

PUBLIC NOTICE
FRANKLIN BOARD OF ZONING APPEALS
SEPTEMBER 5, 2019

AGENDA

Notice is hereby given that the Franklin Board of Zoning Appeals will hold a regularly scheduled meeting on Thursday, September 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 July 11, 2019, BZA Meeting

Announcements

Items to be heard by the Board

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

2. **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).

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
JULY 11, 2019**

The Franklin Board of Zoning Appeals held a regular meeting on Thursday, July 11, 2019 at 6:00 p.m. in the City Hall Boardroom.

Members present: Frank Jones
 Joel Tomlin
 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 June 6, 2019, BZA Meeting

Announcements

Variance Request by JD Pritchett, for a 2-foot encroachment into the required 5-foot rear yard setback for accessory structures to construct a detached garage at the rear of the lot located at 1365 Columbia Avenue (F.Z.O §3.3.4, Table 3-8).

Variance Request by Joannie Walker, for a 12-foot encroachment into the required 30-foot rear yard setback to construct a covered patio at the rear of the existing dwelling located at 121 Pebble View Drive (F.Z.O §3.3.3, Table 3-6).

Variance Request by Don Burke, to increase the maximum lot width for traditional development standards for detached residential lots by 35-feet for the property located at 424 South Margin Street. (F.Z.O §3.3.4, Table 3-8).

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

Minutes from June 6, 2019, BZA Meeting

Mr. Tomlin moved to approve the June 6, 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 no, there were no non-agenda items.

Variance Request by JD Pritchett, for a 2-foot encroachment into the required 5-foot rear yard setback for accessory structures to construct a detached garage at the rear of the lot located at 1365 Columbia Avenue (F.Z.O §3.3.4, Table 3-8).

Mr. Bryan stated the applicant is requesting a 2-foot encroachment into the required 5-foot rear yard setback for accessory structures to construct a detached garage at the rear of the existing lot located at 1365 Columbia Avenue. Mr. Bryan stated the subject property is Lot 1 in the Gist Street Subdivision and is a lot of record that was created in 2016. The property is currently zoned SD-R – Specific Development-Residential, Central Franklin Character Area Overlay District - Special Area 7 (CFCO-7) and designated for Traditional Development Standards. 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 was platted as Lot 1 of the Gist Street Subdivision in 2016. The property is narrow as compared to other lots along the same block face. The proposed detached garage will be constructed at the rear of the lot and the applicant is requesting a 2-foot encroachment into the required 5-foot rear yard setback for accessory structures.
 - A rear addition to the principal structure was constructed prior to the current property owner that limits the buildable space for both future additions and accessory structures. However, there does appear to be enough room to construct the detached garage and still meet the setback requirements defined by the Zoning Ordinance.
 - Neighboring lots do have accessory structures within 5 feet or on the property line. However, based on the age of the platted lots and dwellings, these structures were more than likely constructed prior to the adoption of the current Zoning Ordinance.
 - Staff finds that the conditions on the lot as described by the applicant does 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 if Traditional 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.
 - Detached garages are limited to be located behind the principal structure as governed by the regulations of the Zoning Ordinance. The applicant cites the need for a garage in the proposed location for safety means so the property owner would not have to back onto Columbia Avenue in high volume traffic. After reviewing the plans, Staff finds that a side facing garage could be constructed 5-feet off the rear property line and still have enough space for a vehicle turn-around, so a driver would not have to back onto Columbia Avenue. The strict application of the Zoning Ordinance provisions requiring conformance with the Traditional Development Standards would not result in an exceptional hardship on the owner of the property. Ultimately, the Board must determine whether the request to construct a detached garage within the required setback 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 Zoning Ordinance also dictates that accessory buildings must maintain 10 feet of distance from neighboring structures on adjacent lots. The proposed layout would place the building 8 feet from the neighboring structure at 101 Gist St. Therefore, staff believes that granting the proposed variance could be detrimental to the public good and would 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. Mr. Bryan stated 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. Bryan stated if the Board approves the request, additional requirements may be needed to comply with building and fire code. Mr. Bryan stated the applicant must meet these regulations in order to receive a building permit.

Mr. Pritchett stated the area for where his client wants to build has construction going on behind them and due to this it makes almost any kind of useable space for them. Mr. Pritchett stated the 10-foot separation and fire situation was never mentioned to them at the pre-meeting and would like to know more about that.

Mr. Bryan stated at the pre-meeting he did not know what the setbacks were for the neighboring house and Ms. Jarosz, from BNS, can add more to it.

Ms. Jarosz stated this is from the 2018 IRC and talks about the exterior walls on concerned with the other house on the side of this garage and garages located less than 3-feet from a dwelling lot not less than half-inch gypsum board or equivalent applied located with this area.

Mr. Pritchett explained that the neighboring property's detached garage is sitting on my client's property and their ac unit actually sits on my client's property. Mr. Pritchett stated they were hoping his client could have some useable space.

Chair Jones stated maybe this item should be deferred so staff can work on any tangibles there might be.

Mr. Bryan stated no, because after this review the neighboring house is the only potential extra issue outside this property to hinder construction of the garage.

Chair Jones stated it seems to him there is an issue of planning of the other structure too.

Mr. Bryan stated the planning of the garage is not located where the neighboring garage is encroaching and does not factor into this.

Mr. Pritchett explained that is why his client is having to put his garage in the location chosen.

Chair Jones requested to know if anyone from the audience wished to speak on this item and no one requested to speak.

Mr. Langley moved to close the public portion of the hearing. Mr. Tomlin seconded the motion and the motion carried 3-0.

Mr. Langley moved to deny the variance request to vary the required 5-foot rear yard setback by 2 feet to construct a detached garage located at 1365 Columbia Avenue because the applicant has not demonstrated that the standards for granting a variance have been satisfied. Mr. Langley stated he did not see any exceptional topographic conditions or other extraordinary and exceptional situation or condition of the property. Mr. Langley stated strict application of the Zoning Ordinance would not result in peculiar or exceptional practical difficulties or undue hardship to the property and if the variance was granted it would under mind the intent and purpose of the Zoning Ordinance in that specific section and with no uniqueness it is difficult to set this lot apart from any other lot in Franklin and this is really what the Zoning Ordinance is intended to do. Mr. Tomlin seconded the motion and motion carried to fail 3-0.

Mr. Langley stated if approved it could set a precedence and he did not want that to happen.

Chair Jones requested to know if this was a smaller lot.

Mr. Bryan stated there was still room in another place in the rear backyard to place a garage.

Chair Jones stated he did not want anyone to get hurt backing out into this street.

Variance Request by Joannie Walker, for a 12-foot encroachment into the required 30-foot rear yard setback to construct a covered patio at the rear of the existing dwelling located at 121 Pebble View Drive (F.Z.O §3.3.3, Table 3-6).

Mr. Bryan stated the applicant is requesting a 12-foot encroachment into the required 30-foot rear yard setback to construct a covered patio at the rear of the dwelling located at 121 Pebble View Drive. Mr. Bryan stated the subject property is Lot 4 in the Cobblestone Court Subdivision and is a lot of record that was created in 1981 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 (MECO-4) and designated for Conventional Development Standards. Mr. Bryan stated the 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 however, the 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 approx. 240 sq. ft. covered patio to the rear of the existing dwelling. Mr. Bryan stated the proposed roof cover would encroach into the rear setback approximately 12’. Mr. Bryan

stated the lot is not a standard shape. Mr. Bryan stated the rear cul-de-sac and side property line angles down from right to left pushing the pack the front and side setback line and limiting buildable areas. Mr. Bryan stated additionally, the previous construction of a rear addition further limited where a covered back patio can be located. Mr. Bryan stated the lot also contains an existing 20' 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. 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 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 the Cobblestone Court Subdivision in 1981. The proposed covered patio will be constructed at the rear of the existing dwelling. The applicant is requesting a 12-foot encroachment into the required 30-foot year yard setback.
 - The shape the lot is not typical of the subdivision. The shape of the property, specifically the angled side property line and curved nature of the front setback to accommodate the cul-de-sac, limits where rear covered patios can be constructed. Additionally, the location of a 20' PUDE limits the buildable area of the lot.
 - The patio does encroach approx. 2 to 3 feet into the existing PUDE. City staff has reviewed the plans and determined that the structure is not a hinderance to any existing utility lines.

- The lot backs up to a public road along the rear property lines.
 - 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 landscape buffer 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 covered patio 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.

Chair Jones requested to know if anyone from the audience wished to speak on this item and no one requested to speak.

Ms. Walker stated it is not a covered structure, but a pergola.

Mr. Bryan stated his apologies and stated she was correct, and it was attached to the house.

Ms. Walker stated she had neighbors here who were in support of this item.

Chair Jones requested a show of hands from the audience in favor of the pergola and a bunch raised their hands.

Chair Jones requested to know if there was anyone there opposed to the item and no one raised their hand.

Mr. Tomlin moved to close the public portion of the hearing. Mr. Langley seconded motion and the motion carried 3-0.

Mr. Tomlin moved to approve the variance request to vary the required 30-foot rear yard setback by 12 feet to construct a covered patio addition located at the rear of the existing dwelling located at 121 Pebble View Drive 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.

Variance Request by Don Burke, to increase the maximum lot width for traditional development standards for detached residential lots by 35-feet for the property located at 424 South Margin Street. (F.Z.O §3.3.4, Table 3-8).

Mr. Bryan stated the applicant is requesting to vary the 85-foot maximum lot width for traditional development standards by 35 feet to consolidate two lots into one lot that is currently one parcel. Mr. Bryan stated the property at 424 S. Margin St. was originally platted in 1931 as Lots 6 & 7 of the City Park Subdivision, each with a 60-foot lot width. Mr. Bryan stated the property owner wishes to construct an addition onto the existing dwelling over the existing lot line between Lots 6 & 7. Mr. Bryan stated the City does not allow for new buildings or additions to be constructed over lot lines. Consolidating the properties would create a lot width of approximately 120 feet. Mr. Bryan stated the property is currently zoned R-3 – Detached Residential 3 District, Central Franklin Character Area Overlay District - Special Area 2 (CFCO-2) and designated for Traditional Development Standards. Mr. Bryan stated the Table 3-8 establishes the Site Development Standards for Traditional Areas. Mr. Bryan stated the table 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 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 the Variances are intended to address extraordinary, exceptional, or unique situations that were not caused by the applicant’s act or omission. 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. The property at 424 S Margin Street was created in 1931 as part of the City Park Subdivision prior to the adoption of the current Zoning Ordinance. The property is a standard lot in terms of size, shape, dimensions and setbacks. The property owner wishes to construct a rear addition on the existing dwelling over the lot line, which not allowed by current codes. It appears the two lots were

purchased together and only one principal dwelling was ever constructed on the property. However, the lots were never formally consolidated through a recorded plat.

- The close-proximity to the intersection of South Margin Street, Lewisburg Avenue, and 5th Ave South makes it extremely difficult to back out of the driveway into oncoming traffic. The proposed addition allows for enough room to turn a vehicle, so it is facing the public streets for safe ingress and egress.
 - If a house were to be constructed on Lot 6, an additional curb cut would be needed adding to the already busy intersection of South Margin Street, Lewisburg Avenue, and 5th Ave South
 - The property has had the appearance of one lot since originally purchased in the 1930s.
 - Adjusting the lot lines would maintain the established context of the street and no additional single-family dwellings could be constructed through this proposal. 3
 - 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.
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 current conditions at 424 S. Margin Street, primarily its close proximity to the intersection of South Margin Street, Lewisburg Avenue, and 5th Ave South limits where new construction can be built and still maintain a safety for both the property owner and other drivers. The strict application of the Zoning Ordinance provisions requiring conformance with the maximum lot width as defined in 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 modify the maximum lot width 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 proposed lot width would maintain the established context and pattern of the street. Based on the proximity to the intersection of South Margin Street, Lewisburg Avenue, and 5th Ave South and the proposed continuation of the established character of the street, 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 as a project consideration, the current draft of the new City of Franklin Zoning Ordinance eliminates maximum lot widths for residential lots. Mr. Bryan stated the new Zoning Ordinance is available to view by the public for feedback and has not gone before Planning Commission the Board of Mayor and Aldermen for review or approval. 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. Mr. Bryan stated 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. Burke stated Mr. Bryan covered everything.

Chair Jones requested to know if there was anyone who wished to comment on this item and no one requested to speak.

Mr. Langley moved to close the public hearing. Mr. Tomlin seconded the motion and the motion carried 3-0.

Mr. Langley moved to approve the variance request to vary the required 85-foot maximum lot width by 35 feet to shift the to consolidate the lots at 424 South Margin Street because the applicant has demonstrated that the standards for granting a variance have been satisfied as described in the staff report. Mr. Tomlin seconded the motion and the motion carried 3-0.

Other Business.

Chair Jones stated he would like to revisit Item 1 and expressed his concern of anyone having to back out into the street on Columbia Avenue.

Mr. Squire stated the vote has been had, but what would you like to do.

Chair Jones stated he wanted staff to continue to work with Mr. Pritchett to work something out, so they do not have to back out onto the street.

Mr. Tomlin stated if he did come back bring pictures.

Mr. Pritchett explained the reason for why they wanted to set it back as far as they can.

Mr. Langley stated it is not the turnaround, but the structure.

Mr. Bryan agreed.

Mr. Bryan introduced, Mr. Bill Squire.

Adjourn.

With there being no further business, the meeting was adjourned at 6:20.

Chair

Item 1
Variance Request
BZA 9/5/19
COF #7057

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

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-2 – Detached Residential 2 District
North: R-2 – Detached Residential 2 District
South: R-2 – Detached Residential 2 District
East: SD-X – Specific Development-Variety District
West: R-2 – Detached Residential 2 District

Vicinity Land Use

Site: Detached Residential
North: Vacant
South: Detached Residential
East: Detached Residential
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.

(2) Maximum Height by Function and Location

(a) Height

Fences or walls shall not exceed the height as depicted in Table 5-8, Fence and Wall Height. For purposes of this subsection, height shall be measured from finished grade. The use of a berm to increase fence or wall height is prohibited.

TABLE 5-8: FENCE AND WALL HEIGHT		
Fence or Wall Function	Maximum Height	
	Front Yard (feet) [1]	Side Yard, Rear Yard, Side Street (feet) [1]
Dumpster, refuse area, loading area, or recycling container screen walls	The greater of: 8 feet or 2 feet taller than the container being screened	
Chain link fences	6	8
Retaining walls & grade transition walls [2]	Residential uses	6
	Nonresidential and mixed-uses	10 [3],[4]
Parking lot screen fence or wall	At least 3; Max. of 6	
All other fences & walls	Residential uses	3
	Nonresidential and mixed-uses	8
NOTES:		
[1] For the purposes of determining the maximum height of a fence or wall along a street, the height permitted along the side or secondary street shall not begin until the rear of the main body of structure.		
[2] Retaining walls within the rights-of-way of collector, arterial, Mack Hatcher Parkway, or Interstate 65 are exempt from height limits.		
[3] Changes in grade may be permitted to reach a maximum of 16 feet if two or more retaining walls are used, provided each wall is no greater than 8 feet tall and there is a minimum horizontal separation of six linear feet between the walls to allow for the planting of vegetation.		
[4] A single row of evergreen shrubs with a maximum on-center spacing of five feet shall be located at the base of a retaining wall to soften its appearance. Shrubs shall be a minimum of 30 inches in height above ground level at the time of planting and shall typically grow to a minimum height of five to six feet within four years. Evergreen trees or groundcover may be permitted as an alternative to shrubs subject to the approval of the Department of Planning and Sustainability.		

(ii) Side and Rear Yards

Except on lots with a side street frontage, fences and walls located behind the front façade of the structure shall be subject to the height standards for fences and walls located in side or rear yards.

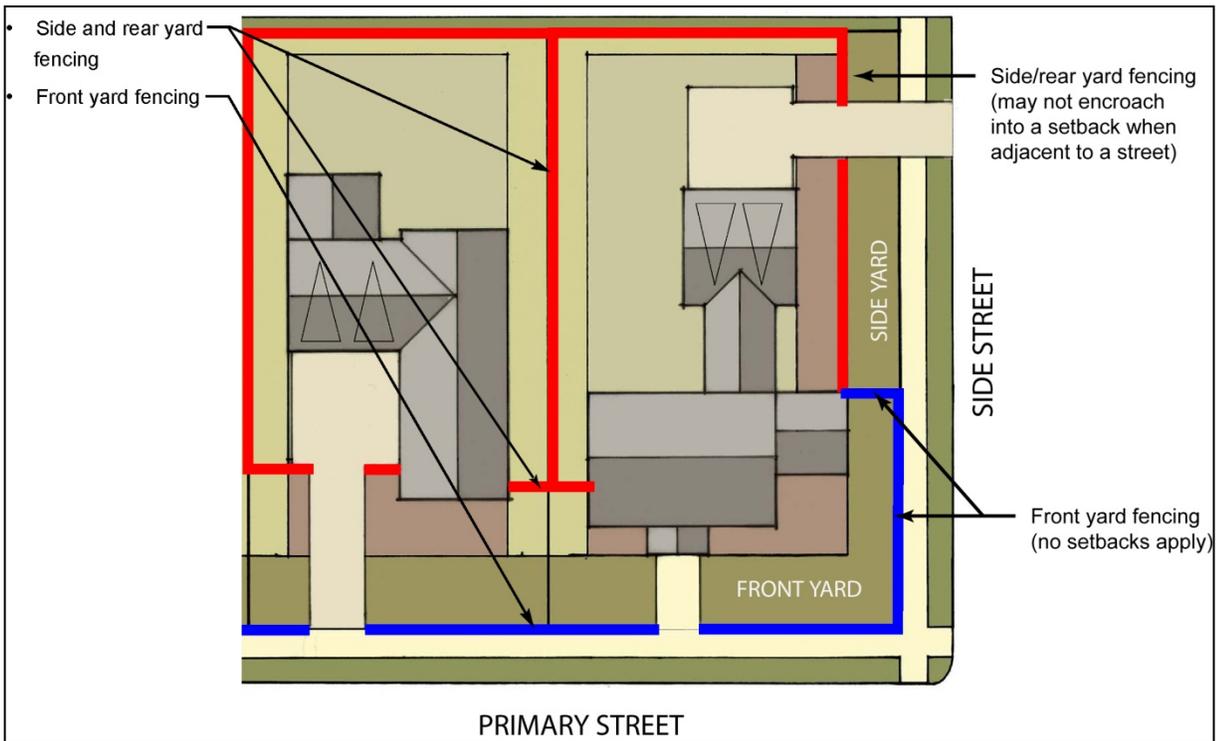


Figure 5-83: Fence and wall height is determined by the wall or fence's location relative to the streets fronting the lot and the structure's front and rear façades

**CHAPTER 8.3
DEFINITIONS AND USE CLASSIFICATIONS**

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 to vary the maximum height for front yard fencing by approximately 2 feet for the existing fencing located at 217 Old Liberty Pike. 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. The subject property is a lot of record that was created prior to the adoption of the current Zoning Ordinance. 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.

Table 5-8 establishes the Fencing Standards for Conventional and Traditional Areas. It sets the maximum fencing height for front yard fencing for residential lots at 3 feet. In the justification letter, the applicant cites the fencing height complies with Table 5-8 for the parking lots. However, this particular property would fall under the

regulations for residential uses and the maximum height of 6 feet for parking lots would not apply. 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.

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 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.

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 disapproval of the variance requested by the applicant because the applicant has not met the three standards required for granting a variance.

Motion for Variance Requests

Move to deny the request to vary the maximum height for front yard residential fencing by approximately 2 feet 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.

Justification Statement
In Support of Request for Variance
217 Old Liberty Pike, Franklin, Tennessee 37064
August 6, 2019

This Justification Statement is in support of my request for a variance with respect to the fence I had erected on the property referenced above. On April 22, 2019, a Notice of Violation was delivered citing Fence and Wall Zoning Ordinance 5.6.4 had been violated. The Violations in your Notice included height, location and restrictions to flood way permission.

I was directed to appear in the Municipal Court of Williamson County before the Honorable Deanna C. Hood on June 13, 2019. At that time, I presented, pictures of my fence, drawings and presented my request to the judge to allow my fence to remain at 5 feet. The Judge heard the arguments from both sides and wanted to rule in my favor. She was unable to do so due to the fact she had no jurisdiction to rule on a zoning ordinance. At the time of the Hearing, Judge Hood requested the Franklin Department of Planning and Sustainability to essentially provide the means for me to request a fence variance with respect to my property through the proper channels of their Department. Accordingly, I submit the following information to respectfully request a variance be issued in this instance with respect to my property based on the following:

The section of fence in question is along the Daniels Drive side of the property from the rear of the house along the driveway leading to the front yard. The section in question is about 48 feet and sits to the side of the house, which was interpreted to fall under Section 5-8 and be compliance with the Ordinance. See illustration of fence description attached as Exhibit "A". Going by the standards set forth in Section 5-8, Parking Area Screen Fence or Wall, our fence was built to the specified height of At Least 3: Max. of 6 feet. It was believed that the fence was proper because it falls within these parameters. The height poses no threat or will not have any bearing on matters pertaining to possible flood way permissions as referenced in the Notice. Attached to this Justification Statement is a copy of the drawing of the fence as it relates to my property as Exhibit "A". A fence variance is respectfully requested for the following reasons:

- (i) The property is exceptional due to the shape of the driveway and the fact that unlike other properties in the neighborhood, the property has a parking area which can be construed as "exceptional situations or conditions." Additionally, the area where the issue of my fence remains is on the side of Daniels Drive and towards the rear of the house. If we go by the standards set forth in Section 5-8, the fence is within the required height, and in fact is under 6 feet. The fence does not obscure a view nor pose a threat with respect to any "flood way permission."
- (ii) The strict application of the Zoning Ordinance would result in an undue hardship based on the fact the fence has added curb appeal to the property and the neighborhood by providing a visual screen to our driveway parking area. Removing or reworking the fence to 3 feet would cause an anomaly with respect to the detailed work of the fence and would detract from the ascetic it's

appearance. The fence project was purposefully designed to enhance the appearance of the home and neighborhood.

- (iii) The relief we are seeking with respect to this variance would not cause any detriment to the public good and without substantially impairing the intent and purpose of the Zoning Ordinance.

What is perhaps most relevant here, and what I would like the Board to consider, is (1) the fence that was installed is of a high grade and quality and style which supports the high quality theme of the existing fences in the neighborhood and was carefully chosen to enhance the neighborhood appeal, (2) the fence style chosen is of such quality that it will be an improvement to the neighborhood and result in an overall increase in property value and tax base created by improvement, (3) the height of the fence will not restrict any views of the neighbors and would not go against public interest, (4) the additional two feet of fence will not cause any detriment to the neighborhood or the Zoning Ordinance, specifically since it can be possibly construed that the fence height due to the existing parking lot is in fact within the parameters set by the Zoning Board, and (5) the portion of the fence in question is towards the rear of the yard and falls within the height requirement set forth in Section 5-8.

I hereby respectfully request a Hearing before the Board of Zoning Appeals on September 5, 2019 at 6:00 p.m., located at the City Hall Board Room; 109 3rd Avenue South, Franklin, Tennessee, 37064.

Respectfully submitted,

JACQUIRE KING

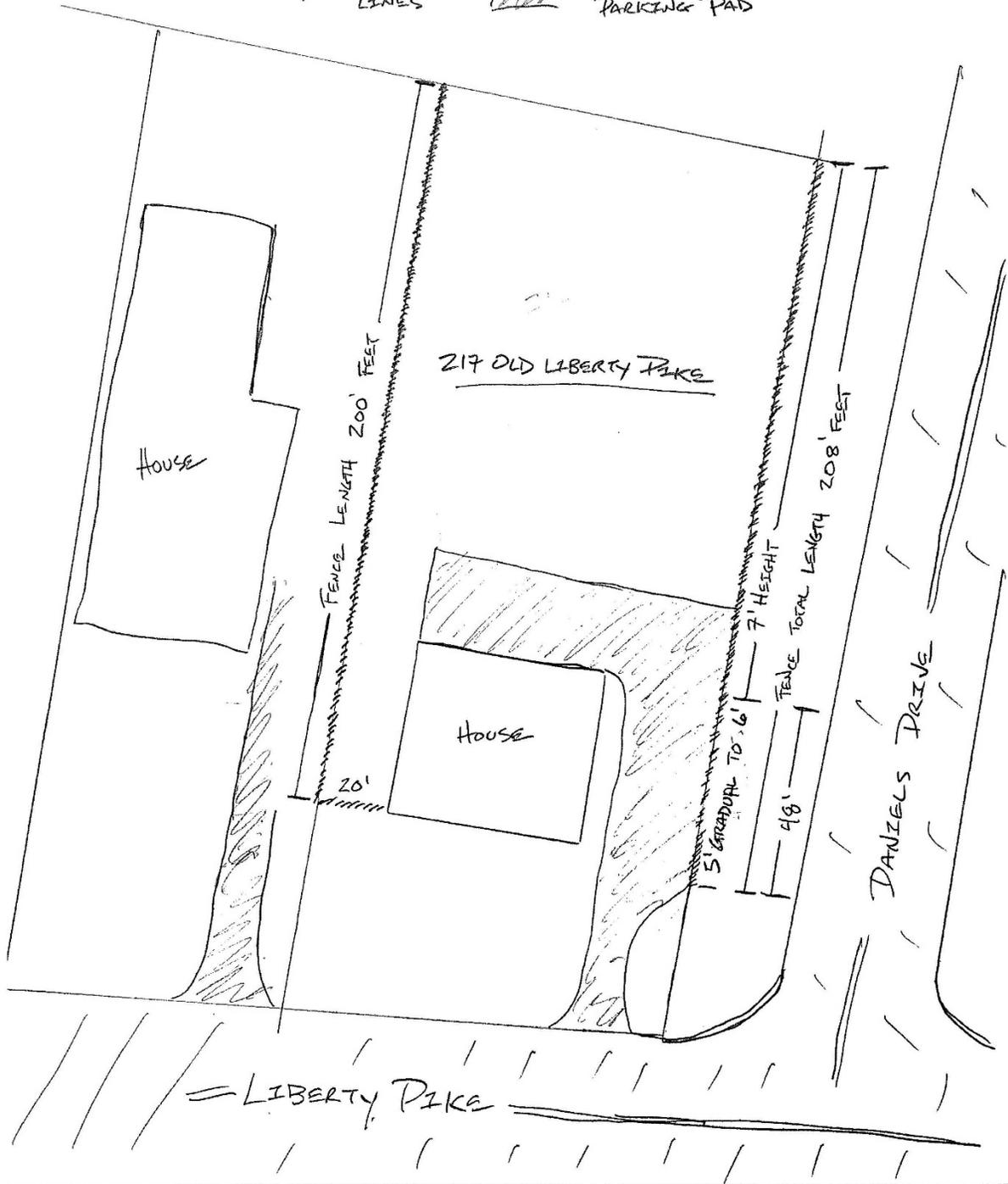
Exhibit "A"

Key:

REPRESENTS
THE FENCE
LINES



REPRESENTS
THE DRIVEWAY
PARKING PAD







DANIELS DR

STOP







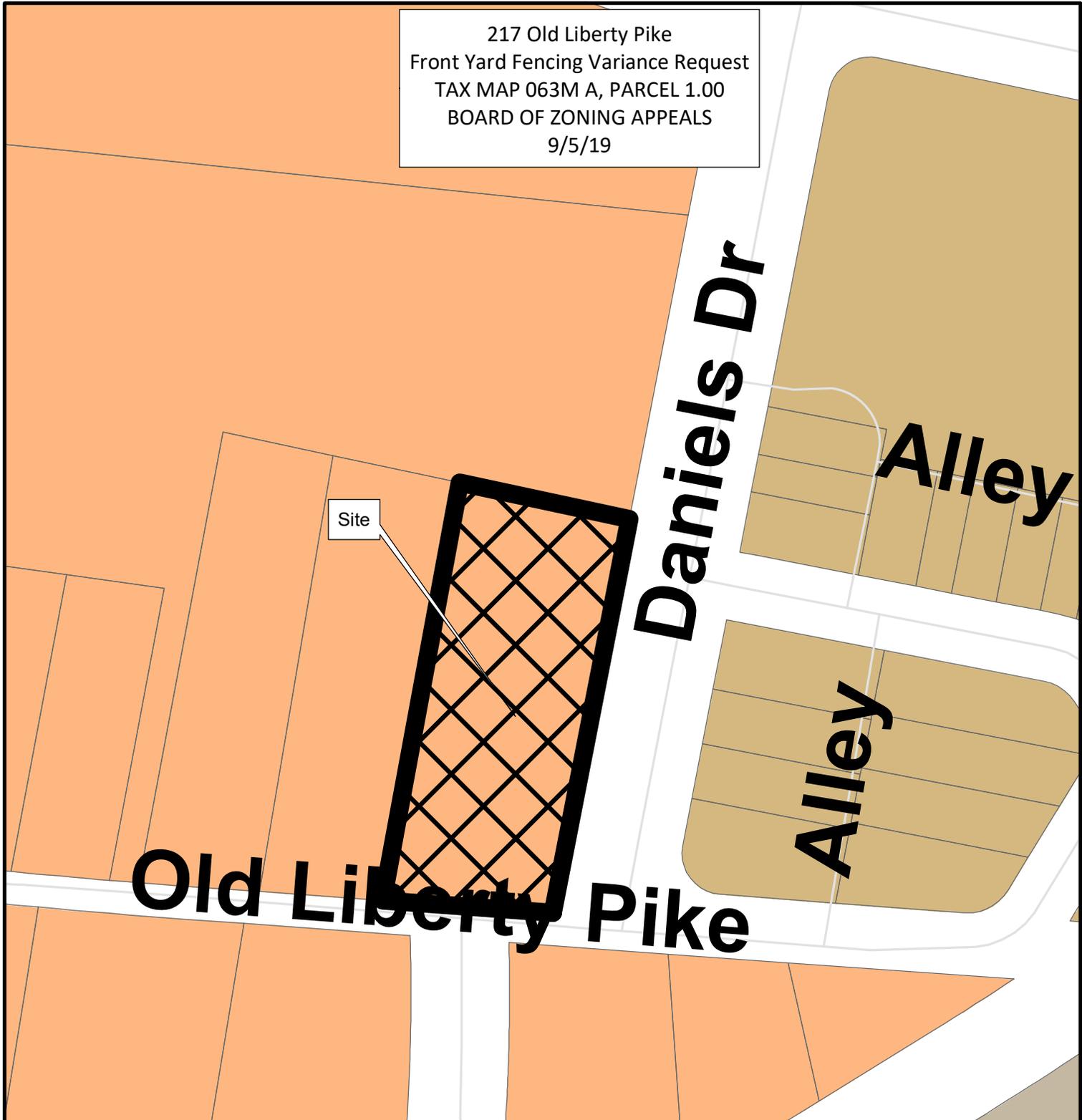
Daniels Dr







217 Old Liberty Pike
 Front Yard Fencing Variance Request
 TAX MAP 063M A, PARCEL 1.00
 BOARD OF ZONING APPEALS
 9/5/19



217 Old Liberty Pike, Front Yard Fencing Variance Request

- | | |
|--|---------------------------------------|
| 217 Old Liberty Pk | 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 |



0 55 110 220 Feet

This map was created by the Franklin Planning Department. It was compiled from the most authentic information available. The City is not responsible for any errors or omissions contained hereon. All data and materials (c) copyright 2016. All rights reserved.

(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.

**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 sunroom addition at the rear of the dwelling located at 520 Foxcroft Cir. 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. 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.

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.” 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. However, the Building & Neighborhood Services Department has classified this as a rear yard and will be referred to and reviewed as such in this report.

The applicant is proposing to construct an 18’ x 19’ covered sunroom addition to the rear of the existing dwelling. The proposed roof cover would encroach into the rear setback approximately 18’. The lot is not a standard shape. The rear property line angles down from left to right limiting buildable areas. The lot also contains an existing 10’ PUDE that cannot be built on. The location of an existing PUDE, restricts the areas where additions and/or accessory structures can be constructed on the property.

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 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 rear 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.

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 Requests

Move 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.

City of Franklin
Board of Zoning Appeals
109 Third Avenue South
PO Box 305
Franklin, TN 37065

RE: Zoning Variance Request for 520 Foxcroft Cir, Franklin, TN 37067

To Whom It May Concern:

This letter serves as our request and justification for a zoning variance for the property located at 520 Foxcroft Cir. As you will see from the plans we have submitted, we are requesting a zoning variance to build a 19-foot by 18-foot sunroom on the back of our house, which will encroach on the 25-foot rear setback, per the attached plans. Our justification of the request is as follows:

- This request is justified by the shape of our lot. Because our lot is located at the end of a cul-de-sac, our lot is pie shaped. The pie shape of the lot pushed the placement of the home to the rear of the property because they were limited by the 10-foot side setbacks.
- This home placement limits the buildable area behind the house and therefore creates a hardship. If our lot were on a straight street, the home would have been placed closer to the street, which would allow for buildable area behind the home. This is not generally applicable to other properties throughout the City that are located on straight streets.
- This relief can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zoning Ordinance.

We appreciate your consideration of our Zoning Appeal and look forward to receiving feedback.

Sincerely,

Bridget and Matthew Ziegler



S 78° 07' 09" E
14.82'

N 51° 50' 34" E
86.43'

N 38° 44' 24" E
59.23'

R35-68-89
SAME HOUSE PLAN
AS LOT 45 EAGLES GLEN

10' P.U.D. ESMT.

19'
8'
18'

2-ZOBC
2 STORY
12,694 SQ. FT.

GAR.

22'-8"

22'-8"

42'-0"

64'-8"

20'-8"

11'

120'-0.5 FT.

40' MBSL

15° 05' 48" 54" E

143.36'

10' SIDE SETBACK

HOUSE INFORMATION:

1ST FLOOR LIVING:
1120 SQ. FT.

2ND FLOOR LIVING:
1648 SQ. FT.

GARAGE: 528 SQ. FT.

Δ = 50° 55' 46"
R = 45.00'
L = 40.00'

FOX CROFT
CIRCLE

the quality builder

ZARING



Two Brentwood Commons, Suite 159
750 Old Hickory Boulevard
Nashville, Tennessee 37027
615.371.9750

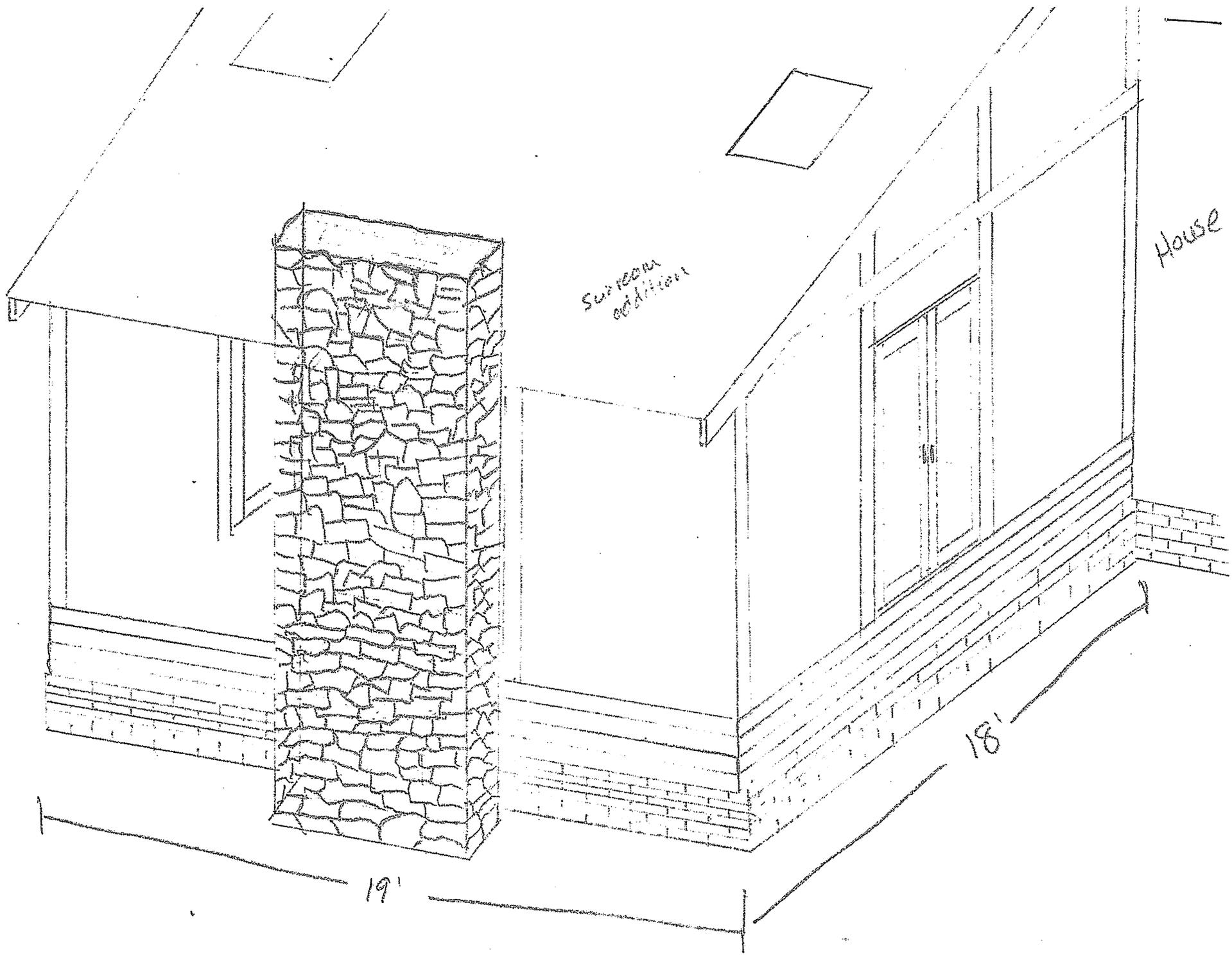
LOT NUMBER 20
SUBDIVISION EAGLES GLEN
STREET FOX CROFT CIRCLE

PLOT PLAN

SCALE: 1" = 30'

DRAWN BY:
DATE: MARCH 1989
APPROVED BY:





Aerial view



Sunroom
Addition

18'

19'

Home

520
Foxcroft
Circle
Franklin, TN.

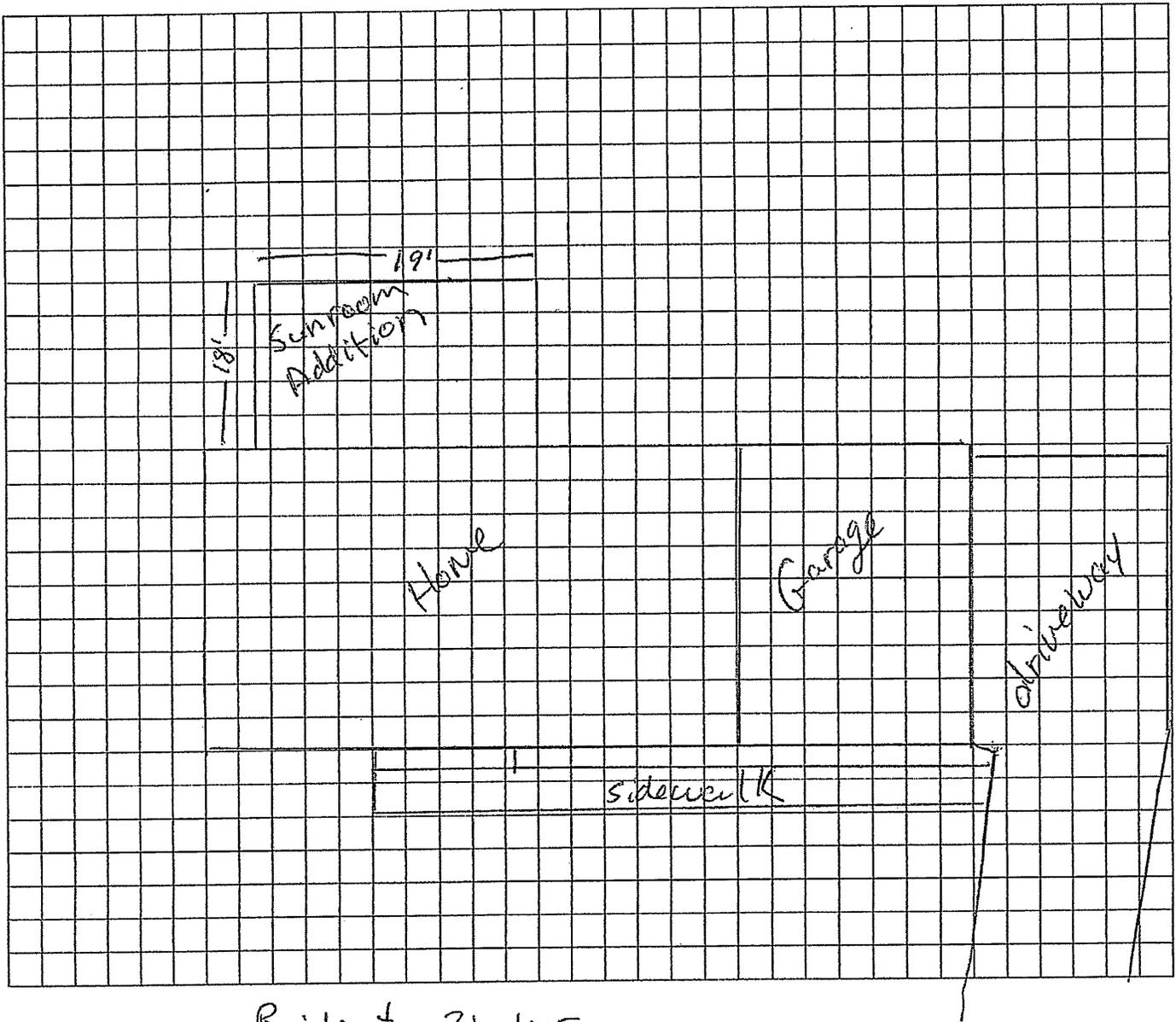
Garage

Sidewalk

driveway

foxcroft circle

TO: EAGLES GLEN HOMEOWNERS ASSOCIATION
ARCHITECTURAL REVIEW COMMITTEE
(SKETCH OUTLINE OF PROPOSED IMPROVEMENT)



Property Owner: Bridget Ziegler

Mailing address: 520 Foxcroft circle, Franklin, TN

Email: b.ziegler3@gmail.com

Phone: (home) (513) 257-5802 (mobile) _____

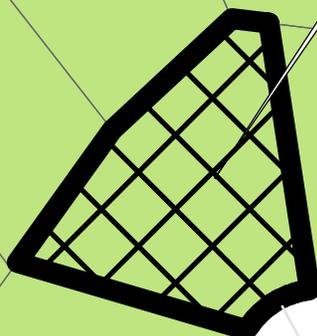
NATURE OF IMPROVEMENT: Sunroom Addition, Permanent foundation (Block/brick,

520 Foxcroft Circle
 Rear Setback Variance Request
 TAX MAP 062J A, PARCEL 52.00
 BOARD OF ZONING APPEALS
 9/5/19

Jordan Rd

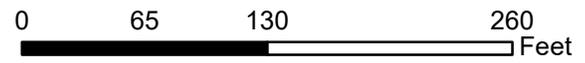
Gleneagle Ln

Site



520 Foxcroft Circle, Rear Setback Variance Request

- | | |
|--|---------------------------------------|
| 520 Foxcroft 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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