

**MEETING MINUTES OF THE  
FRANKLIN BOARD OF ZONING APPEALS  
JUNE 6, 2019**

The Franklin Board of Zoning Appeals held a regular meeting on Thursday, June 6, 2019 at 6:00 p.m. in the City Hall Boardroom.

Members present: Gillian Fischbach  
Frank Jones  
Joel Tomlin  
Greg Caesar  
Jonathan Langley

Staff present: Kelly Dannenfelter, Planning & Sustainability  
Joey Bryan, Planning & Sustainability  
Tiffani Pope, Staff Attorney  
Bill Squire, Assistant City Attorney  
Molly Pike, BNS Department

The agenda read as follows:

**Review and approval of Minutes from May 2, 2019, BZA Meeting**

**Announcements**

**Variance Request** by Garrett Johnson, for an 8-foot encroachment into the required 20-foot rear yard setback to construct a covered porch at the rear of the existing dwelling located at 209 Lyle Court (F.Z.O §3.3.3, Table 3-6).

**Variance Request** by Josh & Sharon Davis, to alter the flood plain regulations for finished floor elevation for a new rear addition to the existing dwelling located at 709 Fair Street (F.Z.O §5.8.5(5)(ii)).

Vice-Chair Caesar called the meeting to order at 6:00 pm.

**Minutes from May 2, 2019, BZA Meeting**

Mr. Caesar moved to approve the May 2, 2019, meeting minutes. Mr. Tomlin seconded the motion and the motion carried 5-0.

**Announcements:**

Chair Jones requested to know if there were any non-agenda items.

Mr. Bryan stated no, there were no non-agenda items.

**Variance Request by Garrett Johnson, for an 8-foot encroachment into the required 20-foot rear yard setback to construct a covered porch at the rear of the existing dwelling located at 209 Lyle Court (F.Z.O §3.3.3, Table 3-6).**

Mr. Bryan stated the applicant is requesting an 8-foot encroachment into the required 20-foot rear yard setback to construct a screened porch at the rear of the dwelling located at 209 Lyle Ct. Mr. Bryan stated the subject property is Lot 52 in the Henley Subdivision, Section 1, and is a lot of record that was created in 2006 prior to the adoption of the current Zoning Ordinance. Mr. Bryan stated the property is currently zoned R-2 – Detached Residential 2 District, Central Franklin Character Area Overlay District - Special Area 4 (MECO-4), and designated for Conventional Development Standards. Mr. Bryan stated the Table 3-6 establishes the Site Development Standards for Conventional Areas and has 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 80-foot rear yard setback requirement established on the recorded plat is consistent with the setback for sides of the property that fronts an arterial as stipulated in Tables 3-6. Mr. Bryan stated however, the Building & Neighborhood Services Department has classified this as a rear yard and will be referred to and reviewed as such in this report. Mr. Bryan stated the applicant is proposing to construct a 13’ x 30’ screened porch to the rear of the existing dwelling. Mr. Bryan stated the proposed roof cover would encroach into the rear setback approximately 8’. Mr. Bryan stated the lot is not a standard shape. Mr. Bryan stated the rear property line angles down from right to left limiting buildable areas. Mr. Bryan stated the lot also contains an existing 10’ PUDE that cannot be built on. Mr. Bryan stated the location of an existing PUDE, restricts the areas where additions and/or accessory structures can be constructed on the property. Mr. Bryan stated the Variance process is intended to provide limited relief from the requirements of the Zoning Ordinance in those cases where the strict application of a particular requirement will create an unnecessary hardship prohibiting the use of land in a manner otherwise allowed under the Ordinance. Mr. Bryan stated it is not intended that Variances be granted merely to remove inconveniences or financial burdens that the requirements of the Zoning Ordinance may impose of property owners in general. Variances are intended to address extraordinary, exceptional, or unique situations that were not caused by the applicant’s act or omission. Mr. Bryan stated the BZA may authorize, upon an appeal relating to the property, a Variance from such strict application of the Zoning Ordinance so as to relieve such difficulties or hardship only in accordance with the following three standards. Mr. Bryan stated in order to grant the Variance Request, the BZA must determine that the applicant has demonstrated that all three standards required to grant the variance have been satisfied. 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.
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.

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.

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 and based on the analysis presented, 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.

Mr. Johnson stated they agreed with staff and would be happy to answer any questions.

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

Mr. Langley moved to close the public portion of the meeting. Mr. Tomlin seconded the motion and the motion carried 5-0.

Mr. Caesar moved to approve the variance request to vary the required 20-foot rear yard setback by 8 feet to construct a covered patio addition located at the rear of the existing dwelling located at 209 Lyle Ct. because the applicant has demonstrated that the standards for granting a variance have been satisfied as described in the staff report. Mr. Langley seconded the motion and the motion carried 5-0.

**Variance Request by Josh & Sharon Davis, to alter the flood plain regulations for finished floor elevation for a new rear addition to the existing dwelling located at 709 Fair Street (F.Z.O §5.8.5(5)(ii)).**

Mr. Bryan stated the applicants are requesting a variance from the required lowest floor elevation for new construction from three feet above the Base Flood Elevation (BFE) for the property located at 709 Fair Street. Mr. Bryan stated the property is located entirely within the Floodway Fringe Overlay (FFO). Mr. Bryan stated the applicants intend to construct an addition, measuring 12' x 28,' to the rear of the existing dwelling. Mr. Bryan stated the subject property was created prior to the adoption of the current Zoning Ordinance. Mr. Bryan stated the property is currently zoned R-3 – Detached Residential 3 District, Central Franklin Character Area Overlay District - Special Area 3 (CFCO-3), and designated for Traditional Development Standards. Mr. Bryan stated the subject property is within the Hincheyville National Register Historic District and within the local Historic Preservation Overlay. Mr. Bryan stated the home was constructed ca. 1935. Mr. Bryan stated the Zoning Ordinance allows for variances for floodplain protection regulations to be granted by the BZA for established historic properties. Mr. Bryan stated the applicants are requesting the variance to protect the historic character and design of the structure as designated in Section 5.8.5(5)(ii) of the Zoning Ordinance. Mr. Bryan stated the applicants appeared before the Historic Zoning Commission at the May 13, 2019 meeting where the plans for the proposed rear addition were approved as they kept the historical character and design of the historic principal structure. Mr. Bryan stated the City of Franklin Preservation Planner Amanda Rose has supplied a memo summarizing the Historic Zoning process as well as the HZC's recommendation of approval to the members of the BZA. Mr. Bryan stated the Variance process is intended to provide limited relief from the requirements of the Zoning Ordinance in those cases where the strict

application of a particular requirement will create an unnecessary hardship prohibiting the use of land in a manner otherwise allowed under the Ordinance. Mr. Bryan stated it is not intended that Variances be granted merely to remove inconveniences or financial burdens that the requirements of the Zoning Ordinance may impose of property owners in general. Mr. Bryan stated the variances are intended to address extraordinary, exceptional, or unique situations that were not caused by the applicant's act or omission. Mr. Bryan stated in order to grant the Variance Request, the BZA must determine that the applicant has demonstrated that all three standards required to grant the variance have been satisfied. 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 current Zoning Ordinance. The applicants are proposing to construct a 283 sq. ft. addition to the rear of the existing dwelling. The applicants are requesting a variance to construct the addition at BFE.
  - The home has been designated as historic by both the Federal Department of the Interior as well as the City of Franklin. The lot is within the Hincheyville National Register District as well as the local Hincheyville Historic District. As such, any proposed alterations to the exterior of the home must be reviewed and approved by the Historic Zoning Commission.
  - The entirety of the lot is within the FFO that adds additional regulations and requirements for new construction.
  - Variances from floodplain protection regulations may be granted by the BZA for homes and structures designated as historic in order to protect the historic character and design of the community.
  - If the rear addition were to be constructed at the required three feet above BFE, it would create an incohesive internal layout of the home and not be compatible with the historic design and character of the existing historic dwelling.
  - Staff finds that the conditions on the lot create a unique, exceptional, or extraordinary situation about the subject property that would prevent the applicant from complying with the requirements of the Zoning Ordinance if Conventional Development Standards were applied.
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 location of the FFO adds additional requirements and regulations of how additions can be constructed to existing dwellings. The regulation of having new construction be a minimum of three feet above BFE would hinder the historic character and design of the existing dwelling. The strict application of the Zoning Ordinance provisions would result in an exceptional hardship on the owner of the property. Ultimately, the Board must determine whether the inability to construct the proposed roof cover 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. The Historic Zoning Commission has recommended that the elevation of the new addition be constructed to 14 inches above the existing finished floor elevation and has approved the architectural elevations at that floor elevation as it would not hinder the historical character or design of the existing dwelling, thereby maintaining the integrity of the Hincheyville Historic District. Based on the recommendation of the HZC and the analysis of the conditions of the lot, 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 and 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.

Mr. Davis stated they would be happy to answer any questions.

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

Mr. Tomlin moved to close the public portion of this meeting. Ms. Fischbach seconded the motion and the motion carried 5-0.

Mr. Tomlin moved to approve the variance request to adjust the finished floor elevation for new construction in the floodplain by 36 inches to construct an addition located at the rear of the existing dwelling located at 709 Fair St. because the applicant has demonstrated that the standards for granting a variance have been satisfied as described in the staff report. Ms. Fischbach seconded the motion.

Mr. Caesar stated he had an issue with the third requirement.

Chair Jones stated this area has been there a long time.

Mr. Caesar stated he wanted clarity.

Mr. Langley requested staff give a little history and process pertaining to the Historic Districts and flood plain.

Mr. Bryan stated the Historic Commission mainly looks at architectural elevations and aesthetics of any additions, alterations etc. Mr. Bryan stated with the additional flood plain regulations the applicant appeared before the Design Review Committee before going to the Historic Zoning Commission for review and approval and actually two or three options were given to the Historic Zoning Commission for review. Mr. Bryan stated Ms. Rose, the Preservation Planner, was here to help answer questions. Mr. Bryan stated Historic Zoning Commission approved 14-inches. Mr. Bryan stated Ms. Rose could provide more information.

Mr. Caesar stated he wasn't as interested in the historic aspect, but the floodplain.

Ms. Rose stated the 14-inches was proposed by the applicant to meet the regulation as much as possible and the 14-inch is above the base elevation for that property and explained.

Ms. McCoy, the Floodplain Administrator and explained this has been discussed with the state FIP coordinator and they have no issues with how this is presented, especially with the lot being located in the local Historic District.

Discussion ensued on the floodplain standards.

With the motion having been made and seconded the motion carried 5-0.

**Other Business.**

No other business

**Adjourn.**

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



Chair