

**MEETING MINUTES OF THE
FRANKLIN BOARD OF ZONING APPEALS
MAY 2, 2019**

The Franklin Board of Zoning Appeals held a regular meeting on Thursday, May 2, 2019 at 6:00 p.m. in the City Hall Boardroom.

Members present: Gillian Fischbach
Frank Jones
Joel Tomlin

Staff present: Emily Hunter, Planning & Sustainability
Joey Bryan, Planning & Sustainability
Matthew Muenzen, Assistant City Attorney
Molly Pike, BNS Department

The agenda read as follows:

Review and approval of Minutes from April 4, 2019, BZA Meeting

Announcements

Variance Request by Chris Ziegler, for a 29-foot encroachment into the required 75-foot rear yard setback to construct a covered porch at the rear of the existing dwelling located at 709 Marlborough Place (F.Z.O §3.3.3, Table 3-6).

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 Craig Lanham, to place a pool in the side yard of the residential property located at 1886 Wilson Pike (F.Z.O §4.1.2).

Vice-Chair Caesar called the meeting to order at 6:15 pm.

Minutes from April 4, 2019, BZA Meeting

Ms. Fischbach moved to approve the April 4, 2019, meeting minutes. Mr. Langley seconded the motion and the motion carried 3-0.

Announcements:

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

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

Variance Request by Chris Ziegler, for a 29-foot encroachment into the required 75-foot rear yard setback to construct a covered porch at the rear of the existing dwelling located at 709 Marlborough Place (F.Z.O §3.3.3, Table 3-6).

Mr. Bryan stated the applicant is requesting a 29-foot encroachment into the required 75-foot rear yard setback to construct a screened porch at the rear of the dwelling located at 709 Marlborough Place. Mr. Bryan stated the subject property is Lot 57 in the Sturbridge Pointe Subdivision, Section 3, and is a lot of record that was created in 1985 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 (CFCO-4), and designated for Conventional Development Standards. Mr. Bryan stated the applicant is proposing to construct an approximate 29' x 35' triangular-shaped covered porch to the rear of the existing dwelling. Mr. Bryan stated the proposed roof covered porch would encroach into the rear setback approximately 29'. Mr. Bryan stated the lot is not a standard shape. Mr. Bryan stated it appears the house already encroaches into the rear setback by approximately 5 to 10 feet. Mr. Bryan stated the lot also contains an existing 10' PUDE that cannot be built on as well as a sanitary easement that cuts across the rear of the property at an angle. Mr. Bryan stated the location of an existing PUDE as well as the sewer easement, restricts the areas where additions and/or accessory structures can be constructed on the property. 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 (FZA §§ 2.2.4 (b) and 2.4.5):

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. 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 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 property was originally platted as part of Section 3 of the Sturbridge Pointe Subdivision in 1985. The applicant is requesting a 29-foot encroachment into the required 75-foot rear yard setback to construct a covered porch.
 - The home itself is an existing encroachment into the rear setback. The original plat shows a 75' setback along with a 20' sewer easement immediate behind the rear setback line. The

existing conditions of the property does not match the recorded plat in terms of location of the sewer line and location of the dwelling. The sewer line path was altered prior to construction of the house and the rear wall of the home encroaches approximately 5' to 10' into the required rear setback. No revised plat has been recorded with the county showing the existing location of the sewer easement or any revision to the rear setback.

- The applicant has designed a triangular-shaped rear porch to stay out of the easement. The applicant has presented the proposed rear porch to Ben McNeil with the City Water Management Department. Mr. McNeil confirmed the design as submitted would not encroach into the sewer easement as it exists today. The applicant is working with the city to correct the easement incongruity.
 - The shape of the lot is not typical of the subdivision. Additionally, the location of a 10' PUDE along the property line and the sewer easement limits the buildable area of the lot.
 - The lot backs up to open space along both the rear property line.
 - 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.
- Staff reviewed the recorded plat for the property as well as GIS and aerial data for the property. The proposed rear yard location would appear to have the least impact on the surrounding properties and nearby residents. The setback with the additional sewer easement limits the area where additions can be constructed. The strict application of the Zoning Ordinance provisions requiring conformance with the platted setback 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. Based on the analysis of the conditions of the lot and the approvals of similar requests, 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. Ziegler stated the conditions are such that a unique design is needed to get a deck in there. Mr. Ziegler stated no one in the neighborhood has any issues with this.

Vice-Chair Caesar requested to know if anyone from the audience wished to speak on this item and no requested to speak.

Mr. Langley moved to close the public portion of the meeting. Ms. Fischbach seconded the motion and the motion carried 3-0.

Mr. Langley moved to approve the variance request to vary the required 75-foot rear yard setback by 29 feet to construct a covered porch located at the rear of the existing dwelling located at 709 Marlborough Pl. 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 and the motion carried 3-0.

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).

No one was present to represent this item.

Mr. Langley moved to defer Item 2, a Variance request for 209 Lyle Court. Ms. Fischbach seconded the motion and the motion carried 3-0.

Variance Request by Craig Lanham, to place a pool in the side yard of the residential property located at 1886 Wilson Pike (F.Z.O §4.1.2).

Mr. Bryan stated the applicant is proposing to construct a swimming pool in the side yard of the residential property located at 1886 Wilson Pike. Mr. Bryan stated the Residential swimming pools are classified as accessory uses. Section 4.1.2 (7) of the Zoning Ordinance states that accessory structures and uses are, “Not take place within required front or side yards or project beyond the front building line of the principal structure (except fences or walls).” Mr. Bryan stated the property is currently zoned R1 – Detached Residential 1 District, Seward Hall Character Area Overlay District - Special Area 4 (SWCO-4). Mr. Bryan stated the applicant has provided a concept plan showing the location of the pool (labeled as the “deck”). Mr. Bryan stated it is an irregularly shaped lot measuring approximately 1,200 feet by 380 feet at its widest point. Mr. Bryan stated the lot narrows in shape on the western side of the property that fronts Wilson Pike. Mr. Bryan stated the lot has many site constraints that limit where the primary structure and accessory uses can be located. Mr. Bryan stated the applicant’s civil engineer has provided a letter explaining these constraints. Mr. Bryan stated the Hillside Overlay District (HHO) encompasses a majority of the lot, limiting the buildable area of new construction and additionally, the lot contains an 85-foot gas line easement that runs through the front of the property. Williamson County septic regulations dictated the layout of the driveway and the garage. Mr. Bryan stated the unique shape of the lot, HHO, location of sewer easements, topographic constraints and septic regulations limits the areas where new buildings and accessory uses can be located on the property. 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 (FZA §§ 2.2.4 (b) and 2.4.5):

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. 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 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 in 2004 prior to the adoption date of the current Zoning Ordinance. The lot backs up to Canterbury Rise. The lot's dimensions are approximately 1,200 feet long and 380 feet at its widest point. The Hillside Overlay District (HHO) encompasses most of the rear portion of the lot. The purpose of the HHO is to, "protect the city's hillsides and hillcrests through the prohibition or restriction of development in a manner that will ensure that any development will protect the hillside's natural and topographic character and identity."
 - The location of an 85-foot gas line easement limits where new development can be constructed.
 - The Williamson County Septic Regulations state that the driveway must be a minimum of 10 feet away from the septic line. This changed the layout of both the driveway and location of the garage. Originally, the pool was planned to be in the rear of the house.
 - The topographic constraints of the property also limit where new construction can be located.
 - Staff finds that the topographic conditions on the lot as described by the applicant and location of the Hillside Overlay District, 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.
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 unique dimensions of the lot and location of the HHO limits where new development can be constructed. Additionally, the topographic conditions, location of a gas line easement and county septic regulations further restrain where accessory uses can be located on the property. 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 accessory structure in front of the primary structure 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 location of the Hillside Overlay District limits where new construction can take place and the topographic and utility easements on the lot limit where accessory uses can be located. Additionally, the proposed site layout and distance from the public ROW provides limited viewshed of the accessory use. Therefore, the approval of the request to place a pool in the side yard would not be detrimental to the public good and will 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. Bryan stated there was an email received from Mr. Bryon Stansfield at 1884 Wilson Pike, a neighbor, who is in favor of the request.

Mr. Lanham stated they currently live in Houston and have a desire to move back here. Mr. Lanham stated they chose this lot due to not wanting to be in a subdivision. Mr. Lanham stated they tried hard on the first design, with the garage on the front and pool in the back and it was a heartbreak to go through the redesign process.

Mr. Bryan stated Mr. Frank Jones called to say he was in support of the Variance request.

Vice-Chair Caesar requested to know if anyone from the audience wished to speak on this item and no requested to speak.

Mr. Langley moved to close the public portion of the meeting. Ms. Fischbach seconded the motion and the motion carried 3-0.

Vice-Chair Caesar requested clarification on design and Mr. Lanham clarified for Mr. Caesar on the plan.

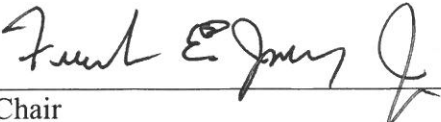
Mr. Langley moved to approve the variance request to allow a pool to be located in the side yard of the property located at 1886 Wilson Pike, because the standards for granting a variance have been satisfied. Ms. Fischbach seconded the motion and the motion carried 3-0.

Other Business.

No other business

Adjourn.

With there being no further business, the meeting was adjourned at 6:35.


Chair