

**MINUTES OF THE MEETING OF THE
FRANKLIN BOARD OF ZONING APPEALS
MAY 1, 2014**

The Franklin Board of Zoning Appeals held a regular meeting on Thursday, May 1, 2014 at 6:00 p.m. in the **City Hall Boardroom**.

Members present: Frank Jones
Joel Tomlin
Dave Rittenberry
Gillian Fischbach

Staff present: Donald Anthony, Planning & Sustainability
Susan Coleman, Planning & Sustainability
Kristen Corn, Law Department
Shanna McCoy, BNS Department

The agenda read as follows:

Minutes, April 3, 2014

A **Zoning Map Interpretation Request** by Thomas Hill for Ford Custom Builders, LLC, to appeal to the BZA to make an interpretation of the location of the Floodway Fringe Overlay (FFO) Zoning District boundary based on new FEMA documentation for the property located at 446, 454, 460, 464, 474, 476, 480, and 484 Avon Circle Road.

A **Variance Request** by Jeff and Liz Johnson to vary the rear yard setback by fourteen (14) feet for the property located at 1308 Buckingham Circle in the Buckingham Park Subdivision to screen an existing deck.

Chair Jones called the meeting to order at 6:00 pm.

Chair Jones requested to know if there were any non-agenda items.

Staff stated there were no non-agenda items to be heard.

Minutes, April 3, 2014

Mr. Rittenberry moved to approve the minutes from April 3, 2014 as submitted. Ms. Fischbach seconded the motion and the motion passed unanimously.

- 1. A Zoning Map Interpretation Request by Thomas Hill for Ford Custom Builders, LLC, to appeal to the BZA to make an interpretation of the location of the Floodway Fringe Overlay (FFO) Zoning District boundary based on new FEMA documentation for the property located at 446, 454, 460, 464, 474, 476, 480, and 484 Avon Circle Road.**

Mr. Anthony stated The Highlands at Ladd Park PUD Subdivision, section 11, includes eight proposed residential lots at 446, 454, 460, 464, 474, 476, 480, and 484 Avon Circle Road. Mr. Anthony stated the property is located approximately 1,000 feet south of the Harpeth River, the subject property lies almost entirely within the City's Floodway Fringe Overlay (FFO) District. Mr. Anthony stated the FFO District was created to coincide with the Federal Emergency Management Agency's (FEMA) designated floodplains and the Franklin Zoning Ordinance (cited above) prohibits the creation of new buildable lots in the FFO District. Mr. Anthony stated the applicant has obtained a Letter of Map Revision (LOMR) from FEMA, which removes the subject property from the 100-year floodplain, thus, the FFO District no longer coincides with the FEMA-designated floodplain on the subject property. Mr. Anthony stated the appellant requests that the BZA reinterpret the FFO boundary to reflect adjusted floodplain boundary as shown on the LOMR.

Chair Jones opened the floor to public comment.

Mr. Hill and Mr. Charles stated they were happy to answer any questions.

Mr. Rittenberry moved to approve that the BZA reinterpret the FFO boundary to reflect adjusted floodplain boundary as shown on the LOMR. Ms. Fischbach seconded the motion and the motion passed unanimously. (4-0)

2. A Variance Request by Jeff and Liz Johnson to vary the rear yard setback by fourteen (14) feet for the property located at 1308 Buckingham Circle in the Buckingham Park Subdivision to screen an existing deck.

Mr. Anthony stated the appellant requests a 16-foot rear yard setback variance in order to screen an existing deck on this lot. Mr. Anthony stated the proposed screened deck would encroach into the required rear yard setback by 14-feet and the required rear yard setback is 30-feet.

Mr. Anthony stated as the board knows three standards must be established to grant the variance and they are as follows:

1. There must be an extraordinary or exceptional situation or condition pertaining strictly to the property considered (generally due to narrowness, shallowness, unusual shape or some exceptional topographic condition);
2. Strict application of the Ordinance would result in practical difficulties to, or undue hardship upon, the owner of the property; and
3. The relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zoning Ordinance.

Mr. Anthony stated in relation to the first standard the appellant contends that the both the topography and unusual shape of the lot create a condition that would make constructing this covered deck difficult and a review of the plat for the Buckingham Park Subdivision and an as-built survey provided by the appellant confirm this fact. Mr. Anthony stated given the unique shape of this lot, the only practical siting for this covered deck is the location previously and currently selected. Mr. Anthony stated the appellant notes in their letter accompanying this submittal that setback variances have already been granted for this property to allow for the existing deck (rear yard), the ground HVAC units (side yard), and a retaining wall (front yard).

Mr. Anthony stated the second standard to be considered is that of hardship or practical difficulty and the appellant contends that since this lot is very steep and shallow, strict application of the *Zoning Ordinance* would create a hardship. Mr. Anthony stated the appellant noted the surrounding properties possess screened decks without the necessity of obtaining a rear yard setback variance and as noted above, a review of the plat reveals this lot is unique in both size and topography. Mr. Anthony stated as the third standard states it must be determined whether granting this setback variance would be a detriment to the public good or impair the purpose and intent of the *Zoning Ordinance*.

Mr. Anthony stated to this end, the primary function of a building setback is to ensure that adequate light, air, and space exist between structures and with the deck to be screened currently existing on this lot, there are no conflicts with other structures around this site that would harm the public safety or welfare. Mr. Anthony stated in the appellant's letter, the appellant argues that since this lot borders an undeveloped wooded site and is not visible from the interior of the subdivision, the public good is not impaired and since many of the surrounding property owners have existing screened decks, granting this variance would not impair the purpose and intent of the *Zoning Ordinance*. Mr. Anthony stated the appellant is correct in their contention that many of the properties within this subdivision have decks (from aerial analysis) and since 16 feet of rear yard would remain unencumbered with this screened porch addition, granting this variance will not greatly impact any adjacent structures in their access to light and air, therefore, staff finds that granting this variance would not impair the intent and purpose of the Zoning Ordinance and that the third threshold is satisfied.

Chair Jones opened the floor to public comment and no one was present to represent this item and no one requested to speak. The Board decided to hear the item any way.

Ms. Fischbach moved to approve the variance request to vary the required thirty (30) foot rear-yard setback by fourteen (14) feet because: 1) the lot is unique when compared to other lots in the surrounding area and possesses conditions containing strictly to the property, 2) a practical difficulty to the property owner would result because of the unique lot shape and existing natural features, and 3) the request can be granted without impairing the intent and purpose of the Franklin Zoning Ordinance because the lot is unique and substantial detriment to the public good would not result. Mr. Tomlin seconded the motion and the motion passed unanimously. (4-0)

Other Business.

No other business was discussed.

Adjourn.

With there being no further business Ms. Fischbach moved to adjourn the meeting at 6:10 pm. Mr. Rittenberry seconded the motion and the motion carried unanimously.

Chair