

**MEETING MINUTES OF THE
FRANKLIN BOARD OF ZONING APPEALS
September 5, 2019**

The Franklin Board of Zoning Appeals held a regular meeting on Thursday, September 5, 2019 at 6:00 p.m. in the City Hall Boardroom.

Members present: Frank Jones
 Gillian Fischbach
 Jonathan Langley

Staff present: Kelly Dannenfelser, Planning & Sustainability
 Joey Bryan, Planning & Sustainability
 Bill Squire, Assistant City Attorney
 Lori Jarosz, BNS Department

The agenda read as follows:

Review and approval of Minutes from July 11, 2019, BZA Meeting

Announcements

Variance Request by Jacquire King, for front yard fencing height at 217 Old Liberty Pike (F.Z.O §5.6.4, Table 5-8).

Variance Request by Bridget Ziegler, for a 18-foot encroachment into the required 30-foot rear yard setback to construct a covered patio at the rear of the existing dwelling located at 520 Foxcroft Circle (F.Z.O §3.3.3, Table 3-6).

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

Minutes from July 11, 2019, BZA Meeting

Ms. Fischbach moved to approve the July 11, 2019, meeting minutes. Mr. Langley seconded the motion and the motion carried 3-0.

Announcements:

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

Mr. Bryan stated there was one Announcement and stated the TN Chapter of the American Planning Association conference is in Franklin this year and will be hosting commissioner training and the department will pay the registration fee.

Variance Request by Jacquire King, for front yard fencing height at 217 Old Liberty Pike (F.Z.O §5.6.4, Table 5-8).

Mr. Bryan stated the applicant is requesting to vary the maximum height for front yard fencing by approximately 2 feet for the existing fencing located at 217 Old Liberty Pike. Mr. Bryan stated approximately 48 feet of existing fencing, running from the right front corner to the right rear corner of the principal structure, does not currently comply with the regulations of the Zoning Ordinance. Mr. Bryan stated the subject property is a lot of record that was created prior to the adoption of the current Zoning Ordinance. Mr. Bryan stated the property is currently zoned R-2 and within the Central Franklin Character Area Overlay District - Special Area 3 (CFCO-3), and designated for Traditional or Conventional Development Standards. Mr. Bryan stated the Table 5-8 establishes the Fencing Standards for Conventional and Traditional Areas. Mr. Bryan stated it sets the maximum fencing height for front yard fencing for residential lots at 3 feet. Mr. Bryan stated in the justification letter, the applicant cites the fencing height complies with Table 5-8 for the parking lots. Mr. Bryan stated this particular property would fall under the regulations for residential uses and the maximum height of 6 feet for parking lots would not apply. Mr. Bryan stated additionally, it is a corner lot which further classifies front yard fencing as extending to the street side rear corner of the principal structure to prevent sight line obstruction for vehicular traffic. 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 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 (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 a lot of record that was created prior to the adoption of the current zoning ordinance. The subject property is of similar size and shape to neighboring lots. The applicant is requesting to vary the maximum height for front yard fencing by approximately 2 feet for the length of the house, which is considered to be front yard fencing for corner properties.
 - Staff finds that the conditions on the lot as described by the applicant do not 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.
 - After reviewing the plans, Staff finds that the strict application of the Zoning Ordinance provisions requiring conformance with the Fencing Standards for residential lots would not result in an exceptional hardship on the owner of the property. Ultimately, the Board must determine whether the request to vary the fencing 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. City Traffic Engineer Adam Moser inspected the fencing and found no triangle violation and that the existing position and height of the fence does not hinder sight distance for vehicular traffic. Therefore, 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 disapproval of the variance requested by the applicant because the applicant has not met the three standards required for granting a variance.

Mr. King stated some background on this fence includes twice before the fence was built and called the City about fence height and was told an 8-ft. tall fence was alright and they started building the fence. Mr. King stated the fence was being built on the side of my neighbors' property and wound up falling on the property line and discussion was had with the neighbors to make sure they were okay with the aesthetic of it. Mr. King stated one day Mr. Allen Lewis was driving by and issued a code violation and stop work order because they were building an 8-ft. fence. Mr. King stated they took down the 8-ft. fence. Mr. King stated he did not realize that he two front yards due to having a corner lot. Mr. King stated he would like to have the extra 2-ft. to make it look better. Mr. King stated he additional photographs and passed those to the commissioners.

Mr. Bryan stated they did receive a letter of support as the fence looks now.

Chair Jones requested to know if any citizens wished to speak and no one 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 requested to be filled in on the meetings that took place.

Mr. Bryan stated he was not apart of those meeting, but he was contacted when the 8-ft. was built, but the applicant had gone ahead and taken it down. Mr. Bryan stated he was contacted again with the notice of violation and the applicant went to City court and the judge offered the applicant the variance option.

Mr. Langley questioned if the applicant met with staff.

Mr. Bryan stated he met with Ms. Shanna McCoy.

Chair Jones stated the photos show nothing about blocking the view.

Mr. Bryan stated Mr. Mosher with Engineering went out to view the property and determined it does not obstruct the view shed.

Ms. Dannenfelser explained about that there is a new Zoning Ordinance coming that will have some fencing changes. Ms. Dannenfelser explained.

After discussion and an explanation from Mr. Squire explaining this item was still involved with a court case. Mr. Langley moved to deny the request to vary the maximum height for front yard residential fencing by approximately 2-ft. for the property located at 217 Old Liberty Pike because the applicant has not demonstrated that all three 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 Bridget Ziegler, for a 18-foot encroachment into the required 30-foot rear yard setback to construct a covered patio at the rear of the existing dwelling located at 520 Foxcroft Circle (F.Z.O §3.3.3, Table 3-6).

Mr. Bryan stated the applicant is requesting an 18-foot encroachment into the required 30-foot rear yard setback to construct a sunroom addition at the rear of the dwelling located at 520 Foxcroft Cir. Mr. Bryan stated the subject property is Lot 20 in the Eagles Glen Subdivision, Section 2, and is a lot of record that was created in 1987 prior to the adoption of the current Zoning Ordinance. Mr. Bryan stated the property is currently zoned R-3 – Detached Residential 3 District, McEwen Character Area Overlay District - Special Area 3 (MECO-3), and designated for Conventional Development Standards. Mr. Bryan stated 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 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 an 18’ x 19’ covered

sunroom addition to the rear of the existing dwelling. Mr. Bryan stated the proposed roof cover would encroach into the rear setback approximately 18'. Mr. Bryan stated the lot is not a standard shape. Mr. Bryan stated the rear property line angles down from left to right 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 (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 Lot 20 of Section 2 of the Eagles Glen Subdivision in 1987. The proposed addition will be constructed at the rear of the dwelling. The applicant lists the rear yard setback in the justification letter as 25 feet, however the true platted rear yard setback is 30 feet. The applicant is requesting an 18-foot encroachment into the required 30-foot year yard setback.
 - The shape the lot is not typical of the subdivision. The lot is located on a cul-de-sac. The curved front yard setback pushes the buildable area towards the rear of the property. Additionally, the rear property line has two segments with the western segment angled

downward limiting the buildable area in the rear yard. The shape of the property limits where rear additions can be constructed. Additionally, the location of a 10' PUDE limits the buildable area of the lot.

- 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 unique shape of the property severely 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.

Ms. Ziegler stated she was happy to answer any questions.

Chair Jones requested to know if any citizens wished to speak and no one 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.

Ms. Fischbach moved to approve the variance request to vary the required 30-foot rear yard setback by 18 feet to construct an addition located at the rear of the existing dwelling located at 520 Foxcroft Cir. 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 3-0.

Other Business.

Adjourn.

With there being no further business, the meeting was adjourned at 6:33.


Chair