

**MEETING MINUTES OF THE  
FRANKLIN BOARD OF ZONING APPEALS  
January 7, 2021**

The Franklin Board of Zoning Appeals held a regular meeting on Thursday, January 7, 2021 at 6:00 p.m. in the City Hall Boardroom.

Members present:               Jonathan Langley  
  Gillian Fischbach  
  Frank Jones

Staff present:                               Kelly Dannenfelser, Planning & Sustainability Department  
  Kelli Gibson, Planning & Sustainability Department  
  Bill Squires, Law Department  
  Lori Jarosz, Building and Neighborhood Services Department

The agenda read as follows:

**Call to Order:**

Vice-Chair Langley called the January 7, 2021 meeting to order at 6:00 pm. Vice-Chair Langley stated he would be taking a roll call and proceeded to do so.

**RESOLUTION 2021-272**

Consideration of Resolution 2021-272, “A Resolution Declaring That The Board of Zoning Appeals Members Shall Meet On January 7, 2021, And Conduct Its Essential Business By Electronic Means Rather Than Being Required To Gather A Quorum Of The Members Physically Present In The Same Location Because It Is Necessary To Protect The Health, Safety, And Welfare of Tennesseans In Light Of The COVID-19 Outbreak.”

Vice-Chair Langley stated he would entertain a motion to adopt Resolution 2021-272.

Mr. Jones moved to approve. Ms. Fischbach seconded the motion.

Ms. Dannenfelser stated the Resolution should read 2021, not 2020.

The motion carried 3-0.

**Announcements:**

Vice-Chair Langley read aloud the following:

The Board of Zoning Appeals meeting will restrict physical access in the meeting room to a small number of staff members due to current limitations on public gatherings to prevent further spread of COVID-19 and to protect the health, safety, and welfare of City of Franklin officials, staff, and citizens. Accommodations have been made to ensure that the public is still able to participate in the meeting. The public may participate in the following ways:

- Watch the meeting on FranklinTV or the City of Franklin website.
- Watch the live stream through the City of Franklin Facebook and YouTube accounts.
- Call in to the meeting 1-312-626-6799; Meeting ID: 98834642277; Password: 486411. Callers will be unmuted and given the opportunity to comment during the meeting at specific times
- Limited viewing will be available in the lobby at City Hall for up to ten persons, but in-person comment in the Board Room will not be available.
- The public may email comments to [planningintake@franklintn.gov](mailto:planningintake@franklintn.gov) to be provided in full to the BZA and included in the minutes, but not read aloud in their entirety during the meeting. Comments will be accepted until noon today.

### **Approval of 2021 Meeting Schedule**

Ms. Fischbach moved to approve the 2021 Meeting Deadline Schedule. Mr. Jones seconded the motion and the motion carried 3-0.

### **Election of Chair and Vice-Chair**

Mr. Jones nominated Mr. Langley as Chair. Ms. Fischbach seconded the motion and the motion carried 3-0.

Mr. Jones nominated Ms. Fischbach as the Vice-Chair for 2021. Mr. Langley seconded the motion and the motion carried 3-0.

### **Review of Minutes from October 1, 2020 and November 5, 2020, BZA Meetings**

Mr. Jones moved to approve the minutes from the October 1, 2020 and November 5, 2020 meetings. Ms. Fischbach seconded the motion and the motion carried 3-0.

Chair Langley requested to know if there were any citizen comments and no one wished to comment.

Ms. Fischbach moved to close the public comment and Mr. Jones seconded the motion and the motion carried 3-0.

### **Applications:**

#### **1. Variance Request To Extend An Appurtenance Beyond The Maximum Permitted Encroachment By Ten Feet In The Rear Yard Of The Property Located At 104 Sutter Way (F.Z.O §3.5.5).**

Ms. Gibson stated the applicant is requesting a variance to extend an appurtenance beyond the maximum permitted encroachment by ten feet in the rear yard of the property located at 104 Sutter Way. Ms. Gibson stated the subject property was originally platted in 2002 as part of the Cool Springs East Subdivision and is currently zoned Residential 2 District (R2). Ms. Gibson stated the property is located on a cul-de-sac, which results in a triangular lot shape with a narrow front and a curved front yard setback. Ms. Gibson stated the rear property line coincides with the rear wall of the house and an existing deck encroaches six feet beyond the permitted encroachment into the

rear yard setback. Ms. Gibson stated due to the location of the property line, any additions to the rear of the dwelling would encroach into the rear yard setback. Ms. Gibson stated a change in topography occurs in the rear yard from the front to the rear of the parcel. Ms. Gibson stated the property backs up to a deeded open space managed by the subdivision HOA, with Bakers Bridge Road behind the open space. Ms. Gibson stated the HOA previously authorized the placement of the applicant's fencing within this open space area. Ms. Gibson stated the purpose of the variance request is to replace and extend the existing deck by four feet and add a screened porch to the portion of the deck area. Ms. Gibson stated the encroachment of the existing deck does not conform to the standards of the current Zoning Ordinance. Ms. Gibson stated per the Zoning Ordinance, decks are considered appurtenances and are permitted to encroach six feet into the rear yard setback. Ms. Gibson stated the variance request is to extend an appurtenance beyond the maximum permitted encroachment by ten feet in the rear yard of the property located at 104 Sutter Way.

Ms. Gibson stated the BZA may authorize a variance only when the request has met all three criteria in accordance with F.Z.O §20.10.6 and State law. Ms. Gibson stated the staff has completed an analysis of the request in light of these criteria:

1. Where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the Zoning Ordinance or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition, such a piece of property is not able to accommodate development as required under this Ordinance.

The subject property is triangular in shape and the lot's location on the cul-de-sac results in a property line that aligns with the rear wall of the home. These conditions result in a lot with a narrow front and a wide but shallow rear lot line. Staff concluded that the shape of the property and lot constraints create an extraordinary and exceptional condition on the property that does not permit development under the Zoning Ordinance. Due to these reasons, staff finds that the property meets the first criterion for a variance.

2. The strict application of any provision enacted under the Zoning Ordinance would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of the property.

The rear of the existing dwelling is the only possible location for a deck and screened porch, and the proposed location would have the least impact on surrounding neighbors. Due to the shape of the lot, there is no buildable area that would not result in an encroachment into the rear yard setback to some extent. The strict application of the Zoning Ordinance would require conformance with the platted setback and would only permit the new deck and screened porch to encroach six feet into the setback. The BZA must determine whether the inability to replace and expand a deck and screened porch beyond six feet in length is a hardship or practical difficulty. If granted a variance, staff recommends the BZA impose the condition that no portion of the deck or screened porch may be later enclosed to create additional indoor living space.

3. Such relief may be granted without substantial detriment to the public good and without substantially impairing the purpose and intent of the Zoning Ordinance.

The lot is exceptional in nature, and the location of the fencing within the HOA open space further emphasizes the lot's irregularity. The conditions on the lot, the approval of similar past requests, and the fact that the lot backs up to open space all support the rationale that the request would not result in detriment to the public good. The intent of rear yard setbacks is to maintain a degree of open space in rear yards. Staff finds that the replacement and extension of the existing deck and porch as proposed by the applicant would not impair the intent and purpose of the Zoning Ordinance. Due to these reasons, the third criterion is satisfied.

Ms. Gibson stated based on the above reasoning, staff recommends approval of the variance based on the criteria that authorize a variance to be established.

Chair Langley requested to know if the applicant wished to speak.

Mr. David Romagna was present for the item and stated the current deck is in disrepair and the deck is currently not conforming with the existing codes due to it being there for twenty years. Mr. Romagna stated the applicants would like to tear the deck off and bring it up to codes. Mr. Romagna stated the applicants would also like to have a screened porch. Mr. Romagna stated the common area abuts Bakers Bridge Road so there are no homeowners behind and it will not have any adverse effect, he stated they sent out the letters to all homeowners and no one responded negatively. Mr. Romagna stated the applicants already have a letter from the HOA granting them permission to put the fence on their property and would not expect any objection from the HOA.

Chair Langley opened the public portion of the meeting and no one requested to speak.

Mr. Jones moved to close the public portion of the meeting, with Ms. Fischbach seconding the motion. The motion carried 3-0.

Chair Langley mentioned that on page three of the packet there is a staff condition staff recommends and should be included in the motion.

Ms. Fischbach moved to approve the variance request to extend an appurtenance beyond the maximum permitted encroachment by ten feet in the rear yard of the property located at 104 Sutter Way because the criteria for granting a variance have been satisfied as described in the staff report with the stipulation that no portion of the deck or screened porch may later be enclosed to create indoor living space. Mr. Jones seconded the motion and the motion carried 3-0.

#### **Other Business.**

No other business.

#### **Adjourn.**

Chair Langley stated he would entertain a motion to adjourn. Mr. Jones moved to adjourn. Ms. Fischbach seconded the motion and the motion carried 3-0.

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

  
Chair