

PUBLIC NOTICE
FRANKLIN BOARD OF ZONING APPEALS
DECEMBER 5, 2019

AGENDA

Notice is hereby given that the Franklin Board of Zoning Appeals will hold a regularly scheduled meeting on Thursday, December 5, 2019, at 6:00 p.m. in the City Hall Board Room, 109 Third Avenue South, Franklin, Tennessee. Additional information can be found at www.franklintn.gov/planning. The purpose of the meeting will be to consider matters brought to the attention of the Board and will include the following:

Call to Order

Review and approval of Minutes from November 7, 2019, BZA Meeting

Announcements

Items to be heard by the Board

1. **Variance Request** by Byron Gill, for an 18-foot encroachment into the required 30-foot rear yard setback to construct a deck located at the rear of the dwelling located at 1422 Clairmonte Circle (F.Z.O §3.3.3, Table 3-6 and §3.3.4, Table 3-8).

Other Business

Adjourn

Anyone requesting accommodations due to disabilities should contact the Human Resources Department at (615) 791-3216, at least 24 hours prior to the meeting.

**MEETING MINUTES OF THE
FRANKLIN BOARD OF ZONING APPEALS
November 7, 2019**

The Franklin Board of Zoning Appeals held a regular meeting on Thursday, November 7, 2019 at 6:00 p.m. in the City Hall Boardroom.

Members present: Frank Jones
 Gillian Fischbach
 Jonathan Langley

Staff present: Kelly Dannenfels, Planning & Sustainability Department
 Joey Bryan, Planning & Sustainability Department
 Bill Squire, Assistant City Attorney
 Lori Jarosz, Building and Neighborhood Services Department
 Shanna McCoy, Building and Neighborhood Services Department

The agenda read as follows:

Review and approval of Minutes from September 5, 2019, BZA Meeting

Announcements

Administrative Appeal by Gary Luffman, for the construction of three non-conforming single-family dwellings in R-2 Zoning at 139 and 141 Old Liberty Pike (F.Z.O §3.2.3, Table 3-2, §4.3).

Chair Jones called the meeting to order at 6:00 pm.

Minutes from September 5, 2019, BZA Meeting

Mr. Langley moved to approve the September 5, 2019, meeting minutes. Ms. Fischbach seconded the motion and the motion carried 3-0.

Announcements:

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

Ms. Dannenfels introduced Kelli Gibson to the Board. Ms. Gibson was recently hired as a Planner and Ms. Dannenfels stated that one of her duties would be taking over the staff liaison position for the Board of Zoning Appeals. Chair Jones welcomed Ms. Gibson on behalf of the Board.

Administrative Appeal by Gary Luffman, for the construction of three non-conforming single-family dwellings in R-2 Zoning at 139 and 141 Old Liberty Pike (F.Z.O §3.2.3, Table 3-2, §4.3).

Mr. Bryan stated Mr. Gary Luffman was asking for an Administrative Appeal for the construction of three non-conforming single-family dwellings in R-2 Zoning at 139 and 141 Old Liberty Pike (F.Z.O §3.2.3, Table 3-2, §4.3).

Mr. Bryan presented the Board with a summary of the events that led to the administrative appeal. Former Zoning Administrator Molly Pike provided the applicant with a letter stating her determination that if the existing structures on the property, an existing duplex and a single-family structure on one R-2 zoned lot were removed, then the only new structures permitted must be in accordance with the permitted uses and structures in the R-2 district. As such the applicant would not be able to construct three single-family dwellings on the property, maintaining the existing dwelling count. Mr. Bryan stated that the applicant then appealed the decision to the Board of Zoning Appeals. Mr. Bryan added that because the City has already made a determination in the matter, there is no formal staff report accompanying the item materials.

Mr. Luffman stated it was his understanding that the property would not lose the nonconformity allowing him to construct three single-family dwellings. Mr. Luffman went through a list of points citing how by not increasing the number of dwelling units, the nonconformity would not be affected.

Chair Jones asked the audience if anyone would like to speak in favor of the item. No one spoke. He then asked if all the audience members were opposed to the item. About a dozen audience members indicated they were against. He asked if the neighbors had a spokesperson who would like to speak for them.

Mr. Lloyd Crockett at 166 Franklin Road spoke against the item.

Mr. Steve Brugman at 203 Old Liberty Pike spoke against the item.

Ms. Fischbach moved to close the Public Hearing portion. Mr. Langley seconded the motion and the motion carried 3-0.

Mr. Langley asked staff for clarification on what specifically the Board was to review as Mr. Luffman had many questions in his formal appeal letter.

Mr. Squires responded by stating the Board was only making a decision on whether they agreed with staff's determination of the nonconforming status. Ms. McCoy gave some background on Staff's determination. Mr. Squires added that going from two to three structures would increase the degree of nonconformity.

Ms. Fischbach asked staff to comment on if their decision would remain with the property or if the applicant would have a chance to appeal the decision in the future.

Chair Jones followed with a question for staff as to whether this decision would be valid for a year or does it end once the new Ordinance is adopted.

Ms. Dannenfelsler clarified that the applicant submitted the request under the current City Zoning Ordinance. The proposed Zoning Ordinance, that is currently under review by the Board of Mayor and Aldermen, treats the nonconformity differently. Ms. Dannenfelsler further stated that under the new Zoning Ordinance, if approved as drafted, the applicant could re-construct a duplex and an accessory dwelling, but it would have to follow accessory dwelling regulations including the parcel being owner occupied.

Ms. Dannenfelsler stated the applicant could come back to staff for a determination once the new Zoning Ordinance has been approved and is in effect.

Chair Jones asked staff what the timeframe was for the adoption of the new Ordinance.

Ms. Dannenfelsler stated that the draft Ordinance had gone before the Planning Commission in October, and was scheduled to be before the Board of Mayor and Aldermen on November 12 for Work Session and 1st Reading, November 26 for 2nd Reading, and December 10 for 3rd and Final Reading, with an effective date of December 30, 2019.

Mr. Langley moved to uphold staff's decision. Ms. Fischbach seconded the motion.

Ms. Fischbach moved to amend the motion to include that the request would increase the degree of nonconformity. Mr. Langley seconded the amendment and it passed 3-0.

With the main motion having been made and seconded, the motion carried 3-0.

Other Business.

No other business.

Adjourn.

With there being no further business, the meeting was adjourned at 6:36.

Chair

Item 1
Variance Request
BZA 12/5/19
COF #7129

Variance Request by Byron Gill, for an 18-foot encroachment into the required 30-foot rear yard setback to construct a deck located at the rear of the dwelling located at 1422 Clairmonte Circle (F.Z.O §3.3.3, Table 3-6 and §3.3.4, Table 3-8).

Summary of Action Taken (To be completed after item is heard)	
The Board of Zoning Appeals has reviewed and discussed this item, and has taken the following action:	
_____	Granted the variance because the statutory standards to be granted a variance were established.
_____	Denied the variance because one or more of the statutory standards required to be granted a variance were not established.
_____	Upheld staff's decision in the administrative review process.
_____	Overtured staff's decision in the administrative review process.
_____	Deferred the item.
_____	Conditions of approval: _____ _____
_____	_____
BZA Chair	BZA Recording Secretary
_____	_____
Applicant Acknowledgement	Date

Exhibits

1. Staff Report and Analysis
2. BZA Application Materials and Supporting documentation
3. Location Map

Vicinity Zoning

Site: R-3 – Detached Residential 3 District
North: R-3 – Detached Residential 3 District
South: R-3 – Detached Residential 3 District
East: CI – Civic-Institutional District
West: R-3 – Detached Residential 3 District

Vicinity Land Use

Site: Detached Residential
North: Detached Residential
South: Detached Residential
East: City Park
West: Detached Residential

Applicable Zoning Ordinance Regulations

CHAPTER 2.2.4
BOARD OF ZONING APPEALS (BZA)

* * *

(1) **Powers and Duties**

The BZA shall have the following powers and duties under this ordinance:

(a) Appeal of Administrative Decisions

To hear and decide appeals of administrative decisions where it is alleged by the appellant that there is error in any order, requirement, permit, decision, or refusal made by the Codes Department or other administrative official in carrying out or enforcing any provision of this ordinance, and for interpretation of the zoning map pursuant to Subsection 2.4.6, Appeal of Administrative Decisions.

(b) Variances

To hear and decide applications for variance from the terms of this ordinance where:

- (i) By reason of exceptional narrowness, shallowness, or shape of a specific piece of property which, at the time of adoption of this ordinance, was a lot of record, or where, by reason of exceptional topographic conditions or other extraordinary or exceptional situation or condition of a piece of property; and
- (ii) The strict application of the provisions of this ordinance would result in practical difficulties to, or undue hardship upon, the owner of a piece of property; and
- (iii) Relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this ordinance.

In granting a Variance, the BZA may attach conditions regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable in furtherance of the purposes of this ordinance pursuant to Subsection 2.4.5, Variances.

**CHAPTER 2.4.5
VARIANCES**

(1) Purpose and Scope

The Variance process is intended to provide limited relief from the requirements of this ordinance in those cases where strict application of a particular requirement will create an unnecessary hardship prohibiting the use of land in a manner otherwise allowed under this ordinance. It is not intended that Variances be granted merely to remove inconveniences or financial burdens that the requirements of this 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.

* * *

(4) Approval Criteria

The BZA may authorize, upon an appeal relating to the property, a Variance from such strict application so as to relieve such difficulties or hardship only in accordance with the following criteria:

- (a) 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
- (b) 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
- (c) Such 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.
- (d) In granting Variances, the BZA shall have no power to take action that has the effect of allowing a use in contravention of the applicable base or overlay district or which in any other way changes the applicable district. Any action that has in effect changed the district shall be deemed to be a violation of powers of this subsection and shall be of no force and effect.
- (e) The fact that a site or development does not conform to this ordinance prior to the consideration of a Variance application may not be used as a basis for the granting of a Variance.

(5) Effect of a Variance

- (a) The issuance of a Variance shall authorize only the particular variation that is approved in the Variance.
- (b) A Variance, including any conditions, shall run with the land and shall not be affected by a change in ownership.

(6) Subsequent Development

Development authorized by the Variance shall not be carried out until the applicant has secured all other approvals required by this ordinance or any other applicable ordinances or regulations. A Variance shall not ensure that the development feature approved as a Variance shall receive subsequent approval for other applications for

development approval unless the relevant and applicable portions of this ordinance or other applicable provisions are met.

(7) Time Limit

- (a) Unless otherwise specified in the Variance, an application for a Building Permit shall be applied for and approved within one year of the date of the Variance approval; otherwise the Variance shall become invalid. Permitted timeframes do not change with successive owners.
- (b) Upon written request, one extension of six months may be granted by the Codes Department if the applicant can show good cause.
- (c) The decision of the Codes Department as to what constitutes substantial compliance with the time limit or applicable conditions for a Variance shall be final.

(8) Amendment

A Variance may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval. A request for a change in the conditions of approval of a Variance shall be considered an amendment and subject to the full review procedure set forth in this subsection.

**CHAPTER 3.3
SITE DEVELOPMENT STANDARDS**

3.3.1 Measurements, Computations, and Exceptions

(1) Distance Measurements

Unless otherwise expressly stated, distances specified in this ordinance are to be measured as the length of an imaginary straight line joining those points.

(2) Lot-Area Measurements

(a) Lot-Area Measurements

The area of a lot includes the total horizontal surface area within the lot's boundaries.

(b) Reductions in Lot Area Prohibited

No lot shall be reduced in area so that lot area per dwelling unit, lot width, required yards, building area, setbacks, or other requirements of this ordinance are not maintained. Actions by governmental agencies, such as road widening, shall not be considered as reductions.

(3) Lot Measurements

(a) Lot Width

Lot width is the distance between the side lot lines measured at the point of the Front Yard Setback line.

(b) Lot Frontage

Lot frontage is the length of the front lot line measured at the street.

(4) Setbacks, Yards, and Height

(a) Measurements

Setbacks refer to the unobstructed, unoccupied open area between the furthestmost projection of a structure and the property line of the lot on which the structure is located. Setbacks shall be unobstructed from the ground to the sky except as otherwise expressly allowed in Subsection 3.3.1(4)(b), Permitted Encroachments into Required Setbacks.

(b) Permitted Encroachments into Required Setbacks

(i) The following features may be located within required setbacks to the extent indicated:

- A.) Sidewalks and landscape;
- B.) Accessory uses and structures as allowed in Section 4.1, Accessory Uses and Structures;
- C.) Fences and walls as allowed in Section 5.6, Fences and Walls; and
- D.) Off-Street Parking, as allowed in Section 5.9, Off-Street Parking and Loading.

(ii) Appurtenances are permitted to encroach into a required front or rear yard setback up to six feet and within side yards up to five feet from the property line provided a minimum of ten feet between buildings is maintained.

(c) Yards Required for Buildings

A yard or other open area required about a building shall not be included as part of a yard or other open space for another building.

(d) Front Yard Setback

(i) Front Yard Setback and Streets

The yard fronting a street shall be considered to be a front yard and shall meet the minimum front yard setback.

(ii) Measurement

The front yard setback shall extend the full width of the lot and shall be measured from the street right-of-way line.

(iii) Double Frontage Lot

A double frontage lot shall provide a front yard setback on both streets. The remaining yards shall meet the side yard setback requirements.

(iv) Corner Lot

A corner lot shall provide a front yard setback on all streets. The remaining yards shall meet the side yard setback requirements.

(v) Cul-de-Sac or Curved-Street Lot

For a cul-de-sac lot or a lot abutting a curved street, the front yard setback shall follow the curve of the front property line.

(e) Side Yard Setback

The side yard setback shall extend from the required front yard setback line to the required rear yard setback line and shall be measured from the side lot line. If no street or rear yard setback is required, the setback shall extend the full depth of the lot.

(f) Rear Yard Setback

The rear yard setback shall extend the full width of the lot and shall be measured from the rear lot line.

3.3.3 Site Development Standards for Conventional Areas

- (1) Tables 3-6 and 3-7 establish the site development standards, by building type, for development within conventional areas established pursuant to Section 5.1, Traditional and Conventional Area Standards Distinguished.
- (2) All applicable development shall comply with the standards established within this subsection unless otherwise expressly stated, or unless a different standard is required by an applicable overlay district.

TABLE 3-6: SITE DEVELOPMENT STANDARDS FOR RESIDENTIAL BUILDING TYPES IN CONVENTIONAL AREAS [1], [2], [3], [10]

Standard		AG	ER	R-1	R-2	R-3	R-6	SD-R	SD-X	RM-10	RM-15	RM-20	
Residential Detached (Street Loaded)	Front Yard and Side Street Setback (feet) [4] [5]	Local	100	75	60	40	25	25	30[9]	30[9]			
		Collector	150	100	90	75	60	35	40[9]	40[9]			
		Arterial/ Mack Hatcher	225	150	125	100	80	45	50[9]	50[9]			
	Side Yard Setback (feet) [6] [11]		50	35	25	[7]	[8]	[8]	[8][9]	[8][9]			
	Rear Yard Setback (feet)[6]		100	65	50	40	30	25	30[9]	30[9]			
	Minimum Lot Size (square feet)		1 per 15 acres	45,000	30,000	15,000	9,000	5,000	5,000[9]	5,000[9]			
	Minimum Lot Width (feet)		200	150	100	75	60	50	50[9]	50[9]			
	Minimum Lot Frontage (feet) [12]		160	120	80	60	48	40	40[9]	40[9]			

NOTES:

- [1] For lots in recorded subdivisions or approved PUDs, the setbacks, lot sizes, and maximum densities shown in this table shall not apply, and the requirements shown on the Final Plat or approved PUD shall govern.
- [2] Unified developments may establish interior lot lines as necessary, provided that the bulk requirements along the outer boundaries of the development shall be retained as specified in this table.
- [3] Shaded cells indicate that no requirement exists.
- [4] Where the average front yard for existing buildings on the same block face is more than or less than the minimum required front yard, the minimum front yard shall instead be within 25 percent of the average front yard for existing buildings on the same block face.
- [5] In cases where a transitional feature is required, the minimum setback shall be in accordance with Subsection 5.3.4, Transitional Features.
- [6] Where an immediately adjacent existing building is set back less than the minimum required side or rear yard, the minimum side or rear yard requirement shall instead be the same as the immediately adjacent developed building, but not less than five feet. Buildings shall maintain a minimum spacing of ten feet.
- [7] Minimum of eight feet each side, minimum of 20 feet between dwellings.
- [8] Minimum of five feet each side, minimum 12 feet between dwellings.
- [9] Larger or smaller setbacks, lot widths, lot frontages and lot sizes, beyond the range presented in this table, are permitted in cases where topographical or natural constraints exist, or where a particular design approach warrants a different setback subject to Subsection 2.4.2, Planned Unit Developments.
- [10] Appurtenances may encroach into a side-yard provided they maintain a minimum setback of five feet from the property line and ten feet from principal structures on adjacent lots.
- [11] For unified developments, internal side setback shall be determined by the applicable Building and Fire Codes as adopted by the City of Franklin.
- [12] The minimum lot frontage width shall be required to be maintained to the front yard setback line, at which point the minimum lot width shall apply. However, the minimum lot frontage requirement shall not apply to lots located on the turning radius of a cul-de-sac.

3.3.4 Site Development Standards for Traditional Areas

- (1) Table 3-8 establishes the site developments standards, by building type, for development within traditional areas established pursuant to Section 5.1, Traditional and Conventional Area Standards Distinguished, and for development within the R-6, OR, and CC Districts.
- (2) All applicable development shall comply with the standards established within this subsection unless otherwise expressly stated, or unless a different standard is required by an applicable overlay district.

TABLE 3-8 SITE DEVELOPMENT STANDARDS FOR TRADITIONAL AREAS [1], [2], [3]

Standard	Residential Detached (Street Loaded)	Residential Detached (Alley Loaded)	Residential Attached	Mixed-Use	Nonresidential
Front Yard and Side Street Setback [4] [5] [6] [7]	10-30 feet	10-30 feet	0 or 5-25 feet	0–15 feet	0-20 feet
Side Yard Setback [8] [12]	5 feet	5 feet	[9] [13]	0-5 feet	0 feet
Rear Yard Setback [8]	5 feet	5 feet	5 feet	0 feet	0 feet
Main Body/Primary Facade Width (Maximum) [10]	50 feet	50 feet			
Minimum Lot Size	4,000 square feet	2,100 square feet			
Minimum Lot Width [5] [6] [11]	40-85 feet	30-70 feet			
Minimum Lot Frontage [5] [14]	40 feet	30 feet			

NOTES:

- [1] 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.
- [2] Numbers shown as a range indicate a minimum and maximum (Example: 10-30). Shaded cells indicate that no requirement exists.
- [3] Unified developments may establish interior lot lines as necessary, provided that the bulk requirements of the outer boundaries of the development shall be retained as specified in this table.
- [4] For mixed-use and single-use nonresidential building types developed according to the traditional standards, the front building setback shall be measured from the back edge of the sidewalk, not the right-of-way line.
- [5] Larger or smaller setbacks, lot widths, lot frontages and lot sizes, beyond the range presented in this table, are permitted in cases where topographical or natural constraints exist, or where a particular design approach warrants a different setback, subject to Subsection 2.4.2, Planned Unit Developments.
- [6] In cases where a transitional feature is required, the minimum setback and lot width shall be in accordance with Subsection 5.3.4, Transitional Features.
- [7] The minimum setback from Mack Hatcher Parkway shall be 80 feet, and the minimum setback from Interstate 65 shall be 100 feet.
- [8] Where an immediately adjacent existing building is set back less than the minimum required side or rear yard, the minimum side or rear yard requirement shall instead be the same as the immediately adjacent developed building, but not less than five feet. Buildings shall maintain a minimum spacing of ten feet.
- [9] Minimum of zero feet each side, minimum ten feet between buildings.
- [10] Side or rear wings designed in accordance with Subsection 5.3.9 are exempt from the maximum width.
- [11] Corner lots may be up to 15 feet wider to accommodate porches or other architectural feature facing the street, and the maximum lot size shall not apply.
- [12] Appurtenances are permitted to encroach into a required front or rear yard setback up to six feet and within side yards up to five feet from the property line provided a minimum of ten feet between buildings is maintained.
- [13] Internal side setbacks shall be determined by the City of Franklin Building Code and or the City of Franklin Fire Code.
- [14] The minimum lot frontage width shall be required to be maintained to the front yard setback line, at which point the minimum lot width shall apply. However, the minimum lot frontage requirement shall not apply to lots located on the turning radius of a cul-de-sac.

CHAPTER 8.3
DEFINITIONS AND USE CLASSIFICATIONS

Addition (to an existing building)

Any walled and roofed expansion to the perimeter of a building that is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition that is connected by a firewall or is separated by an independent perimeter load-bearing wall shall be considered “new construction”.

Appurtenance

The visible, functional, or ornamental objects accessory to, and part of a building, such as chimneys, decks, stoops, steps, porches, bay windows, roof overhangs, awnings, and similar features.

Porch

A projection from an outside wall of a dwelling that is covered by a roof and/or sidewalls (other than the sides of the building to which the porch is attached) for the purpose of providing shade or shelter from the elements.

Yard

An open space that lies between the principal or accessory structure and the nearest property line and which is unoccupied and unobstructed from the ground upward except as permitted in this ordinance.

Yard, Rear

An open, unoccupied space on a lot, except for accessory structures as herein permitted, extending across the rear of the lot from one side lot line to the other side lot line.

Yard, Required

The space between a lot line and the principal building within which no structure shall be permitted, except as authorized in this ordinance.

Background Information/Description of Variance Request

The applicant is requesting an 18-foot encroachment into the required 30-foot rear yard setback to construct a roof over the existing deck located at the rear of the existing dwelling located at 1422 Clairmonte Circle. The subject property is lot 244 in the Clairmonte Subdivision, Section 2, and is a lot of record that was created prior to the adoption of the current Zoning Ordinance. The property was originally platted with a 30-foot rear yard setback in 1995. 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.

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.” The required 40-foot rear yard setback requirements established on the recorded plat supersedes the setback requirements stipulated in Tables 3-6 and 3-8. 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.

The applicant requested a 13-foot encroachment into the rear yard setback in the justification letter. However, after reviewing the plans, staff finds that it is actually an 18-foot encroachment variance request.

Approval Criteria for Variances

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. 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.

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.

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.

Analysis of Approval Criteria for Variances

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 2 of the Clairmonte Subdivision in 1995. The property is not a standard lot in terms of size, shape, dimensions and setbacks as compared to other lots in the Subdivision. The subject property sits on a cul-de-sac causing a narrow front and a curved front yard setback. The proposed porch addition will be constructed in the location of the existing rear deck and the applicant is requesting an 18-foot encroachment into the required 30-foot rear yard setback.
 - The rear wall of the principal dwelling sits at the location of the rear setback line. Any additions to the rear of the dwelling would encroach into the rear yard setback.
 - The lot backs up to open space as well as Jim Warren Park.
 - 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.
 - Staff finds that the 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 of the deck 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 a covered deck can be located is to the rear of the existing dwelling. The proposed location would have the least impact on surrounding neighbors. Due to the shape of the lot and curvature of the front setback line, there is little to no buildable area that would not result in an encroachment in to the rear yard setback. 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 request to construct a roof addition 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. With the proposed location of the deck addition in relation to the limited buildable area, 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.

Staff Recommendation

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.

Motion for Variance Request

Move to approve the variance request to vary the required 30-foot rear yard setback by 18 feet to construct a deck addition located at the rear of the dwelling located at 1422 Clairmonte Circle because the applicant has demonstrated that the standards for granting a variance have been satisfied as described in the staff report.

Byron M. Gill
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November 11, 2019

JUSTIFICATION LETTER

This letter is requesting a hearing by the Board of Zoning Appeals for a variance allowing a 13 foot encroachment for the reconstruction and expansion of an existing deck into the required 30 foot rear-yard setback of the property located at 1422 Clairmonte Circle, Franklin, TN to be heard on December 5, 2019, at 6 p.m. in the City Hall Board Room. Please see the information below for more details.

Applicant: Edward and Cheryl Forrester, 1422 Clairmonte Circle, Franklin, Tennessee, 37064

Subject Property: 1422 Clairmonte Circle, Franklin, Tennessee, 37064 / Clairmonte Lot 244

Nature and Scope of the Application Request:

Variance request - 13 ft encroachment for the reconstruction and slight expansion of an existing deck into the 30 foot rear-yard setback.

(1) The request is justified as the property is exceptional due to narrowness and shape.

The Applicant's Lot is located on a curved cul-de-sac resulting in a narrow front width and forcing the residence to be constructed at the back of the building envelope.

(2) The strict application of the Zoning Ordinance would result in practical difficulties to or undue hardship upon the owner of the property.

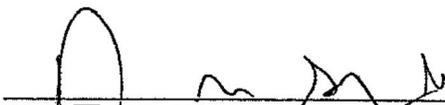
Due to the above lot shape and the fact that the residence was forced to be built as close as possible to the rear setback if a variance was not granted there could be nothing constructed at the rear of the residence.

(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.

The applicants have received approval of their deck plans from their adjoining neighbors as required by their Home Owner Association. In addition, the property back up to substantial screened common area with no residences in the area of the requested deck.

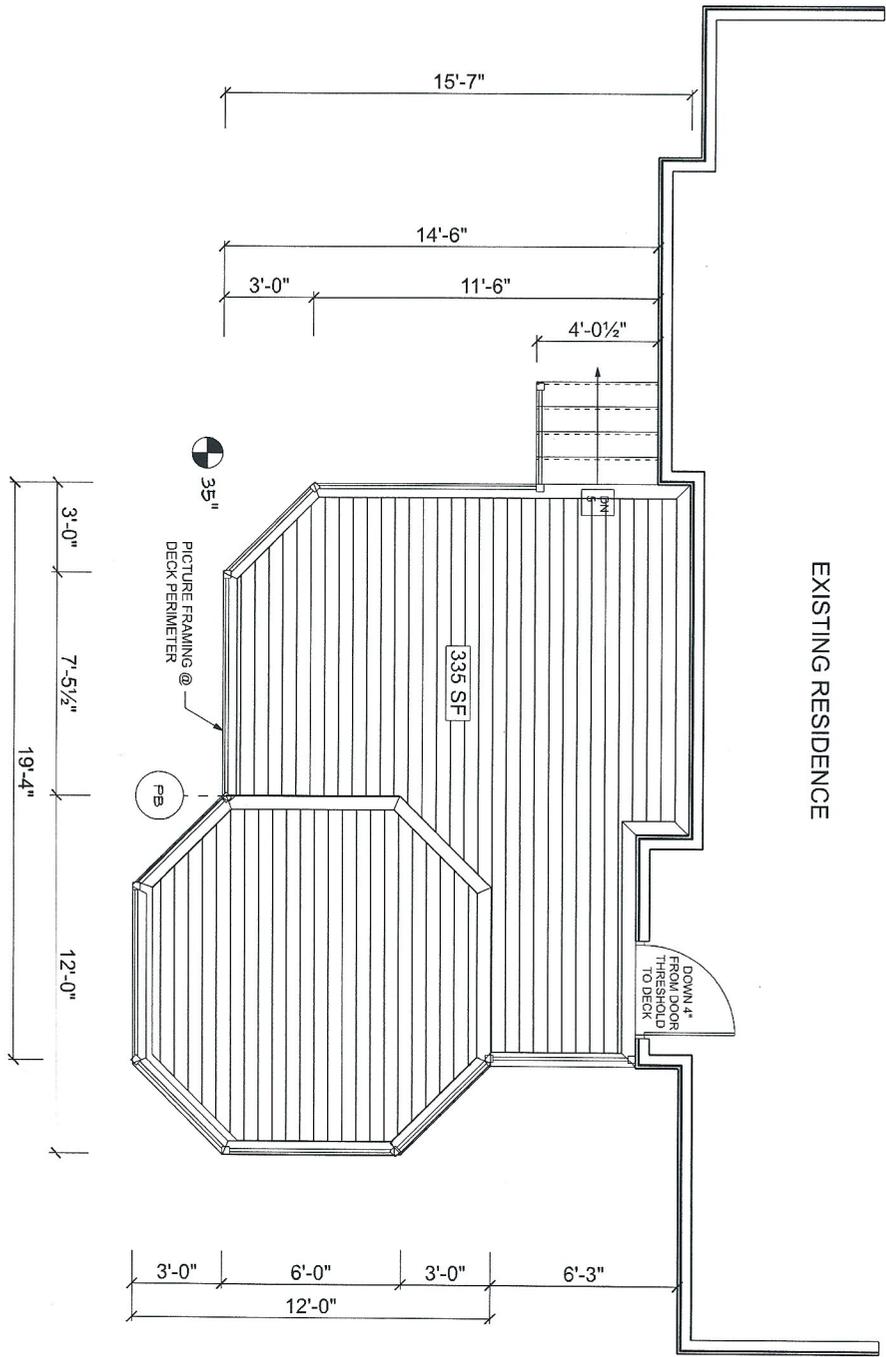
Sincerely,

ROCHELLE, McCULLOCH & AULDS, PLLC


BYRON M. GILL

All dimensions are approximate. In the event of a difference between the drawn and written dimensions, the written dimension shall prevail. Due to local differences in building codes and regulations, these drawings may need to be modified by the builder to comply with such local codes and regulations, or state conditions.

EXISTING RESIDENCE



GENERAL DECK NOTES

5/4 x 6 AZEK VINTAGE COLLECTIONS COMPOSITE DECKING w/ HIDDEN FASTENERS
1 x 10 AZEK COMPOSITE TRIM @ PERIMETER #C-317C
36" HIGH FORTRESS F#26 RAIL #504-B INSTALLED PER MANUF. SPECS.
AZEK COMPOSITE STAIR #400B w/ 5/4 x 6 TREADS & 1 x 8 RISERS w/ 2 x 12 PT. STRINGERS @ 9" O.C.

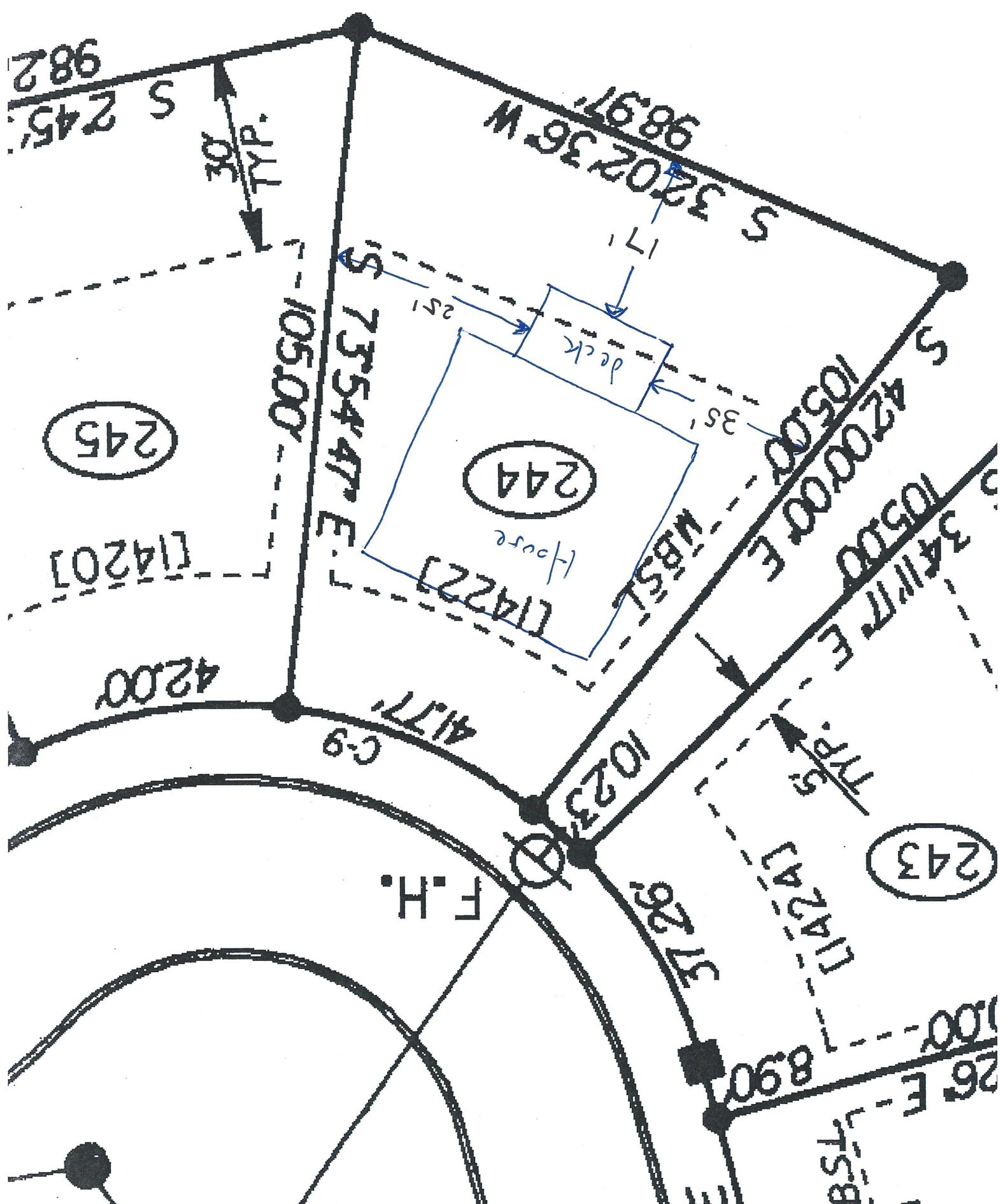
156-FORRESTER-97614
 1422 CLAIRMONT CIRCLE
 FRANKLIN, TN 37064
 DRAWN BY: JTF EXT: 235
 SEPTEMBER 19, 2019

Prepared by:
 Archadeck Franchising Corporation
 2324 Emerywood Parkway
 Suite 107
 Richmond, VA 23234

Construction & Drafting Department
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SHEET DESCRIPTION
 SHEET:
 4 / 4
 FP-1
 SCALE: 1/4" = 1'-0"

archadeck®
 outdoor living
 of
 Nashville





Sign in



1422 Clairmont

25'

17'

35'

© 2018 Google

Google Earth

35°55'26.93" N 86°53'20.67" W elev 208 ft eye alt 999 ft

1:44 PM 9/30/2019

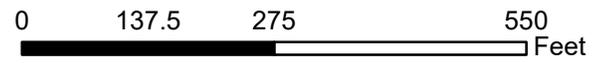


1422 Clairmonte Circle
 Rear Setback Variance Request
 TAX MAP 078A B, PARCEL 16.00
 BOARD OF ZONING APPEALS
 12/5/19



1422 Clairmonte Cir.. Rear Setback Variance Request

- | | |
|--|---------------------------------------|
| 1422 Clairmonte Cir | SD-R Specific Development-Residential |
| AG Agricultural District | SD-X Specific Development-Variety |
| ER Estate Residential | OR Office Residential District |
| R-1 Residential District | GO General Office District |
| R-2 Residential District | CC Central Commercial District |
| R-3 Residential District | NC Neighborhood Commercial District |
| R-6 Residential District | GC General Commercial District |
| RM-10 Attached 10 Residential District | LI Light Industrial District |
| RM-15 Attached 15 Residential District | HI Heavy Industrial District |
| RM-20 Attached 20 Residential District | CI Civic and Institutional District |



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