

**MINUTES OF THE MEETING OF THE
FRANKLIN BOARD OF ZONING APPEALS
NOVEMBER 5, 2015**

The Franklin Board of Zoning Appeals held a regular meeting on Thursday, November 5, 2015 at 6:00 p.m. in the **City Hall Boardroom**.

Members present: Frank Jones
 Greg Caesar
 Joel Tomlin (arrived at 6:10 pm)
 Gillian Fischbach

Staff present: Brad Baumgartner, Planning & Sustainability
 Susan Coleman, Planning & Sustainability
 Kristen Corn, Law Department

The agenda read as follows:

Minutes, October 1, 2015

Review of Board of Zoning Appeals 2016 Meetings and Deadlines Schedule

A **Variance** Request by Steve King to temporarily allow an accessory structure to be the primary use for the property located at 4373 South Carothers Road.

A **Variance** Request by Steve King to allow an accessory structure in the front yard setback at the property located at 4373 South Carothers Road.

A **Zoning Map Interpretation** Request by Kris Keown to appeal to the BZA to make an interpretation of the location of Floodway Fringe Overlay (FFO) Zoning District boundary based on new FEMA documentation for the properties located within Highlands of Ladd Park Section G Portions of Section 25 & 26.

A **Variance** Request by Jeff Heinze to vary the front yard setback by two (2) feet for building 2 within the Resource Center Apartments located at 1000 Ammonett Drive.

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, October 1, 2015

Mr. Caesar moved to approve the October 1, 2015 meeting minutes. Ms. Fischbach seconded the motion and the motion passed unanimously.

Review of Board of Zoning Appeals 2016 Meetings and Deadlines Schedule

This item will be heard at the next BZA meeting.

1. A Variance Request by Steve King to temporarily allow an accessory structure to be the primary use for the property located at 4373 South Carothers Road.

Mr. Baumgartner stated the appellant is requesting to allow an accessory structure to be the primary use for the property located at 4373 South Carothers Road. Mr. Baumgartner stated the accessory structure would remain while the applicant prepares to subdivide the lot and build a new house. Mr. Baumgartner stated the applicant met with Staff and was directed that before he subdivide his lot he must get approval from the Board of Zoning Appeals to allow the existing barn to remain on the site as the primary use until the lot can be subdivided and a home built on that lot, due to the Franklin Zoning Ordinance not allowing an accessory structure to be the primary use on a 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. Mr. Baumgartner stated the lot is a long lot located on South Carothers Road with the Lockwood Glenn Subdivision on three sides of the subject property. Mr. Baumgartner stated the lot is a typical lot in terms of dimensions and layout. Mr. Baumgartner stated based on the subject property's typical shape, staff finds that there is not an extraordinary or exceptional situation pertaining strictly to the subject property, thereby not meeting the first threshold for granting a variance. Mr. Baumgartner stated the second standard to be considered is that of hardship or practical difficulty and the Board must determine whether the inability to allow an accessory structure to be allowed as a primary use 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. Mr. Baumgartner stated ultimately, the Board must decide whether the fact that both the accessory structure and an existing house are already in existence and are in a location that limits the possibilities for subdivision without demolition constitutes a hardship or practical difficulty. 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 the intent of not allowing accessory structures as primary uses on the lot is to ensure that the accessory structures are well maintained and do not become a public safety hazard and in this case, temporarily allowing the accessory structure to remain as the primary use while the applicant subdivides and constructs a new home would not detrimentally affect the Zoning Ordinance. Mr. Baumgartner 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. Baumgartner stated in order for the Board to grant a variance, all three variance standards must be met and based on the presence

of an extraordinary or exceptional situation pertaining to the subject lot, staff recommends disapproval of the accessory structure as the primary use variance requested by the appellant.

Mr. King explained when purchasing this property the barn was a main focus of the purchase. Mr. King stated they have spent the last couple of years updating the barn by making sure it was Structural sound, adding a studio, etc. Mr. King stated he was musician and a lot time of spent at the barn. Mr. King stated they want to take advantage of some opportunities in the area and subdivide the property and keep the barn in part of the back property where we intend to build a new house. Mr. King stated the barn would be the primary structure on this property for just a few months and they would appreciate if the variance could be approved to be able to keep the barn.

Chair Jones requested to know if the family would live in the barn while the new house is being built.

Mr. King stated they would be using it to build out of, but did not know if they could live in it or Not and requested to know if that was allowable.

Mr. Baumgartner stated he did not know that would be have to be answered by BNS.

Mr. Caesar and Ms. Fischbach requested clarification on the request.

Mr. Baumgartner explained the request is for allowing an accessory structure to be the primary use on a lot.

Discussion ensued on the definition of an accessory structure ensued.

After discussion Mr. Caesar moved to table a motion for this item until Item 2 was discussed and voted on. Ms. Fischbach seconded the motion and the motion passed.

Ms. Fischbach noted that if this variance isn't approved it sounds like he will have to tear down this barn.

Mr. Baumgartner stated that was correct.

After further discussion Ms. Fischbach moved to approve this request to allow the accessory structure to be the primary use because there is an extraordinary or exceptional situation pertaining strictly to the property because strict application of the Ordinance would result in practical difficulties to, or undue hardship upon the owner of the property; and 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. Caesar seconded the motion and the motion passed unanimously.

- 1. A Variance Request by Steve King to allow an accessory structure in the front yard setback at the property located at 4373 South Carothers Road.**

Mr. Baumgartner stated the appellant requests that the proposed accessory structure be allowed to be located in the front of the proposed new home for the property located at 4373 South Carothers Road. Mr. Baumgartner stated the applicant wishes to keep the existing barn on his lot for when he subdivides the lot wants to keep the barn as a part of the newly created lot to the rear of the existing lot. Mr. Baumgartner stated the Franklin Zoning Ordinance does not allow accessory structures to be located in front of the primary structure. Mr. Baumgartner stated the structure is already in existence and if the lot is subdivided and a new home placed on the newly created lot, the structure would be in front of the primary building. 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. Mr. Baumgartner stated the lot is a long lot located on South Carothers Road with the Lockwood Glenn Subdivision on three sides of the subject property and the lot is a typical lot in terms of dimensions and layout. Mr. Baumgartner stated the lot's dimensions are typical of other more standard lots surrounding the area and based on the subject property's typical shape, staff finds that there is not an extraordinary or exceptional situation pertaining strictly to the subject property, thereby not meeting the first threshold for granting a variance. Mr. Baumgartner stated the second standard to be considered is that of hardship or practical difficulty. Mr. Baumgartner stated the Board must determine whether the inability to allow an accessory structure to be located in the front yard 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 and ultimately, the Board must decide whether the fact that the accessory structure is already in existence and is in a location that makes it impossible for it to be located in the side or rear yard setback constitutes a hardship or practical difficulty. 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 the intent of prohibiting accessory structures within the front or side yards is to enforce their presence as subordinate and incidental to the principle structure and in this case, allowing the barn to remain in front of what would become the principle structure would blur the lines of what is considered the principle structure on the lot. Mr. Baumgartner stated in this case, allowing the accessory structure to remain in front of the primary structure while the applicant subdivides and constructs a new home would not detrimentally affect the Zoning Ordinance 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. Baumgartner stated in order for the Board to grant a variance, all three variance standards must be met and based on the lack of an extraordinary or exceptional situation pertaining to the subject lot, staff recommends disapproval of the accessory structure located in front of the primary structure variance requested by the appellant.

Mr. King stated the property is long and narrow and the new entrance would be off one of the new roads off the new subdivision south of our property. Mr. King stated it is hard to tell right now where the front of the new piece of land would actually be, but they want to keep the barn. Mr. King stated city staff requested they ask for these requests as part of the subdivision plan.

Chair Jones stated we are missing a big point here and stated this property is surround on all three sides that creates a hardship. Chair Jones stated now the road they will access it is on the side not front.

Mr. Baumgartner stated with what was submitted with the new house and barn the layout showed differently.

Discussion ensued on how the road would be accessed and the entry to the proposed new house and the layout of the house and barn and shape of property

After discussion Mr. Caesar moved to approve due to narrow lot, strict application would result in undue hardships on appellant and relief can be granted without substantial detriment to public good and without substantially impairing the purpose of the Franklin Zoning Ordinance. Mr. Tomlin seconded the motion and the motion passed unanimously.

Mr. Caesar moved to introduce Item 1 back into the agenda. Mr. Tomlin seconded the motion and the motion passed.

2. A Zoning Map Interpretation Request by Kris Keown to appeal to the BZA to make an interpretation of the location of Floodway Fringe Overlay (FFO) Zoning District boundary based on new FEMA documentation for the properties located within Highlands of Ladd Park Section G Portions of Section 25 & 26.

Mr. Baumgartner stated the appellant is requesting a zoning map interpretation to make an interpretation of the location of the Floodway Fringe Overlay (FFO) Zoning District boundary based on new FEMA documentation for the proposed lots 487-496, 506-516, 534-539, 562-580, 584-590 of Section 25 and Section 26 of Highlands at Ladd Park Subdivision. Mr. Baumgartner stated the portions of the proposed lots 487-496, 506-516, 534-539, 562-580, 584-590 of Section 25 and Section 26 of Highlands at Ladd Park Subdivision that are in the FFO are located toward the eastern side of the new Carothers Parkway and southwest of the Harpeth River. Mr. Baumgartner stated the appellant has been granted a Letter of Map Revision (LOMR) from the Federal Emergency Management Agency (FEMA) for these properties and the FFO District was created to coincide with the Federal Emergency Management Agency's (FEMA) designated floodplains. Mr. Baumgartner stated the Franklin Zoning Ordinance (cited above) prohibits the creation of new buildable lots in the FFO District and the LOMR obtained by the appellant removes the subject property from the 100-year floodplain. Mr. Baumgartner stated the FFO District no longer coincides with the FEMA-designated floodplain on the subject property and the appellant requests that the BZA reinterpret the FFO boundary to reflect the adjusted floodplain boundary as shown on the LOMR.

Mr. Kowen stated this is a continuation of the site plan process they are undergoing.

Chair Jones requested to know if anyone citizens wished to comment and no one wished to.

Ms. Fischbach made a motion to approve the interpretation of the location of Floodway Fringe Overlay (FFO) Zoning District boundary based on new FEMA documentation for the properties located within Highlands of Ladd Park Section G Portions of Section 25 & 26. Mr. Caesar seconded the motion and the motion passed unanimously.

3. A Variance Request by Jeff Heinze to vary the front yard setback by two (2) feet for building 2 within the Resource Center Apartments located at 1000 Ammonett Drive.

Ms. Fischbach recused herself from this item.

Mr. Baumgartner stated the appellant is requesting a variance for two (2) feet of the front yard setback of the exiting building for the property at 1000 Ammonett Drive. Mr. Baumgartner stated the appellant requests that a variance be granted for the building that was inadvertently built into the front yard setback. Mr. Baumgartner stated the applicant is attempting to sell the property and during the due diligence period the potential buyer discovered the error. Mr. Baumgartner stated the applicant must come to the Board of Zoning Appeals to request a variance for the front yard setback error to have the property be in compliance and therefore, before the applicant can sell the subject property, they must get a variance determination from the Board of Zoning Appeals. 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 the subject property is a regularly shaped lot, there are no extraordinary topography changes on the lot. However, the building being already built, and the impacts it would have on existing renters in the apartment if the building was deemed necessary to be torn down to be moved back the appropriate two feet could be seen as a hardship. Mr. Baumgartner stated staff finds that there is an extraordinary or exceptional situation pertaining strictly to the subject property, and that this request does meet 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 location of the existing structures on the subject property is a hardship or practical difficulty. Mr. Baumgartner stated the hardship could be seen as a potential hardship and practical difficulty as the building is already constructed and residents with existing leases are occupying the space and ultimately, the Board must decide whether the location of the existing structures constitutes a hardship or practical difficulty. 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 the intent of front yard setbacks is to buffer the

building and the road from one another to give a livable aesthetically pleasing appearance and Staff finds that the relief of two feet would not negatively impact the building or the roadway and that the road is internal to the development, 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. Baumgartner stated in order for the Board to grant a variance, all three variance standards must be met and based on the presence of an extraordinary or exceptional situation pertaining to the subject lot, staff recommends approval of the front yard setback variance requested by the appellant.

Mr. Echols stated he agreed with staff analysis.

Chair Jones requested to know if anyone citizens wished to comment and no one wished to.

Mr. Caesar requested more clarification on this request.

Mr. Pascarella stated the building was built less than two years ago and an error was made on the corner foundation.

Mr. Caesar made a motion to approve the variance request to allow a two (2) foot variance to be located within the front yard of the property at 1000 Ammonett Drive because the standards for granting a variance have been satisfied. Mr. Tomlin seconded the motion and the motion passed unanimously.

Other Business.

No other Business was discussed.

Adjourn.

With there being no further business the meeting was adjourned at 7:00 pm.

Chair