

**MINUTES OF THE MEETING OF THE  
FRANKLIN BOARD OF ZONING APPEALS  
DECEMBER 4, 2014**

The Franklin Board of Zoning Appeals held a regular meeting on Thursday, December 4, 2014 at 6:00 p.m. in the **City Hall Boardroom**.

Members present:               Greg Caesar  
  Joel Tomlin  
  Gillian Fischbach  
  Frank Jones

Staff present:                   Emily Hunter, Planning & Sustainability  
  Brad Baumgartner, Planning & Sustainability  
  Kristen Corn, Law Department

The agenda read as follows:

Minutes, November 6, 2014

A **Variance Request** by Jeff Carneal to allow an additional accessory structure for the property located at 164 Spencer Creek Road.

A **Variance Request** by David Bradley to vary the rear yard setback by twelve (12) feet for the property located at 829 Walden Drive in the Chestnut Bend Subdivision.

Chair Jones called the meeting to order at 6:00 pm and requested to know if there were any non-agenda items.

Ms. Hunter stated there was only the meeting date change for January..

Chair Jones stated that could be done at the end of the meeting and Ms. Hunter agreed.

**Minutes, November 6, 2014**

Mr. Caesar requested to amend the minutes to have Joel Tomlin removed from the list of members present at that meeting.

Mr. Caesar moved to approve the amended minutes. Ms. Fischbach seconded the motion and the motion passed.

**1. A Variance Request by Jeff Carneal to allow an additional accessory structure for the property located at 164 Spencer Creek Road.**

Mr. Baumgartner stated the appellant requests an additional accessory structure for the property located at 164 Spencer Creek Road. Mr. Baumgartner explained the Franklin *Zoning Ordinance*

only allows one accessory structure per lot. Mr. Baumgartner stated in order for the Board to grant a variance, three standards must be established and include the following:

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. Baumgartner stated the first standard to be considered is whether there is an extraordinary or exceptional situation pertaining to the subject property and explained this is a 7.1 acre lot located around the Fieldstone Farms PUD Subdivision. Mr. Baumgartner stated the property is at a higher elevation than the adjacent properties to the north and to the east with heavily wooded areas between the proposed accessory structure and the adjacent properties should minimize any detrimental visual effects. Mr. Baumgartner stated based on the subject property's unique features and topography, staff finds that there is an extraordinary or exceptional situation pertaining strictly to the subject property, thereby meeting the first threshold for granting a variance. Mr. Baumgartner stated the second standard to be considered is that of hardship or practical difficulty, so the Board must determine whether the inability to construct an additional accessory structure on the subject property is a hardship or practical difficulty. Mr. Baumgartner stated Staff reviewed the recorded plat for the property as well as GIS and aerial data for the property which showed the subject property sloping downward toward the rear of the property and away from the primary residence. Mr. Baumgartner stated The *Zoning Ordinance* does not allow accessory structures to be located in front of the primary structure and with such a narrow lot the applicant must locate the accessory structure on the rear side of the lot, so the proposed location for the accessory structure would appear to have the least detrimental effect on the surrounding properties and nearby residents. Mr. Baumgartner stated the final standard the Board must consider is whether the requested relief would be a detriment to the public good or impair the intent and purpose of the *Zoning Ordinance*. Mr. Baumgartner stated in this case, with such a large lot, an additional accessory structure should not create a detriment to the public good and further, granting this variance should not greatly impact any adjacent lot or sites. 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.

Mr. Carneal stated he did not have a lot to add to what staff had said.

Chair Jones requested to know if there were any citizen comments.

Ms. Mona Baccash at 305 Wendron Court spoke against granting this variance.

Ms. Fischbach requested to know how big the existing accessory structure is.

Mr. Carneal stated 5 or 6 hundred square feet.

Mr. Caesar requested to see the photographs Ms. Baccash had and she showed the pictures.

Mr. Carneal explained the geographical layout of the property and explained the additional structures in Ms. Baccash's photograph's are on neighboring lots, not all his.

Mr. Caesar moved to close public hearing with Ms. Fischbach seconding the motion and the motion passed.

Mr. Caesar questioned if this property was in the Hillside zone.

Mr. Baumgartner stated no.

Chair Jones asked if there were any letters or email received on this request.

Mr. Baumgartner stated no.

Mr. Caesar moved to approve the variance request to allow an additional accessory structure 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 unique lot conditions, 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 carried unanimously.

**4. A Variance Request by David Bradley to vary the rear yard setback by twelve (12) feet for the property located at 829 Walden Drive in the Chestnut Bend Subdivision.**

Mr. Baumgartner stated the appellant requests a twelve (12) foot variance from the rear yard setback for the property located at 829 Walden Drive in the Chestnut Bend Subdivision to construct a covered deck. Mr. Baumgartner stated the recorded plat for this subdivision requires this lot to maintain a minimum rear-yard setback of forty (40) feet. Mr. Baumgartner stated for the Board to grant a variance, three standards must be established and include the following:

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. Baumgartner stated in regard to the first standard, the lot is shallower than other properties along Walden Drive due largely to its unique placement near a traffic circle and multiple culs-de-sac, this particular property is exceptionally shallow. Mr. Baumgartner stated the lot measures approximately 147 feet in depth, whereas most other properties in the subdivision are at between 180-250 feet in depth, so due to the shallowness of the lot, staff finds that there is an extraordinary or exceptional situation pertaining strictly to the physical characteristics of the property, thereby meeting the first threshold established for granting a variance under state law and city requirements. Mr. Baumgartner stated the second standard to be considered is that of hardship or

practical difficulty and this is not a clear-cut situation because the Board must determine if the inability to construct a screened porch on this property is a hardship or difficulty. Mr. Baumgartner explains the lot's unusual shape limits the amount of space available within the building envelope and the proposed screen porch could not be located on either side of structure nor on the front façade due to lot size limitations and neighborhood form. Mr. Baumgartner stated the proposed rear-yard location appears to be the most appropriate location with regard to the surrounding properties and nearby residents. Mr. Baumgartner stated finally, the Board must determine if the relief would be a detriment to the public good or impair the intent and purpose of the *Zoning Ordinance*. Mr. Baumgartner stated the intent of the rear-yard setback is to ensure that surrounding properties have access to light, air, and be free from off-site encumbrances and since 28 feet of the rear yard will remain unencumbered with this covered deck 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.

Mr. Bradley stated he had no comment but was available for questions.

Chari Jones requested to know if there were any citizen comments.

Mr. Lewis Moore, whose property backs up to Mr. Bradley, spoke in favor granting the variance request.

Mr. Caesar moved to close public hearing with Ms. Fischbach seconding the motion and the motion passed.

Ms. Fischbach moved to approve the variance request to vary the required forty (40) foot rear-yard setback by twelve (12) 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 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. Caesar seconded the motion and the motion passed unanimously.

### **Other Business.**

#### **Change January Meeting Date**

Mr. Caesar moved to change the January 1, 2015 meeting date to January 8, 2015. Ms. Fischbach seconded the motion and the motion passed unanimously.

### **Adjourn.**

With there being no further business the meeting was adjourned at 6:15 pm.

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Chair