

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

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

Members present: Jonathan Langley  
Jeff Fleishour  
Gillian Fischbach  
Frank Jones

Staff present: Kelly Dannenfelser, Planning & Sustainability Department  
Victoria Hensley, Planning & Sustainability Department  
Bill Squires, Law Department  
Shanna McCoy, BNS Department

The agenda read as follows:

**Call to Order:**

Chair Langley called the October 7, 2021 meeting to order at 6:04 pm. Chair Langley stated he would be taking a roll call and proceeded to do so.

**Announcements:**

Ms. Dannenfelser stated she would like to remind the board that TAPA training for BZA members is on Friday, November 5<sup>th</sup>, from 8 am until noon. Ms. Dannenfelser stated the board members should have registration details in their email or if you prefer to come to City Hall we can make that accommodation.

**Review of Minutes from September 2, 2021, Meeting:**

Ms. Fischbach moved to approve the September 2, 2021, meeting minutes. Mr. Jones seconded the motion and the motion carried 4-0.

**Public Comment:**

Chair Langley requested to know if any citizens wished to make any comments and no one requested to comment.

Mr. Jones moved to close the Public Comment. Ms. Fischbach seconded the motion and the motion carried 4-0.

**Applications:**

**Variance Request – For A 5-Foot Encroachment Into The Required 5-Foot Driveway Setback to Expand A Portion Of An Existing Driveway For Stormwater Management Purposes For the Property Located At 313 Saddle Bridge Ln. (F.Z.O. 10.1.17 – Driveways on Residential Lots).**

Ms. Hensley stated the applicant is seeking a variance for a 5-foot encroachment into the required 5-foot driveway setback. Ms. Hensley stated the applicant is seeking the variance to expand a portion of an existing driveway for stormwater management purposes. Ms. Hensley stated the variance request is one part of a larger project to address stormwater drainage issues on the subject property.

Ms. Hensley 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. Hensley stated the staff has completed an analysis of the request in light of these criteria as follows:

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 does represent one of the more narrow lots within the Fieldstone Farms subdivision. When built in 1994, the survey of the parcel, included in the exhibits, shows the existing driveway encroaching upon the 5-foot setback at a range of 2' to 5". The current driveway location is permitted to continue under the Zoning Ordinance requirements.

The subject property also has a downward slope at the rear of the property that creates a significant grade change, which the applicant states requires a full-property runoff management plan. The narrowness of the lot as well as the exceptional topographic conditions create a unique drainage situation from the house. Therefore, staff believes this criterion is met.

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 applicant states that the variance request is one part of a larger repair plan for the property. The applicant intends to bury drainpipes, fill and repave areas of the driveway where runoff has settled and caused cracks, and extend the driveway into the backyard to improve parking conditions. The pooling of the runoff has led to internal damage to the house as well as the runoff has pooled beside the house and caused the subfloor of the upstairs doorway to begin collapsing, thus creating safety concerns for the applicant. The strict application of the Zoning Ordinance would cause the applicant to not make necessary repairs to create a safer driveway and runoff management plan, which staff believes is an exceptional hardship. Therefore, this criterion is met.

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 purpose of the 5-foot setback for driveways is to allow for adequate stormwater drainage that sheds off of a driveway during rain events. However, the applicant's proposal is better for the overall drainage on this property. The extension of the driveway cannot be viewed from the road and will solely be into the applicant's backyard. However, the applicant must slope the driveway toward the rear yard so that all runoff from the driveway is directed away from the neighboring property. With this condition, staff believes such relief will not cause substantial detriment to the public good nor impair the purpose of the Zoning Ordinance, and this criterion is met.

Ms. Hensley stated based on the reasoning detailed above, staff recommends approval of the Variance request with the following condition:

1. The driveway extension shall be sloped toward the rear yard, not the side property line, so that all runoff from the driveway is directed away from the side property line.

Ms. Nyla Williams introduced herself as the applicant and stated hopefully the application is complete and would answer any questions. Ms. Williams stated for the record attachments 1, 3 and 5 are really just a mortgage loan inspection plan. Ms. Williams noted her neighbors asked her if she was willing to have a survey done to mark the property line and Ms. Williams stated that makes perfect sense to her and has agreed to pay the cost for the surveyor.

Chair Langley requested to know if there were any citizens who wished to comment on this item, and no one requested to speak.

Ms. Fischbach moved to close the public comment. Mr. Jones seconded the motion and the motion carried 4-0.

Chair Langley stated he had one question and requested to know from staff if the five feet would change due to the as-built survey.

Ms. Dannenfelser stated that is really asking for the maximum up to the property line and would not for see any change to the variance request.

Ms. Fischbach moved to approve with the condition the driveway extension shall be sloped toward the rear yard, not the side property line, so that all runoff from the driveway is directed away from the side property line and because the criteria required for granting a variance have been met. Mr. Jones seconded the motion and the motion carried 4-0.

**Variance Request – For A 4-foot and 9-inch Encroachment Into The Required 40-Foot Front Yard Setback For East Side of Columbia Avenue To Connect Two Portions Of An Existing Building Located at 1143 Columbia Ave. (F.Z.O. 4.7.5 – CAO2-Historic**

**Residential Development Sub-District, Building Setbacks).**

Ms. Hensley stated the applicant is seeking a variance for a 4-foot and 9-inch encroachment into the required 40-foot front yard setback for the east side of Columbia Avenue, as stated in the CAO2 Overlay District. Ms. Hensley stated the applicant wants to connect two portions of an existing building. Ms. Hensley stated the subject parcel includes three buildings at Carter's Court. However, the applicant is requesting a variance for one specific building with a unique configuration. Ms. Hensley stated the building has a small void that is behind the front portion of the existing building and in front of another portion of the building, which cannot be seen from the street. Ms. Hensley stated this is the area that is requested for a variance. Ms. Hensley 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. Hensley stated the staff has completed an analysis of the request in light of these criteria as follows:

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 building currently encroaches into the required 40-foot front yard setback in the Columbia Avenue Overlay (CAO). The building was constructed prior to the Zoning Ordinance and currently represents a legal nonconformity. The building, as currently built, has a void between two separate portions of the overall structure. The applicant is seeking a variance in order to add a minor addition where the void currently exists. While the void is within the required 40-foot setback, it is behind the front portion of the existing building and cannot be seen from the street. The unique shaped building and unusual configuration represent an exceptional condition; therefore staff believes this criterion is met.

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 applicant is requesting the variance request because of the void pocket between two existing portions of the building. The void creates a detrimental hardship to the owner of the property because the void makes the building difficult to use. The void creates an open gap that employees and customers inside the building must walk through to access either portion of the existing building. The addition within the setback would allow for greater safety and function of the building. Therefore, staff believes there is an exceptional hardship created by the unique configuration of the existing building and this criterion is met.

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 applicant has proposed to construct a minor addition behind the front portion of the existing building. The existing building is already in the 40-foot setback. However, the addition to enclose the void between the two portions of the existing building cannot be seen from Columbia Avenue. The addition measures approximately 4'9" and will not be taller than the roof height of the existing building. No existing public utilities will be negatively affected by the proposal. This addition will not increase the visible appearance of the nonconformity per the Zoning Ordinance. Therefore, staff believes such relief will not be a detriment to the public good nor impair the intent of the Zoning Ordinance, and this criterion is met.

Ms. Hensley stated based on the reasoning detailed above, staff recommends approval of the Variance request.

Mr. Ed Warner was present to represent the item and stated he was one of the owners of the property. Mr. Warner stated basically speaking without the variance there is a weird void. Mr. Warner stated it is difficult to design around so that is why they are asking for the variance.

Chair Langley requested to know if there were any citizens who wished to comment on this item, and no one requested to speak.

Mr. Jones moved to close the public comment. Ms. Fischbach seconded the motion and the motion carried 4-0.

Mr. Jones stated staff when you say this was predating the Zoning Ordinance was there any Zoning Ordinance when the buildings were built.

Ms. Dannenfelsler stated that was a good question and stated this building was constructed prior to the CAO Overlay District not the Zoning Ordinance, so the Zoning Ordinance was in effect when this building was constructed it just predates the specific setback requirement that is in the Columbia Avenue Overlay District.

Ms. Fischbach moved to approve the Variance request for a 4-foot and 9-inch encroachment into the required 40-foot front yard setback for east side of Columbia Avenue to connect two portions of an existing building located at 1143 Columbia Avenue because of the criteria required for granting a variance has been met. Mr. Fleishour seconded the motion and the motion carried 4-0.

#### **Other Business.**

No other business.

#### **Adjourn.**

Chair Langley stated he would entertain a motion to adjourn.

Mr. Fleishour moved to adjourn. Ms. Fischbach seconded the motion and the motion carried 4-0.

With there being no further business, the meeting was adjourned at 6:21.

  
Chair