSHIP) EXIST THAT WOULD AUTHORIZE THE CONSIDERATION OF THE BOARD UNDER THE REVIEW STANDARDS AS OUTLINED?

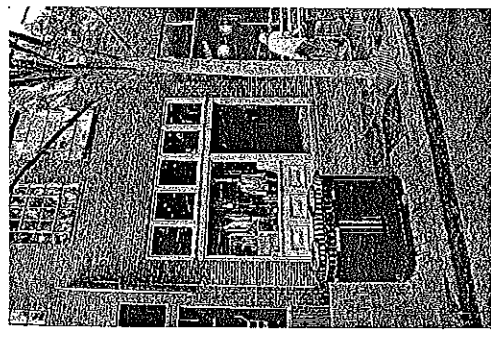
There is an 18' wide section of brick sidewalk
in front of our building which I assume
has historic significance and would not
fall under the sidewalk improvement ordinance
Our work is limited to the interior of the building
with little if any effect to the sidewalk.



1 Front View
1/4" = 1'-0"



Site Plan Information
1/8" = 1'-0"



Existing Street View