

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

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

Members present: Frank Jones
 Jeff Fleishour
 Jonathan Langley
 Joel Tomlin

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

The agenda read as follows:

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

Announcements

Mr. Bryan noted the voice recording from the November meeting was lost and the minutes reflect

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

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

Minutes from November 7, 2019, BZA Meeting

Mr. Tomlin moved to approve the November 7, 2019, meeting minutes. Mr. Langley seconded the motion and the motion carried 4-0.

Announcements:

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

Mr. Bryan stated there were no non-agenda items.

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

Mr. Bryan stated the applicant is requesting an 18-foot encroachment into the required 30-foot rear yard setback to construct a roof over the existing deck located at the rear of the existing dwelling located at 1422 Clairmonte Circle. Mr. Bryan stated the subject property is lot 244 in the Clairmonte Subdivision, Section 2, and is a lot of record that was created prior to the adoption of the current Zoning Ordinance. Mr. Bryan stated the property was originally platted with a 30-foot rear yard setback in 1995. Mr. Bryan stated the property is currently zoned R-3 Detached Residential 3 District, West Harpeth CharacterArea Overlay District - Special Area 2 (WHCO-2), designated as suitable for either Traditional or Conventional Development Standards. Mr. Bryan stated the applicant requested a 13-foot encroachment into the rear yard setback in the justification letter. Mr. Bryan stated after reviewing the plans, staff finds that it is actually an 18-foot encroachment variance request. 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 8 BZA 12/5/19 Item 1 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 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 Zoning Ordinance. The property was originally platted as part of Section 2 of the Clairmonte Subdivision in 1995. The property is not a standard lot in terms of size, shape, dimensions and setbacks as compared to other lots in the Subdivision. The subject property sits on a cul-de-sac causing a narrow front and a

curved frontyard setback. The proposed porch addition will be constructed in the location of the existing rear deck and the applicant is requesting an 18-foot encroachment into the required 30-foot rear yard setback.

- The rear wall of the principal dwelling sits at the location of the rear setback line. Any additions to the

rear of the dwelling would encroach into the rear yard setback.

- The lot backs up to open space as well as Jim Warren Park.

- The current Zoning Ordinance would permit a 5-foot rear yard setback if Traditional Standards were

applied. However, since the subject property is a lot of record, the platted setbacks supersede the existing standards.

- Staff finds that the conditions on the lot as described by the applicant, create a unique, exceptional, or

extraordinary situations about the subject property that would prevent the applicant from complying with the requirements of the Zoning Ordinance if Conventional Development Standards were applied. If the applicant were permitted to develop under Traditional Development Standards, the proposed addition of the deck would be in compliance with the Zoning Ordinance.

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

- The only place where a covered deck can be located is to the rear of the existing dwelling. The proposed location would have the least impact on surrounding neighbors. Due to the shape of the lot and curvature of the front setback line, there is little to no buildable area that would not result in an encroachment into the rear yard setback. The strict application of the Zoning Ordinance provisions requiring conformance with the platted setback instead of the Traditional Development Standards would result in an exceptional 9 BZA 12/5/19 Item 1 hardship on the owner of the property. Ultimately, the Board must determine whether the request to

construct a roof addition is a hardship or practical difficulty.

3. Relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zoning map and this ordinance.

- The final standard the Board must consider is whether the requested relief granted would be a detriment to the public good or impair the intent and purpose of the Zoning Ordinance. With the proposed location of the deck addition in relation to the limited buildable area, and that a 5-foot rear yard setback would be permitted if traditional standards were able to be applied, staff believes that granting the proposed variance would not be detrimental to the public good and would not impair the intent or purpose of the Zoning Ordinance.

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.

Chair Jones opened the public portion of the meeting.

Mr. Gill stated he represented the homeowners and would be happy to answer any questions.

Chair Jones requested to know if anyone wished to speak for or against this item and no one requested to speak.

Mr. Langley moved to close the public portion of the meeting. Mr. Fleishour seconded the motion and the motion carried 4-0.

Mr. Tomlin moved to approve the variance request to vary the required 30-foot rear yard setback by 18 feet to construct a deck addition located at the rear of the dwelling located at 1422 Clairmonte Circle because the applicant has demonstrated that the standards for granting a variance have been satisfied as described in the staff report. Mr. Langley seconded the motion and the motion carried 4-0.

Other Business.

No other business.

Adjourn.

With there being no further business, the meeting was adjourned at 6:09.

Chair