

**MINUTES OF THE MEETING OF THE
FRANKLIN BOARD OF ZONING APPEALS
JUNE 4, 2015**

The Franklin Board of Zoning Appeals held a regular meeting on Thursday, June 4, 2015 at 6:00 p.m. in the **City Hall Boardroom**.

Members present: Joel Tomlin
 Gillian Fischbach
 Frank Jones

Staff present: Andrew Orr, Planning & Sustainability
 Josh King, Planning & Sustainability
 Susan Coleman, Planning & Sustainability
 Kristen Corn, Law Department

The agenda read as follows:

Minutes, January 8, 2015

A **Variance Request** by Stephan and Nancy Lemon to vary the rear yard setback by three (3) feet for the property located at 419 Galloway Drive in the Sullivan Farms PUD Subdivision to allow for the addition of a covered porch.

A **Variance Request** by Bryan Poerio to vary the rear yard setback by two (2) feet for the property located at 228 Sontag Drive in the Polk Place Subdivision to allow for the addition of a covered porch.

A **Variance Request** by Robert and Jolene Richardson to vary the rear yard setback by ten (10) feet for the property located at 320 Sheffield Place in the Royal Oaks Subdivision to allow for the addition of a covered porch.

A **Zoning Map Interpretation Request** by Greg Gamble 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 Lot 96 of Section 1 of the Rizer Point PUD Subdivision.

A **Zoning Map Interpretation Request** by Greg Gamble 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 554 and 562 Franklin Road.

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

Staff stated there were no non-agenda items.

Minutes, April 2, 2015

Ms. Fischbach moved to approve the April 2, 2015 minutes. Mr. Tomlin seconded the motion and the motion passed.

1. A Variance Request by Stephan and Nancy Lemon to vary the rear yard setback by three (3) feet for the property located at 419 Galloway Drive in the Sullivan Farms PUD Subdivision to allow for the addition of a covered porch.

Mr. King stated the appellant requests a three (3) foot variance from the rear yard setback for the property located at 419 Galloway Drive in the Sullivan Farms PUD Subdivision to construct a covered porch. Mr. King noted the recorded plat for this subdivision requires this lot to maintain a minimum rear yard setback of twenty-five (25) feet. Mr. King stated to summarize an excerpt from the *Zoning Ordinance*, which is noted in an earlier section of this staff report, 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. King stated the first standard to be considered is whether there is an extraordinary or exceptional situation pertaining to the subject property. Mr. King stated the subject property is located near the intersection of Galloway Drive and Kiltie Way in the Sullivan Farms PUD Subdivision. Mr. King stated the lot is a typical lot in terms of dimensions and layout with no extraordinary or exceptional situations and the lot's dimensions (65-foot width and 100-foot depth) mirror those of other standard lots in the subdivision. Mr. King stated the lot is not situated on a corner or at the end of a cul-de-sac and based on the subject property's typical shape and the Board's previous actions in similar cases, staff finds that there is no extraordinary or exceptional situation pertaining strictly to the subject property, thereby not meeting the first threshold for granting a variance. Mr. King stated the second standard to be considered is that of hardship or practical difficulty. Mr. King stated the Board must determine whether the inability to construct a screen porch on the subject property is a hardship or practical difficulty. Mr. King stated Staff reviewed the recorded plat for the property as well as GIS and aerial data for the property and the appellant appears to have few options for placing a covered porch adjacent to the house. Further, situating the porch on the northeastern or southwestern sides of the house may be inconsistent with the orientation of the house and the design context of the neighborhood. Mr. King stated the proposed rear yard location would appear to have the least impact on the surrounding properties and nearby residents. Mr. King stated ultimately, the Board must decide whether the inability to construct a covered porch within the required twenty-five (25) foot rear setback constitutes a hardship or practical difficulty. Mr. King 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. King stated the intent of rear yard setbacks is to ensure that surrounding properties have access to light, air, and be free from off-site encumbrances and in this case, twenty

(22) feet of the rear yard will remain unencumbered with the proposed screen porch addition. Granting this variance should not greatly impact any adjacent structure's 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. King stated in order for the Board to grant a variance, all three variance standards must be met. Based on the lack of an extraordinary or exceptional situation pertaining to the subject lot, staff recommends disapproval of the three (3) foot rear yard setback variance requested by the appellant.

Ms. Lemon stated their lot is a very shallow lot and they are asking for the smallest variance possible to build a screen porch and she did research to come up with this request. Ms. Lemon stated her HOA has approved the porch and has letters from other residents in favor of the porch.

Chair Jones stated this commission has faced this a couple of times and every time we deal with a PUD development we are dealing with postage stamp lots.

Mr. Tomlin requested to know what was currently there.

Ms. Lemon stated there is an uncovered 16 by 20 deck currently there.

Mr. Tomlin moved to approve the variance request to vary the required twenty-five (25) foot rear-yard setback by three (3) feet to twenty-two (22) feet because the standards for granting a variance have been satisfied due to minimal encroachment, a shallow lot, hardship on appellant, no detriment to public good and does not compromise the Franklin Zoning Ordinance. Ms. Fischbach seconded the motion and the motion passed 3-0.

2. A Variance Request by Bryan Poerio to vary the rear yard setback by two (2) feet for the property located at 228 Sontag Drive in the Polk Place Subdivision to allow for the addition of a covered porch.

The appellant requests a two (2) foot variance from the rear yard setback for the property located at 228 Sontag Drive in the Polk Place Subdivision to construct a covered porch. Mr. King the recorded plat for this subdivision requires this lot to maintain a minimum rear yard setback of thirty (30) feet. Mr. King 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. King stated the first standard to be considered is whether there is an extraordinary or exceptional situation pertaining to the subject property. Mr. King stated the subject property is located to the west of an area platted for future right-of-way that has not been improved or built and the rear of the property slopes downward to an open space lot; due to the open space lot, there are no neighbors on the rear (northwestern) side of the subject property. Mr. King stated the depth

of the subject property ranges from 109 feet to 130 feet, which is considerably shallower than many neighboring lots; some lots in Polk Place section 10 are as deep as 175 feet. Mr. King stated due to the unique situation of the lot (abutting an unbuilt right-of-way and an open space) and the lot's shallowness, 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. King stated the second standard to be considered is that of hardship or practical difficulty. The Board must determine whether the inability to construct a screen porch on the subject property is a hardship or practical difficulty. Mr. King stated Staff reviewed the recorded plat for the property as well as GIS and aerial data for the property and the subject property has four distinct property lines. Mr. King stated the recorded plat shows there is an open space lot to the rear of the property and the appellant appears to have few options for placing a covered porch adjacent to the house. Mr. King stated situating the porch on the southwestern or eastern sides of the house may be inconsistent with the orientation of the house and the design context of the neighborhood. Mr. King stated the proposed rear yard location would appear to have the least impact on the surrounding properties and nearby residents. Mr. King stated ultimately, the Board must decide whether the inability to construct a covered porch within the required thirty (30) foot rear setback constitutes a hardship or practical difficulty. Mr. King 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. King stated the intent of rear yard setbacks is to ensure that surrounding properties have access to light, air, and be free from off-site encumbrances and in this case, twenty-eight (28) feet of the rear yard will remain unencumbered with the proposed screen porch addition. Mr. King stated granting this variance should not greatly impact any adjacent structure's access to light and air. Mr. King stated 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. King stated if the Board finds that the second threshold is satisfied, then all three standards for the variance will be met, and staff recommends approval of the two (2) foot rear yard setback variance requested by the appellant.

Mr. Poerio stated he agreed with staff's comments and had nothing to add.

Chair Jones requested to know if there were any citizen comments and no one wished to speak.

Ms. Fischbach moved to approve the variance request to vary the required thirty (30) foot rear-yard setback by two (2) feet to twenty-eight (28) 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. Tomlin seconded the motion and the motion passed 3-0.

3. A Variance Request by Robert and Jolene Richardson to vary the rear yard setback by ten (10) feet for the property located at 320 Sheffield Place in the Royal Oaks Subdivision to allow for the addition of a covered porch.

Mr. Orr stated the appellant requests a ten (10) foot variance from the rear yard setback for the property located at 320 Sheffield Place in the Royal Oaks Subdivision to construct a covered porch. Mr. Orr stated the recorded plat for this subdivision requires this lot to maintain a minimum rear yard setback of thirty (30) feet. Mr. Orr 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. Orr stated the first standard to be considered is whether there is an extraordinary or exceptional situation pertaining to the subject property. Mr. Orr Stated the subject property is located near the end of a cul-de-sac, which gives the entire lot a unique shape and creates an unusual building envelope and the subject property has approximately 47 feet of street frontage, while the rear property line measures approximately 195 feet wide. Mr. Orr stated the depth of the lot ranges from 116 feet on the east side to 189 feet on the west side. Mr. Orr stated these unique lot measurements substantiate an extraordinary or exceptional situation, so based on the subject property's unique characteristics and the Board's previous actions in similar cases, staff finds that there is extraordinary or exceptional situation pertaining strictly to the subject property, thereby meeting the first threshold for granting a variance. Mr. Orr stated the second standard to be considered is that of hardship or practical difficulty. Mr. Orr stated the Board must determine whether the inability to construct a screen porch on the subject property is a hardship or practical difficulty. Mr. Orr stated Staff reviewed the recorded plat for the property as well as GIS and aerial data for the property and the subject property has four distinct property lines. Mr. Orr explained the appellant appears to have few options for placing a covered porch adjacent to the house. Mr. Orr stated the proposed rear yard location would appear to have the least impact on the surrounding properties and nearby residents. Mr. Orr stated ultimately, the Board must decide whether the inability to construct a covered porch within the required thirty (30) foot rear setback constitutes a hardship or practical difficulty. Mr. Orr 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. Orr stated the intent of rear yard setbacks is to ensure that surrounding properties have access to light, air, and be free from off-site encumbrances and in this case, twenty (20) feet of the rear yard will remain unencumbered with the proposed screen porch addition. Mr. Orr stated granting this variance should not greatly impact any adjacent structure's access to light and air and 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. Orr stated if the Board finds that the second threshold is satisfied, then all three standards for the variance will be met, and staff recommends approval of the ten (10) foot rear yard setback variance requested by the appellant.

Mr. Richardson stated staff did not quite correctly state their actual request, which is to build on a kitchen addition with a screened porch at one end. Mr. Richardson stated due to how their house is laid out they cannot add a bedroom downstairs without putting in a kitchen addition. Mr. Richardson stated their neighbors are okay with this addition.

Chair Jones requested to know if there were any citizen comments and no one wished to speak.

Chair Jones requested clarification on the request from staff.

Ms. Fischbach stated it looks like only one corner of the kitchen would be in the setback and we would include the kitchen addition and porch in the motion. Ms. Fischbach stated it looks like a corner of the existing house sits in the setback.

Mr. Orr stated he thought that was an addition that took place a long time ago.

Ms. Fischbach moved to approve the variance request to vary the required thirty (30) foot rear-yard setback by ten (10) feet to twenty (20) 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. Tomlin seconded the motion and the motion passed 3-0.

4. A Zoning Map Interpretation Request by Greg Gamble 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 Lot 96 of Section 1 of the Rizer Point PUD Subdivision.

The appellant has been granted a Letter of Map Revision (LOMR) from the Federal Emergency Management Agency (FEMA) for Rizer Point PUD Subdivision, section 1, lot 96. The City of Franklin's Floodway Fringe Overlay (FFO) District was created to coincide with FEMA's designated floodplains. The Franklin Zoning Ordinance (cited above) prohibits the creation of new buildable lots in the FFO District. The LOMR obtained by the appellant 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. The appellant requests that the BZA reinterpret the FFO boundary to reflect the adjusted floodplain boundary as shown on the LOMR.

Mr. Gamble stated he was happy to answer any questions.

Chair Jones requested to know if there were any citizen comments and no one wished to speak.

Ms. Fischbach moved to approve the adjustment of the FFO to reflect FEMA's map. Mr. Tomlin seconded the motion and the motion passed 3-0.

5. A Zoning Map Interpretation Request by Greg Gamble 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 554 and 562 Franklin Road.

Ms. Fischbach recused herself from this item.

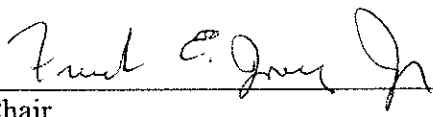
Due to lack of quorum this item was deferred to the next BZA meeting.

Other Business.

No other Business was discussed.

Adjourn.

With there being no further business the meeting was adjourned at 6:36 pm.



Chair