

**Minutes
Williamson County
Board of Zoning Appeals
6:00 P.M. January 25, 2018**

Members Present

David Ausbrooks, Chairman
Don Crohan, Vice-Chairman
Karen Emerson-McPeak, Secretary
Sue Workman

Staff Present

Lee Sanders
Linda Hodges
Brenda Midgett
Kristi Ransom, Attorney

The Williamson County Board of Zoning Appeals met in regular session on January 25, 2018 in the Auditorium of the Williamson County Administrative Complex. Chairman David Ausbrooks began the meeting by reading a public statement stating that the Board of Zoning Appeals is made up of five citizens nominated as Board members by the County Mayor and confirmed by the County Commission. One member is a Planning Commissioner, one member may be a County Commissioner and the remaining members are not otherwise connected with County Government. He went on to say the Board will hear from anyone who has anything to say to the Board relevant to the request at hand. However, the Board will not view or hear anything that does not have a direct bearing on the item or issue being heard. He requested that all comments be addressed to the Board.

Chairman Ausbrooks then asked the members to consider the minutes. Don Crohan made the motion to approve the minutes of the November 16, 2017 meeting, as presented, and Sue Workman seconded the motion. The motion was unanimously approved by voice vote.

ITEM 1

A request by Mike Holmes, surveyor (Steve Cox, property owner) for a front setback variance at 3821 Mistico Lane. The property is zoned Rural Preservation 5 (RP-5) and is located in the 9th district.

Linda Hodges read the staff report and reviewed the background documentation (see agenda report). Lee Sanders presented the site plan using the overhead projector. He stated this item was slated for the November BZA meeting but the applicant did not have a notarized Power of Attorney and the request was deferred. Mr. Sanders stated a home was built and completed on this lot but encroaches the front setback line. The front setback of this lot is measured from the edge of the ingress-egress easement instead of the property boundary.

Mike Holmes and Jeff Kimbro of H & H Surveying represented the item. Mr. Holmes stated he wished for the Board to approve the variance so that Mr. Cox could stay in his home.

Chairman Ausbrooks opened the public hearing. There being no one to speak, he then closed the public hearing.

Don Crohan asked the applicant how the front easement line was determined and who determined the result.

Mr. Holmes stated using the boundary line. He stated he thought the site was laid out properly, but later found out differently. He stated if the house was built further back, the corner of the house would have dropped off in the rear. Because of the drop off in the back, the house was twisted somewhat and was miscalculated.

Chairman Ausbrooks asked the applicant if transit was determined for the road.

Mr. Holmes stated yes and was shot in the curve. He stated the lot is in the area of the curve.

Chairman Ausbrooks stated there is a very significant drop-off of the property.

Mr. Holmes stated there is a pretty good slope in the back with steep slopes going off the side.

Don Crohan asked the applicant if there were any other places for the house to sit in order to meet the setback requirements.

Mr. Holmes stated maybe if it was a different size house.

Karen Emerson-McPeak asked the applicant about the fit of the home to the size of the lot.

Mr. Holmes stated it did fit, but there would have been a drop-off in the back.

Chairman Ausbrooks asked about the roadway.

Mr. Holmes stated the roadway was built within the easement but not centered and closer to the house than was anticipated.

Don Crohan made a motion to deny the request stating there was a location for the house that did not require a variance and does not meet criteria for a variance. Karen Emerson-McPeak seconded the motion. Motion was approved by a three to one vote. Don Crohan, Karen Emerson-McPeak and Sue Workman voted in favor of the motion and Chairman Ausbrooks voted against the motion.

ITEM 2

A request by Daryl Scherr and Richard Hammar for a variance to allow accessory structures in the front yard at 6007 Asberry Court. The property is zoned Suburban Infill and Conservation and is located in the 8th district.

Linda Hodges read the staff report and reviewed the background documentation (see agenda report). Lee Sanders pointed out the adjoining properties and displayed the site plan using the overhead projector. Mr. Sanders explained the lot is wider than it is deep and the lot has topographical challenges. He stated the current owners want to add a retaining wall along with accessory structures. Mr. Sanders stated because the accessory structures are so close to the residence, they are considered attached. He

stated the applicants want to build a garage where the parking area is presently and a swimming pool in the front yard that would require a front setback variance.

Mr. Scherr, Mr. Hammar and Architect, Mr. Paul Boulifard represented the item. Mr. Boulifard stated the applicants contacted him over a year ago wishing to transform their home in order to make it better for entertaining. He stated the home currently has a one car garage, which does not meet the needs of the applicant. Utilizing the aerial photo on the overhead projector, Mr. Boulifard explained to the Board the current conditions and the proposed changes he wishes to make. He stated the applicants feel the current front door is not very inviting and wish to change the location towards the street. He stated he could not place the new garage in the rear of the home because of waterways and large trees in the back. Mr. Boulifard explained the present front of the home has the septic tank and field lines, along with a pond. He stated they have bundled all the master plan ideas in one large request for a variance.

Mr. Hammar stated the two creeks lead into the pond and removing the trees would be detrimental to the site. The septic tank is to the right of the home along with the pond. He stated even if the garage was placed in the rear, the applicants would still need a rear setback variance from the Board.

Chairman Ausbrooks then opened the public hearing.

Attorney Timothy O'Connor, represented the adjoining property owners of 6003 Asberry Court in opposition of the request, submitted a three page letter outlining the reasons for his clients' opposition. He stated there are limitations to Tennessee Code Annotated Section 13-7-109 as referenced in the Williamson County Zoning Ordinance, which states the request has to be a hardship in order to permit a variance due to topography. He stated this request is not an extreme circumstance or hardship because the owners want to change something and structures are to be built in the rear yard. Mr. O'Connor stated reorientation of the home is not changing the required front yard or side yard and his clients do not want the variance to be approved. He stated structures could be placed in the rear yard with no violation of the Zoning Ordinance. Placing a pool, pool shed and garage in the front yard would not protect the conservation of the site, instead it would detract.

Charlotte Goldston, Trustee of the John White Supplemental Needs Trust of 3400 Floyd Road stated she was there speaking for John White of 6003 Asberry Court against the request. She submitted a letter against the request for the variance. Ms. Goldston stated the Whites want the property to remain secluded and private and removal of the trees and brush along with building all the structures the applicants want, will detract from the serene environment. She stated putting a swimming pool and pool fencing in the front yard would deter the deer, turkeys and other wildlife from the serene environment of the area. She stated she hopes the request does not pass.

Gigi Sartan of 6003 Asberry Court submitted a petition against the request and stated the original owners kept the property serene and undisturbed. Everyone that comes to her house tells her how secluded the place is. She stated the Hammars have cleared out the underbrush and they can now see houses in other subdivisions. The applicants have constructed a fence on the property and they no longer have deer. She stated she does not want a swimming pool just outside of their bedroom window, along with a multi-car garage and shed. She stated she has a petition signed by other property owners in the neighborhood against the request. Ms. Sartan stated she also has a picture of where the pool will be located outside of her bedroom window.

Billy Rigsby of 5971 Asberry Court plans on putting up a fence and building a house on his 15 acre lot. He stated he has also done some clearing of his property and plans to build a home some day. He is disappointed in the neighborhood and stated he is more concerned about people renting out their houses instead of the applicants wanting to place a pool, shed and garage on their property. Mr. Rigsby doesn't think the applicants' request will change anything negatively. He feels the applicants have done a fabulous job with cleaning up their property.

There being no one else to speak, Chairman Ausbrooks closed the public hearing.

Chairman Ausbrooks stated the orientation of the house would not change from the roadway. He could not understand the applicants wanting to place the garage in front of the house. Mr. Ausbrooks asked the applicants if there was already a garage when they purchased the house.

Mr. Hammar stated they are trying to use the garage as an element to determine the front of the house.

Mr. Scheer stated the single car garage is not conducive to their needs and that is why they are trying to build another garage.

Karen Emerson-McPeak asked the applicants about already having a garage.

Mr. Scherr stated they want to place the new garage in the proposed location because of the septic and pond. They cannot place the garage behind the house because of the creeks and topography. Mr. Scherr stated it would be detrimental to the large trees.

Mr. Hammar stated there are the pond, and septic tank in the way for the pool. He stated the garage would be placed lower than the house, therefore it would not be detrimental to the view.

Don Crohan asked if there had been any changes to the zoning law or to the property since they purchased it that would have affected their request. He asked the applicants to explain the hardship of the property.

Mr. Hammar stated no known changes to the zoning law. He stated the topography restricts the use of the land and inhibits the location of the garage and buildable envelope as the reasons for hardship. Mr. Hammar stated there is a 45 ft. incline from one side of their lot to the other.

Chairman Ausbrooks asked the applicants what is circled on the site plan. He then asked the applicants to describe the front of the home with balcony.

Mr. Scherr stated the air conditioning unit, side walk and patio is what is circled on the site plan. He stated the retaining wall needs to be replaced and that is also where the pool is going. Mr. Hammar stated the hardship is the location of the septic area and a creek in order to get into the backyard. Mr. Boulifard denoted the location of the various proposed improvements on the plans with numbers and the applicants also provided photographs that corresponded with those numbers to show the current condition of the location of those proposed improvements. Those were shared with the Board members.

Chairman Ausbrooks asked the applicants about the area where the shed will be placed and what kind of pool equipment will be stored.

Mr. Hammar stated the dimensions of the shed would be 4 ft. 2 in. by 12 ft. 2 in. to screen pool equipment and said he is being conservative with the dimensions.

Karen Emerson-McPeak asked the applicants why they want the pool and if it is something they needed. She also asked the applicants why they need another garage.

Mr. Hammar stated he wants a pool in order to swim laps.

Mr. Scherr stated he would give up the pool in order to gain a garage because that is something they need. The minimum size for a garage in the neighborhood is a three car garage and theirs is only a one car size.

Mr. Hammar stated the pool is something they wanted in order to add to the value of the home. They also need the garage because of the acorns that fall on their new car. He stated they have nowhere to park during a storm. He said they can put it on the side, but they would have to tear the large mature trees down and that would be detrimental to the property. He stated there would be minimal damage to land if placed where requested. Mr. Hammar feels they are being penalized because having five acres has greater setback requirements than smaller lots in the area.

Chairman Ausbrooks said he believes the pool can be placed on the east side of the house and the garage needs to go someplace else and reorient it.

Mr. Boulifard stated they can move the garage and can try to shift it but not much because of the septic. If placed in back, would have to get a rear variance anyway.

Mr. Hammar stated the garage cannot be located behind the house because they would have to tear out mature trees and would have to cross the creek.

There being no further questions from the Board or comments from the applicant, Chairman Ausbrooks asked the Board if they were ready to make a motion on the request.

Don Crohan made a motion to deny the request because he does not see that it meets the hardship criteria for granting a variance and the structures could be placed elsewhere on the property that would not require a variance. Karen Emerson-McPeak seconded motion. Motion was approved unanimously.

There being no further business to come before the Board, the meeting was adjourned.

Secretary's Signature

Date