

**MEETING MINUTES OF THE
FRANKLIN BOARD OF ZONING APPEALS
June 2, 2016**

The Franklin Board of Zoning Appeals held a regular meeting on Thursday, June 2, 2016 at 6:00 p.m. in the **City Hall Boardroom**.

Members present: Frank Jones
 Joel Tomlin III
 Greg Caesar
 Dave Rittenberry

Staff present: James Svoboda, Planning & Sustainability

The agenda read as follows:

Review of Minutes from May 5, 2016 BZA Meeting

A **Variance Request** by Jerry and Jamie McCullough to vary the rear yard setback by 8 feet located at 586 Ploughmans Bend Drive in the Chestnut Bend Subdivision.

A **Variance Request** by Ken Crowder to vary the parking requirements for McDonald's restaurant located at 1704 Galleria Boulevard.

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

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

Minutes, May 5, 2016

Mr. Caesar moved to approve the May 5, 2016 minutes. Mr. Tomlin seconded the motion and the motion passed 4-0.

1. A Variance Request by Jerry and Jamie McCullough to vary the rear yard setback by 8 feet located at 586 Ploughmans Bend Drive in the Chestnut Bend Subdivision.

Mr. Svoboda stated the appellant requests an eight (8) foot variance from the rear yard setback for the property located at 586 Ploughmans Bend Drive in the Chestnut Bend Subdivision to construct a covered porch. Mr. Svoboda stated the recorded plat for this subdivision requires this lot to maintain a minimum rear yard setback of forty (40) feet. Mr. Svoboda 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. Svoboda stated the first standard to be considered is whether there is an extraordinary or exceptional situation pertaining to the subject property. Mr. Svoboda 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 (149.75-foot depth and 83.68-foot width at the rear) are typical of other more standard lots in the subdivision. Mr. Svoboda 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. Svoboda stated the second standard to be considered is that of hardship or practical difficulty Mr. Svoboda stated the Board must determine whether the inability to construct a screen porch on the subject property is a hardship or practical difficulty. Mr. Svoboda 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. Svoboda stated 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. Svoboda stated the proposed rear yard location would appear to have the least impact on the surrounding properties and nearby residents. Mr. Svoboda stated the Board must decide whether the inability to construct a covered porch within the required forty (40) foot rear setback constitutes a hardship or practical difficulty. Mr. Svoboda 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. Svoboda 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. Mr. Svoboda stated in this case, thirty two (32) feet of the rear yard will remain unencumbered with the proposed screen porch addition and granting this variance should not greatly impact any adjacent structure's access to light and air. Mr. Svoboda 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. Svoboda stated 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. McCullough stated they would like to address staff's comments on the lot size and explained their lot is smaller in width than the other lots in the subdivision. Mr. McCullough stated their lot is on a curve in the road that requires the house to be angled to meet the front setback. Mr. McCullough stated there are 12 covered porches in his neighborhood and 7 have porches that encroach the setback.

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

Mr. Caesar moved to close public hearing. Mr. Tomlin seconded the motion and the motion passed 4-0.

Mr. Tomlin moved to approve the variance request to vary the required forty (40) foot rear-yard setback by eight (8) feet to thirty two (32) feet because the standards for granting a variance have been satisfied. Mr. Rittenberry seconded the motion and the motion passed 4-0.

2. A Variance Request by Ken Crowder to vary the parking requirements for McDonald's restaurant located at 1704 Galleria Boulevard.

Mr. Svoboda stated the appellant is requesting approval of a variance from Subsection 5.9, Off-Street Parking Requirements, in order to allow for a reduction in parking spaces at their current location at 1704 Galleria Boulevard. Mr. Svoboda stated the subject property contains 1.00 acres and is located south of Moores Lane, and on the east side of Galleria Boulevard. Mr. Svoboda stated the appellant is requesting to remove the existing play land leave the existing outdoor seating area, and install dual drive-through lanes. Mr. Svoboda stated the number of seats will remain at 100 seats. Mr. Svoboda stated the current number of parking spaces on the site is 52 spaces and the applicant is requesting to reduce the total on-site spaces from 52 to 41 parking spaces. Mr. Svoboda stated according to the Zoning Ordinance the following three standards must be established in order for the Board of Zoning Appeals to grant a variance:

1. Where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of this ordinance, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property is not able to accommodate development as required under this ordinance; and
2. The strict application of any provision enacted under this ordinance would result in peculiar and exceptional practical difficulties to or exception or undue hardship upon the owner of such property; and
3. Such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zoning Ordinance.

Mr. Svoboda 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 a typical lot in terms of size, topography, dimensions and layout. Mr. Svoboda stated after reviewing the information submitted by the applicant, staff concurs that the typical size of the property does not create an extraordinary or exceptional situation, thereby not meeting the first threshold for granting a variance. Mr. Svoboda 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 second drive through and outdoor seating on the subject property is a hardship or practical difficulty. Mr. Svoboda stated Staff reviewed the information submitted by the applicant, the recorded plat of the property, and GIS and aerial data for the property and the Board must decide whether the existing zoning regulation restricting the property in terms of parking spaces provided constitutes a hardship or practical difficulty. Mr. Svoboda 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. Svoboda stated the intent of regulating minimum parking spaces is to help ensure that adequate parking levels are met on site of the subject property and therefore, staff finds that granting this variance would impair the intent and purpose of the Zoning Ordinance and that the third threshold is not satisfied. Mr. Svoboda stated Staff recommends disapproval of the request to reduce the parking requirements requested by the appellant due to the three standards not being met.

Mr. Crowder stated we currently don't met the original plans parking standard and with the new plan there is a dual drive-thru requested and we would lose 11 spaces. Mr. Crowder stated there is no land around them to purchase to accommodate additional parking, creating an exceptional situation and the idea with the dual drive-thru is to alleviate some of the backing up in the parking lot that occurs now. Mr. Crowder stated the site is just not big enough to accommodate the parking requirement.

Mr. Armen Parker, area construction manager, stated the dual drive-thru lane can alleviate the current congestion that is occurring now and explained most of the business is drive-thru and we currently do not use most of the existing parking. Mr. Parker stated they would be willing to submit a limited traffic study showing the use of parking. Mr. Parker stated they are considering doing a remodel of this facility.

Mr. Jemond Daughtry, owner, stated they have resided in the Franklin area since 2001 and they have provide employment to 60 employees. Mr. Daughtry stated the approval of this request tonight would help employment in the community and tax generating revenue as well.

Mr. Parker stated if additional information is needed we are willing to table this until more information could be provided.

Mr. Hinson Moore, Schlotzsky's owner, spoke against this item, stating the reduction in the parking would affect his business due to entrance is bottleneck and at peak hours people park and walk over from his site to there.

Mr. Tomlin moved to close public portion. Mr. Caesar seconded the motion and the motion passed.

Chair Jones stated maybe the traffic study and things should have been done before coming before this board.

Mr. Caesar moved to disapprove the variance request to reduce the parking requirements because the standards for granting a variance have not been satisfied. Mr. Rittenberry 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 6:34 pm.

Chair