

**MEETING MINUTES OF THE  
FRANKLIN BOARD OF ZONING APPEALS  
November 1, 2018**

The Franklin Board of Zoning Appeals held a regular meeting on Thursday, November 1, 2018, at 6:00 p.m. in the City Hall Boardroom.

Members present:           Joel Tomlin  
                                      Greg Caesar  
                                      Gillian Fischbach  
                                      Frank Jones

Staff present:               James Svoboda, Planning & Sustainability  
                                      Joey Bryan, Planning & Sustainability  
                                      Tiffani Pope, Law Department  
                                      Lori Jarosz, BNS Department

The agenda read as follows:

**Review and approval of Minutes from October 4, 2018, BZA Meeting**

**Variance Request** by Linda Dosen, for a 2-foot encroachment into the required 20-foot rear yard setback to construct an addition located at the rear of the existing dwelling located at 3123 Brimstead Drive (F.Z.O §3.3.3, Table 3-6 and §3.3.4, Table 3-8).

**Zoning Map Interpretation Request** by Kyle Griffin, for the BZA to make an interpretation that the location of the boundaries of the Floodway Fringe Overlay (FFO) District on the City of Franklin Zoning Map for the properties located in the Water's Edge PUD Subdivision, Section 4 (Lots 51-59, 78-81, 295-301) and Section 5 (Lots 302-310, 311-321, 359-395), be based on the Letter of Map Revision Based on Fill (LOMR-F) Determination issued by FEMA on September 28, 2018 (FEMA Case No. 18-04-6868A) (F.Z.O. § 2.2.4(1)(a) and F.Z.O. § 5.8.5(5)(c)(i)).

**Zoning Map Interpretation Request** by Garry Batson, for the BZA to make an interpretation that the location of the boundaries of the Floodway Fringe Overlay (FFO) District on the City of Franklin Zoning Map for the property located at 175 Rosa Helm Way, be based on the Letter of Map Revision Based on Fill (LOMR-F) Determination issued by FEMA on August 20, 2018 (FEMA Case No. 18-04-6303A) (F.Z.O. § 2.2.4(1)(a) and F.Z.O. § 5.8.5(5)(c)(i)).

Chair Jones called the meeting to order at 6:01 pm. Chair Jones requested to know if there were any non-agenda items.

Mr. Svoboda stated there were no non-agenda items.

**Minutes from October 4, 2018, BZA Meeting**

Mr. Caesar moved to approve the October 4, 2018 meeting minutes with the correction of the meeting time to be changed to 6:00 p.m. Ms. Fischbach seconded the motion and the motion carried 4-0.

**Variance Request by Linda Dosen, for a 2-foot encroachment into the required 20-foot rear yard setback to construct an addition located at the rear of the existing dwelling located at 3123 Brimstead Drive (F.Z.O §3.3.3, Table 3-6 and §3.3.4, Table 3-8).**

Mr. Bryan stated the applicant is requesting a 2-foot encroachment into the required 20-foot rear yard setback to construct a screened porch addition over the existing concrete patio located at the rear of the existing dwelling located at 3123 Brimstead Drive. Mr. Bryan stated the subject property is lot 2170 in the Franklin Green Subdivision, Section 8, and is a lot of record that was created prior to the adoption of the current Zoning Ordinance. Mr. Bryan stated the property was originally platted with a 20-foot rear yard setback in 2001. Mr. Bryan stated the property is currently zoned R-3 – Detached Residential 3 District, West Harpeth Character Area Overlay District - Special Area 2 (WHCO-2), and designated as suitable for either Traditional or Conventional Development Standards. Mr. Bryan stated the Table 3-6 establishes the Site Development Standards for Conventional Areas and Table 3-8 establishes the Site Development Standards for Traditional Areas. Both Tables have a footnote that stipulates that “for lots in recorded subdivisions or approved PUDs, the setbacks and lot sizes, maximum densities, and primary façade widths shown in this table shall not apply, and the requirements shown on the final plat, the approved PUD, or conditions on existing lots shall govern.” Mr. Bryan stated the required 20-foot rear yard setback requirements established on the recorded plat supersedes the setback requirements stipulated in Tables 3-6 and 3-8. Mr. Bryan stated however, if the property could be resubdivided according to the traditional development standards stipulated in Table 3-8 in the current Zoning Ordinance, a 5-foot rear yard setback would be permitted. Mr. Bryan stated the applicant is proposing to construct a 10.6’ x 17’ addition to the rear of the existing dwelling. Mr. Bryan stated the proposed roof cover would encroach into the rear setback approximately 2’. Mr. Bryan stated the location existing PUDEs and landscape easements restrict the areas where additions and/or accessory structures can be constructed on the property. Mr. Bryan stated the following is an analysis of the requested variances as they relate to the variance standards and approval criteria described above:

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.
  - The subject property is an existing lot of record that was created prior to the adoption of the Zoning Ordinance. The property was originally platted as part of Section 8 of the Franklin Green Subdivision in 2001. The property is a standard lot in terms of size, shape, dimensions and setbacks as compared to other lots in the Subdivision. The existing home was constructed within the required rear yard setback per the information submitted by the applicant. The proposed rear addition will be constructed along the rear plane of the existing home and the applicant is requesting a 2-foot encroachment into the required 20-foot rear yard setback. The lot backs up to formal open space.

- The current Zoning Ordinance would permit a 5-foot rear yard setback if Traditional Standards were applied. However, since the subject property is a lot of record, the platted setbacks supersede the existing standards.
  - The location of existing PUDEs and landscape easements restrict where additions can be constructed on the property.
  - Staff finds that the topographic conditions on the lot as described by the applicant, create a unique, exceptional, or extraordinary situations about the subject property that would prevent the applicant from complying with the requirements of the Zoning Ordinance if Conventional Development Standards were applied. If the applicant were permitted to develop under Traditional Development Standards, the proposed addition would be in compliance with the Zoning Ordinance.
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.
    - The only place where the proposed addition can be located is to the rear of the existing dwelling. The strict application of the Zoning Ordinance provisions requiring conformance with the platted setback instead of the Traditional Development Standards would result in an exceptional hardship on the owner of the property. Ultimately, the Board must determine whether the inability to construct the proposed porch addition encroaching into the required rear yard is a hardship or practical difficulty.
  3. Relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zoning map and this ordinance.
    - The final standard the Board must consider is whether the requested relief granted would be a detriment to the public good or impair the intent and purpose of the Zoning Ordinance. Based on similar variance requests granted by the BZA, the proposed location of the rear addition in relation to the PUDE and landscape easements on the property, and that a 5-foot rear yard setback would be permitted if traditional standards were able to be applied, staff believes that granting the proposed variance would not be detrimental to the public good and would not impair the intent or purpose of the Zoning Ordinance.

Mr. Bryan stated in order for the BZA to grant a variance, the applicant must have demonstrated that all three of the standards required to grant a variance have been satisfied. Based on the analysis presented above, staff recommends approval of the variance requested by the applicant because the applicant has met all three of the standards required for granting a variance.

Chair Jones requested to know if there had been any contact from other citizens.

Mr. Bryan stated he had two emails, one from the HOA granting approval, as well as a letter of support from a neighbor.

Ms. Dosen stated she feels they have met all three criteria.

Ms. Lynn Dosen complimented staff on the great job they did.

Chair Jones requested to know if anyone from the audience wished to speak on this item and no one requested to speak.

Mr. Caesar moved to close the public hearing. Ms. Fischbach seconded the motion and the motion carried 4-0.

Mr. Caesar moved to approve the variance request to vary the required 20-foot rear yard setback by 2.02 feet to construct an addition located at the rear of the existing dwelling located at 3123 Brimstead Drive because the applicant has demonstrated that the standards for granting a variance have been satisfied. Mr. Tomlin seconded the motion and the motion carried 4-0.

**Zoning Map Interpretation Request by Kyle Griffin, for the BZA to make an interpretation that the location of the boundaries of the Floodway Fringe Overlay (FFO) District on the City of Franklin Zoning Map for the properties located in the Water's Edge PUD Subdivision, Section 4 (Lots 51-59, 78-81, 295-301) and Section 5 (Lots 302-310, 311-321, 359-395), be based on the Letter of Map Revision Based on Fill (LOMR-F) Determination issued by FEMA on September 28, 2018 (FEMA Case No. 18-04-6868A) (F.Z.O. § 2.2.4(1)(a) and F.Z.O. § 5.8.5(5)(c)(i)).**

Mr. Svoboda stated this item is to be deferred to the December 6, 2018 meeting, due to an error with the naming of this item that was not properly published.

Mr. Caesar moved to defer this item to the December meeting. Ms. Fischbach seconded the motion and the motion carried 4-0.

**Zoning Map Interpretation Request by Garry Batson, for the BZA to make an interpretation that the location of the boundaries of the Floodway Fringe Overlay (FFO) District on the City of Franklin Zoning Map for the property located at 175 Rosa Helm Way, be based on the Letter of Map Revision Based on Fill (LOMR-F) Determination issued by FEMA on August 20, 2018 (FEMA Case No. 18-04-6303A) (F.Z.O. § 2.2.4(1)(a) and F.Z.O. § 5.8.5(5)(c)(i)).**

Mr. Bryan stated the subject property is located at 175 Rosa Helm Way. The Floodway Fringe Overlay (FFO) District boundaries coincide with the 100-year floodplain areas designated by FEMA on the adopted Flood Insurance Rate Maps (FIRMs). Mr. Bryan stated the current FFO boundaries are based on the adopted FIRM Map Number 47187C0212F, effective September 29, 2006. FEMA issued a Letter of Map Revision Based on Fill (LOMR-F) Determination on May 16, 2018, updating the flood zone information and the location of the 100-year floodplain boundaries on the subject property. Mr. Bryan stated the LOMR-F approved by FEMA became effective on August 30, 2018 (FEMA Case No. 18-04-6303A). Pursuant to the provisions of the Franklin Zoning Ordinance in § 2.2.4(1)(a), § 3.1.2, and § 5.8.5(5)(c)(i), the applicant is requesting the BZA to interpret the location of the boundary of the FFO Overlay District on the City of Franklin Zoning Map be based on the LOMR-F Determination issued by FEMA. Mr. Bryan stated the applicant has provided the necessary information to satisfy the Zoning Ordinance standards required for the BZA to interpret the location of the FFO based on the approved LOMR-F. Mr. Bryan stated therefore, staff recommends approval of the request to interpret the location of the Floodway

Fringe Overlay (FFO) Zoning District boundary be based on the Letter of Map Revision Based on Fill Determination (LOMR-F) issued by FEMA on August 30, 2018 (FEMA Case No. 18-04-6303A), effective August 30, 2018.

Mr. Batson stated they had a flood map amendment and not a revision. Mr. Batson stated FEMA will not revise the map constantly when they get a map revision.

Mr. Svoboda explained.

Chair Jones requested to know if anyone from the audience wished to speak on this item and no one requested to speak.

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

Mr. Caesar stated he questioned the 4<sup>th</sup> paragraph.

Mr. Svoboda stated we adopt the flood maps in our Zoning Ordinance and go a step further with a change to the City Overlay Zone.

Mr. Tomlin moved to approve the request to interpret that the location of the boundary of the FFO Overlay District on the subject properties located at 175 Rosa Helm Way, be based on the LOMR-F Determination approved by FEMA on August 30, 2018 (FEMA Case No. 18-04-6303A), effective August 30, 2018, because the applicant has satisfied the Zoning Ordinance requirements for making the boundary line interpretation. Mr. Caesar seconded the motion and the motion carried 4-0.

**Other Business.**

No other business

**Adjourn.**

With there being no further business, the meeting was adjourned at 6:19pm.

  
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Chair