

**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 lots 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

