

**MINUTES OF A MEETING OF THE
FORT THOMAS BOARD OF ADJUSTMENT
HELD AT THE CITY BUILDING
ON TUESDAY, AUGUST 27, 2019
AT 6:00 P.M.**

PRESENT: Jim Beineke, Chair
Tom Fernandez, Vice Chairman
Carol Dixon, Secretary
Steve Dauer
Susan Wingard

ABSENT: Carla Austin
Steve Kowolonek

Also Present: Kevin Barbian, Building Inspector/Zoning Administrator
Julie Rice, Administrative Assistant

Mr. Beineke presided and called the meeting to order at 6:00 p.m. and roll was taken.

MINUTES – June 25, 2019

Members reviewed the minutes from the June 25, 2019 meeting. A motion was made by Steve Dauer and seconded by Susan Wingard to approve the minutes as written. Motion carried 5-0.

PUBLIC HEARINGS

CASE NO. 19-1526

**40 Burney Lane
Grady & Suzanne Gibson, Owners
Front & Left Side Yard Variance
Building Addition**

Mr. Barbian reported that the applicants are requesting a variance from the provisions of Section 10.4 of the Zoning Ordinance to allow for the addition of a porch to a single family home as well as an addition. The site is currently zoned R-1B, which allows for single family homes and additions and requires a side setback of 9'. The pantry/covered porch at the home is proposed to be 20' from the front property line and therefore, the request will be for a 4' front yard setback as the average front setback is 24'. The left side yard variance is to accommodate a pantry and will be 5.9' from the property line, requiring a 3.1' side yard dimensional variance. In the area of the requested variance, the pantry is in line with the existing non-conforming side of the home, while the covered porch is slightly in front of the average setback. Mr. Barbian noted that he received a letter from the adjacent property owner to the right stating support for the variance request.

Suzanne and Grady Gibson, 730 Park Avenue, Newport, Kentucky, and Matt Mansfield, 105 Wilson Road, were sworn in and asked to give a brief explanation of their request.

Mr. Mansfield explained that the property owners are proposing a covered front porch extension as well as a small addition (pantry) to the front left corner of the house.

Mr. Barbian noted that there is also an addition being added to the back of the house as part of the overall project. This portion of the project is in compliance with zoning and a variance is not required.

Mr. Beineke opened the floor for public comment. There was none.

Finding the request to be reasonable and straight forward, a motion was made by Tom Fernandez and seconded by Steve Dauer to approve the 4' front yard variance as well as a 3'-1" left side yard variance.

Upon call of the roll, the following voted "aye", Ms. Wingard, Ms. Dixon, Mr. Fernandez, Mr. Beineke, Mr. Dauer. Voting "no", none. Motion carried 5-0.

CASE NO. 19-1527

**34 St. Nicholas Place
Suncatcher Corp., Applicant
Michelle Clare, Owner
Right Side Yard Variance
Building Addition**

Mr. Barbian reported that the applicant is requesting a variance from the provisions of Section 10.5 of the Zoning Ordinance to allow for an addition of a family room to a single family home. The site is currently zoned R-1C, which allows for single family homes and additions and requires a side setback of 8'. The addition at the home is proposed to be 4.19' from the right side property line and therefore, the request will be for a 3.81' side yard setback. In the area of the requested variance, the addition is inset slightly from the line of the existing home, which is non-conforming. The homes are rather close in this area and discussion should be had as to the location of HVAC units, if applicable.

Lou Ionna with Suncatcher Corporation, Highland Heights, and Michelle Clare, 34 St. Nicholas Place were sworn in and asked to give an explanation of the request.

Mr. Ionna stated that they are proposing to add a family room addition off of the right rear corner of the home which has been inset 1'-9" from the existing home. There is an existing deck which will be removed to accommodate the addition. The existing HVAC condenser is adequate to serve the addition and will remain as is.

Mr. Beineke opened the floor for public comment. There was none.

With no objections or comments, a motion was made by Ms. Dixon and seconded by Mr. Fernandez to approve the 3.81' right side yard variance finding that the addition will enhance the functionality of home and will not be a detriment to the surrounding homes.

Upon call of the roll, the following voted "aye", Ms. Wingard, Ms. Dixon, Mr. Fernandez, Mr. Beineke, Mr. Dauer. Voting "no", none. Motion carried 5-0.

CASE NO. 19-1528

**14 Willow Drive
Brent Niese, Applicant
Jen and Pete Subach, Owners
Left Side Yard Variance
Building Additions**

Mr. Barbian reported that the applicants are requesting a variance from the provisions of Section 10.4 of the Zoning Ordinance to allow for an addition of a garage and covered porch above, to a single family home. The site is currently zoned R-1B, which allows for single family homes and additions and requires a side setback of 9'. The addition at the home is proposed to be 5.69' from the left side property line and therefore, the request will be for a 3.31' left side yard setback

Brent Niese, Dwellbeing Architecture, 31 Woodland Place, and Pete Subach, 14 Willow Drive, were sworn in.

Mr. Niese stated that the proposed plan is to remove an existing covered porch, storage and staircase to make room for the new garage and covered porch addition. The new garage would be a continuation of the existing house and garage wall and keep a clean line along the side. Because the lot tapers in, the proposed garage would be 7'-2 3/4" from the property line towards the front and slope back to 5'-8 1/4" at the closest point to the property line (rear).

With no public comment, a motion was made by Ms. Wingard and seconded by Mr. Dauer, to approve the 3.31' left side yard setback for the construction of a garage with a covered deck above. This addition would not be a detriment to the neighborhood and enhance the use of the home.

Upon call of the roll, the following voted "aye", Ms. Wingard, Ms. Dixon, Mr. Fernandez, Mr. Beineke, Mr. Dauer. Voting "no", none. Motion carried 5-0.

CASE NO. 19-1529

**540 S. Fort Thomas Avenue
Brent Niese, Applicant
Rebecca and Eric Neufarth, Owners
Left Side Yard Variance
Covered Patio**

Mr. Barbian reported that the applicants are requesting a variance from the provisions of Section 10.4 of the Zoning Ordinance to allow for an addition of a covered patio, to a single family home. The site is currently zoned R-1B, which allows for single family homes and additions and requires a side setback of 9'. The addition at the home is proposed to be 4' from the left side property line and therefore, the request will be for a 5' left side yard variance.

Mr. Niese stated that the proposal is to construct a covered porch that would align with the northeast corner of the existing house (4'-0" from the north property line) and extend parallel to the side property line 6'-8" and to align with the existing kitchen roof. The existing retractable awning in this location that is mounted to the house would be replaced with a permanent structure that is more appealing to the homeowners and neighbors.

The home owner to the north, and closest to the proposed addition has submitted a letter stating that they are in favor of the variance request.

Following a brief discussion, a motion was made by Mr. Dauer and seconded by Mr. Fernandez to approve the 5' left side yard variance request finding that this is a reasonable request considering the restrictive size of the lot, allowing the property owner the fullest use of the property.

Upon call of the roll, the following voted "aye", Ms. Wingard, Ms. Dixon, Mr. Fernandez, Mr. Beineke, Mr. Dauer. Voting "no", none. Motion carried 5-0.

CASE NO. 19-1530

**812 S. Fort Thomas Avenue
Josh and Kaitlyn Emig, Applicants
Rodney and Roxanne Wise, Owners
Right & Left Side Yard Variance
New Single Family Home**

Mr. Barbian reported that the applicants are requesting a variance from the provisions of Section 10.8 of the Zoning Ordinance to allow for a single family home. The site is currently zoned R-3, which allows for single family homes and requires a side setback of 9'. The newly constructed home is proposed to be 4' from the left and right side property line and therefore, the request will be for a 5' left side yard variance and a 5' right side yard variance.

The proposed house is on an infill lot. The average front setback of the homes within 300', puts the house at 36'. The house immediately adjacent, to the left, is 52'. Despite the fact that this is compliant, it should be noted that the home to the immediate left is 16' further from the street. The existing lot is nonconforming and much more narrow than today's standards would allow. The adjacent home to the right is 12' from the property line and the adjacent home to the left is 16.5' from the property line.

Josh and Kaitlyn Emig, 58 Washington Avenue, Fort Thomas, were sworn in. Mr. Emig stated that they are proposing to build a new 3,104 sf single family home on a 50' wide lot with 4' side yard setbacks.

Mrs. Emig stated that they need a larger home to fit their growing family and they feel that the style of the home they have chosen fits the character of Fort Thomas. The AC unit would be placed at the rear of the home and not be visible.

A lengthy discussion took place regarding the boards concerns that the proposed home is too large for this size lot.

Mr. Beineke opened the floor for public comment.

Mark Williamson, owner of 820 S. Fort Thomas Avenue, was present and voiced his objection to the variance request. Mr. Williamson owns the property immediately to the right of 812 S. Fort Thomas Avenue and his main objection to the variance request and the construction of a new home on this lot, is that years ago he tried to purchase this property and was told by the City of Fort Thomas that it was not a buildable lot.

A lengthy discussion ensued regarding the boards concerns related to the size of the proposed home verses the size of the lot. Several design suggestions were made to the applicants to help reduce the size of the variance request but the applicants feel that what they have proposed is what their family needs.

Ms. Wingard stated that she feels that the proposed home is not suitable for a lot this small.

Mr. Dauer made a motion to approve a modified variance request of 3' on the right and left side of the property due to the extraordinary small nature of the lot which restricts construction without some type of variance.

There was no second to the motion. Mr. Dauer withdrew his motion.

A motion was made by Mr. Fernandez and seconded by Mr. Dauer to deny the variance request as submitted finding that the size of the proposed new construction is too large for the lot.

Upon call of the roll, the following voted "aye", Ms. Wingard, Ms. Dixon, Mr. Fernandez, Mr. Beineke, Mr. Dauer. Voting "no", none. Motion carried 5-0 to deny the variance request as submitted.

CASE NO. 19-1531

**173 Burnet Ridge
Jerry Lukey, Applicant
Kathy Miller, Owner
Rear & Left Side Yard Variance
Building Addition and Deck**

Mr. Barbian reported that the applicant is requesting a variance from the provisions of Section 10.5 of the Zoning Ordinance to allow for a deck re-design and a building addition to a single family home. The site is currently zoned R-1C, which allows for single family homes and additions and requires a side setback of 8' and a rear setback of 30'. The newly constructed deck is proposed to be 4'-2 1/2" from the left side property line and therefore, the applicant is asking for a 3'-9 1/2" left side yard variance. The addition is proposed to be 14'-8" from the rear property line and therefore, the request will be for a 15'-4" rear yard variance.

The existing deck is already closer to the property line than what is proposed. The rear area seems to be somewhat of an infill area. It seems as though the addition will not extend further than a portion of the existing structure.

Mr. Barbian noted that statements supporting the variance request were submitted by the adjacent property owners of 163 Burnet Ridge and 65 Dumfries Avenue.

Jerry Lukey and Christopher Miller, 173 Burnet Ridge, were sworn in and asked to give a brief explanation of the request.

Mr. Lukey stated that the home is currently in the shape of an "L" and they wish to construct an addition on the back of the home which would make it more in the shape of a rectangle. They would like to expand the master bedroom and bathroom, add a great room, and remove and reconstruct a deck. The existing deck is approximately 1'-4" away from the property line but the steps to the deck are actually on Mr. Blau's property and have been for many years. The existing deck was in place when the current owners purchased the property. The proposed new deck would be approximately 4' from the side property line.

Mr. Beineke opened the floor for public comment.

Attorney, Steve Dasenbrock, was in attendance representing Adam and Hilary Blau, adjoining property owners of 0 Burnet Ridge. Mr. Dasenbrock stated that he was present to request a continuance of the hearing based on "failure of notice". Mr. Dasenbrock stated that based on KRS 100.214, adjoining property owners must be notified in writing a minimum of 14 days prior to a public hearing. The notice to Mr. Blau was mailed 12 days prior to the hearing and Mr. Blau was unable to attend the hearing. Therefore, Mr. Dasenbrock was present to request that the hearing for a variance for 173 Burnet Ridge be postponed until next month when Mr. Blau is able to attend.

Mr. Barbian noted that the KRS statute cited by Mr. Desenbrock refers specifically to required notification for a Zoning Map Amendment and does not apply to a variance request through the Board of Adjustment. Notification procedures for a variance request fall under our Zoning Ordinance, Section 18.3 as well as the Board of Adjustment Bylaws, which reference a 7-day notice to adjoining property owners, prior to the hearing. Therefore, the Board is in a position to act upon this request based on the notification provided.

Mr. Desenbrock stated that Mr. Blau did not express his opinion on the variance request to him and he is not in a position to testify on his behalf. He is simply requesting a continuance of the hearing until Mr. Blau is able to attend.

Mr. Barbian stated that the applicant has acted in good faith and followed procedures for requesting a variance. A continuance of this hearing is at the discretion of the Board.

Mr. Desenbrock added that Mr. Blau did not express any concerns to him regarding the request for a rear yard variance.

A lengthy discussion ensued regarding the possibility of dividing the variance request into two parts. The rear yard variance for the building addition and the side yard variance for the deck. If the Board approves the rear yard variance request, construction of the addition could move forward as planned.

A motion was made by Tom Fernandez and seconded by Steve Dauer to approve a 15'-4" rear yard dimensional variance for the construction of a building addition and continue the hearing for the 3'-9 1/2" left side yard variance request for the construction of a deck. The existing deck is already closer to the property line than what is proposed and the rear yard variance is acceptable considering the topographic challenges of this site.

Upon call of the roll, the following voted "aye", Ms. Wingard, Ms. Dixon, Mr. Fernandez, Mr. Beineke, Mr. Dauer. Voting "no", none. Motion carried 5-0.

CASE NO. 19-1532

**21 Elsmar Avenue
Campbell Kids Irr. Trust, Applicant/Owner
c/o Christopher Hoyle
Rear, Right, & Left Side Yard Variance
Deck**

Mr. Barbian reported that the applicant is requesting a variance from the provisions of Section 10.5 of the Zoning Ordinance to allow for a deck on the rear of a single family home. The site is currently zoned R-1C, which allows for single family homes and decks and requires a side setback of 8' and a rear setback of 30'. The newly constructed deck is proposed to be 6'-8" from the left side property line and therefore, the applicant is asking for a 1'-4" left side yard variance. It is proposed to be 6'-1" from the right side property line and therefore, the request will be for a 1'-11" right side yard variance. The deck will also be 21' from the rear property line and therefore, require a 9' rear yard variance.

Christopher Hoyle, 21 Elsmar Avenue, was sworn in. Mr. Hoyle stated that the original site plan that he submitted is incorrect. The right side of the proposed deck well exceeds the minimum side yard setback requirement. Therefore, he is only requesting a left and rear yard dimensional variance.

Mr. Beineke opened the floor for public comment. There was none.

Following a brief discussion, a motion was made by Steve Dauer and seconded by Susan Wingard to approve a 1'-4" left side yard variance and a 9' rear yard variance for the construction of a deck finding this to be a reasonable request due to the slope of the terrain and granting the variances would not be an imposition on the neighboring properties.

Upon call of the roll, the following voted "aye", Ms. Wingard, Ms. Dixon, Mr. Fernandez, Mr. Beineke, Mr. Dauer. Voting "no", none. Motion carried 5-0.

CASE NO. 19-1533

**142 Woodside Place
Shauna Hayes, Applicant
Jason & Erin Ridder, Owners
Left Side Yard Variance
Deck**

Mr. Barbian reported that the applicant is requesting a variance from the provisions of Section 10.5 of the Zoning Ordinance to allow for a deck on the rear of a single family home. The site is currently zoned R-1C, which allows for single family homes and decks and requires a side setback of 8'. The newly constructed deck is proposed to be around a pool and be 5' from the left side property line and therefore, the applicant is asking for a 3' left side yard variance.

Shauna Hayes, 142 Woodside Place, was sworn in. Ms. Hayes explained that she would like to build a deck around her existing aboveground pool. The decking will only be on the left side of the pool, not go all the way around. She has received letters from her adjoining neighbors stating that they do not have any objection to the variance request.

Mr. Beineke opened the floor for public comment. There was none.

Following minor discussion, a motion was made by Mrs. Dixon and seconded by Mr. Fernandez to approve the 3' left side yard variance for a deck as submitted due to the unique topography of the lot and finding no reason that it would be a detriment to the neighborhood and would be an enhancement to the property.

Upon call of the roll, the following voted "aye", Ms. Wingard, Ms. Dixon, Mr. Fernandez, Mr. Beineke, Mr. Dauer. Voting "no", none. Motion carried 5-0.

CASE NO. 19-1534

**153 Casagrande Street
Chance Brofft, Applicant/Owner
Right Side Yard Variance
Deck**

Mr. Barbian reported that the applicant is requesting a variance from the provisions of Section 10.4 of the Zoning Ordinance to allow for a deck on the rear of a single family home. The site is currently zoned R-1B, which allows for single family homes and decks and requires a side setback of 9'. The newly constructed deck is proposed to be 6' from the right side property line and therefore, the applicant is asking for a 3' right side yard variance.

Due to the odd configuration of the lots, it could be argued that the deck may somewhat impose on the property to the right. However, due to this configuration and access point to enter the house, it would likely be difficult to build an aesthetically pleasing deck without getting into the setback.

Chance Brofft, 153 Casagrande Street and John Brofft, 32 Crow Hill, were sworn in and asked to give a brief explanation of the request. Chance Brofft stated that his house currently has no deck and he and his wife would like to add on the back of the home. They designed the deck over their existing basement walkout in order to create a dry space for a patio. They also cut off the back right corner of the deck to lessen the impact on the adjoining property. Mr. Brofft spoke with the adjacent property owner most affected by the variance and they have no issues with his request.

Mr. Beineke opened the floor for public comment. There was none.

With no further discussion, a motion was made by Steve Dauer and seconded by Susan Wingard to approve the 3' right side yard variance as requested due to the restrictive nature of the lot.

Upon call of the roll, the following voted "aye", Ms. Wingard, Ms. Dixon, Mr. Fernandez, Mr. Beineke, Mr. Dauer. Voting "no", none. Motion carried 5-0.

ADJOURNMENT

With no further business to address, a motion was made by Carol Dixon and seconded by Tom Fernandez to adjourn the meeting at 7:45 p.m. Motion carried 5-0.

APPROVED: _____
Chair

ATTEST: _____
Secretary