

**MEETING MINUTES OF THE
FRANKLIN BOARD OF ZONING APPEALS
March 3, 2016**

The Franklin Board of Zoning Appeals held a regular meeting on Thursday, March 3, 2016 at 6:00 p.m. in the **City Hall Boardroom**.

Members present: Frank Jones
 Joel Tomlin III
 Dave Rittenberry
 Gillian Fischbach

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

The agenda read as follows:

Review of Minutes from February 4, 2016 BZA Meeting

A **Variance Request** by Paul Hauser to vary the rear yard setback by eight (8) feet for the property located at 404 Cannonade Circle.

A **Variance Request** by Keith and Kathy Milton to vary the side yard setback by two (2) feet for the property located at 733 Springlake Drive.

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

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

Minutes, February 4, 2016

Mr. Rittenberry moved to approve the February 4, 2016 meeting minutes. Mr. Tomlin seconded the motion and the motion passed unanimously 4-0.

1. A Variance Request by Paul Hauser to vary the rear yard setback by eight (8) feet for the property located at 404 Cannonade Circle.

Mr. Baumgartner stated the appellant requests an eight (8) foot variance from the rear yard setback for the property located at 404 Cannonade Circle in the Fieldstone Farms PUD Subdivision to construct a covered porch. Mr. Baumgartner stated the recorded plat for this subdivision requires this lot to maintain a minimum rear yard setback of thirty (30) feet. Mr. Baumgartner 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. Baumgartner stated the first standard to be considered is whether there is an extraordinary or exceptional situation pertaining to the subject property and the lot is located mid-block of an existing street and is a typical lot in terms of dimensions and layout. Mr. Baumgartner stated the lot's dimensions (100.05-foot depth and 61.03-foot width at the rear) are typical of other more standard lots in the subdivision. However, the property is adjacent to open space on the southern side of the property which does allow for a relief from adjoining neighbors where the porch would be situated. 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 construct a screen porch 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 the appellant appears to have few options for placing a covered porch adjacent to the house. Mr. Baumgartner stated 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 and the proposed rear yard location would appear to have the least impact on the surrounding properties and nearby residents. Mr. Baumgartner 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. 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 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 two (22) feet of the rear yard will remain unencumbered with the proposed screen porch addition. Mr. Baumgartner 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. 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 eight (8) foot rear yard setback variance requested by the appellant.

Mr. Hauser stated he didn't feel this request would not be a detriment to the public good and feels this would not be a detriment to the neighborhood.

Chair Jones requested to know if any citizens would like to speak and no one requested to speak.

Mr. Tomlin explained that there is an existing deck already encroaching and the applicant is requesting to cover this.

Ms. Fischbach moved for approval based on the lot being a small lot and this qualifies as an exceptional situation for the applicant and it is a practical difficulty to not be allowed to cover an

existing porch and we have in the past approved similar issues and relief can be granted without detriment to the public good or impair the intent and purpose of the Zoning Ordinance. Mr. Tomlin seconded the motion and the motion passed 4-0.

2. A Variance Request by Keith and Kathy Milton to vary the side yard setback by two (2) feet for the property located at 733 Springlake Drive.

Mr. Baumgartner stated the appellant requests a two (2) foot variance from the side yard setback for the property located at 733 Springlake Drive in the Willowsprings PUD Subdivision to construct an outdoor kitchen. Mr. Baumgartner stated the recorded plat for this subdivision requires this lot to maintain a minimum side yard setback of five (5) feet. Mr. Baumgartner noted 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 located mid-block of an existing street and is a typical lot in terms of dimensions and layout and the lot's dimensions (120.00-foot depth and 80.00-foot width at the rear) are typical of other more standard lots in the subdivision. 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 construct an outdoor kitchen 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. Ultimately, the Board must decide whether the inability to construct an outdoor kitchen within the required five (5) foot side 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 side yard setbacks is to ensure that surrounding properties have access to light, air, and be free from off-site encumbrances and this will leave 12' between buildings. Mr. Baumgartner stated in this case, three (3) feet of the side yard will remain unencumbered with the proposed outdoor kitchen addition and granting this variance should not greatly impact any adjacent structure's access to light and air. Mr. Baumgartner stated 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 noted 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 two (2) foot side yard setback variance requested by the appellant.

Chair Jones requested to know if any citizens would like to speak and no one requested to speak.

Ms. Nikki Schmidt stated she was with the general contractor. Ms. Schmidt stated the reason for this request is the value view for this lot is the rear view, which is a lake view, and they want to put a kitchen off the side lawn setback to help keep the value view.

Chair Jones requested to know if staff had any public comments.

Mr. Baumgartner stated yes there were two comments and both favorable.

Commissioners deliberated and asked for clarification on where the lot line was on the drawing.

Mr. Tomlin moved to approve based on meeting the three standards, the size of the lot and its setbacks creates an exceptional situation, a practical difficulty would be not being able to build the kitchen and granting this request would not be detriment to the public good or impair the intent and purpose of the Zoning Ordinance. Ms. Fischbach seconded the motion and the motion passed 4-0.

Other Business.

No other Business was discussed.

Adjourn.

With there being no further business the meeting was adjourned at 6:20 pm.

Chair