

**Minutes
Williamson County
Board of Zoning Appeals
6:00 P.M. September 22, 2022**

Members Present

Vice-Chairman Don Crohan
Secretary Karen Emerson-McPeak
Sue Workman
Andrew Ring

Staff Present

John Bledsoe, Codes Compliance Director
Brenda Beard
Kristi Ransom, County Attorney

The Williamson County Board of Zoning Appeals met in regular session on September 22, 2022 in the Auditorium of the Williamson County Administrative Complex. Vice-Chairman Don Crohan 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.

Vice-Chairman Crohan asked the members to consider the minutes from the August 25, 2022 meeting. Andrew Ring made the motion to approve the minutes of the August 25, 2022 meeting as presented and Secretary Karen Emerson-McPeak seconded the motion. The motion was approved by unanimous voice vote.

ITEM 1

Application by property owner Jorge Rojas to request a rear setback variance in the Rural Development-1 (RD-1) zoning district at 4653 Majestic Meadows Drive (Map 109K, Group C, Parcel 03400). The property is located in the 5th district.

John Bledsoe read the staff report and showed an aerial view of the property, the site plan, and photos of the property using the overhead screens. He pointed out to the Board the proposed location of the pool in relation to the setbacks.

Vice-Chairman Crohan asked the applicant to step forward and present their item to the Board.

Jorge Rojas, property owner and Cory Robinson of Dream Acres Pool Company represented the item.

Vice-Chairman Crohan asked the applicants if they had anything they would like to add to the staff report.

Mr. Rojas and Mr. Robinson both stated no, they had nothing else to add.

Vice-Chairman Crohan then opened the public hearing.

Mary Smith of 1312 Ashby Valley Lane, the newly elected County Commission for District 5 and also a Kings Chapel subdivision resident, stated she had spoken with the developer who is in support of granting a variance because there are no future plans to develop the open space behind the proposed site.

There being no one else to speak, Vice-Chairman Crohan closed the public hearing. He then asked the Board members if they had any questions.

Sue Workman asked for the dimensions of the proposed pool and which dimension was infringing on the setback.

Mr. Bledsoe went back to the site plan and stated 35 ft. by 15 ft. and 5 inches.

Mr. Rojas stated if they tried to locate the pool within the setbacks it would make the pool a long and skinny pool which is not practical.

Secretary Karen Emerson-McPeak asked staff if the proposed location met the side setback requirements.

Mr. Bledsoe stated yes, the largest portion of the yard is on the left side of the house and the pool must be placed in the rear yard which extends from side property line to side property line behind the rear portion of the house.

Vice-Chairman Crohan asked staff if there was only a portion of the pool that needs a variance because the pool is on an angle.

Mr. Bledsoe stated that the pool runs parallel to the rear property line.

Andrew Ring stated the Zoning Ordinance states a variance may be granted if the request is due to an unnecessary hardship but not to remove an inconvenience. He stated he was having a hard time justifying why this is an unnecessary hardship and not an inconvenience.

Debbie Byrum who cares for the three children of Mr. Rojas stated she has MS and a bad back so therefore it has been difficult and too hot for her to take the children to the community pool.

Vice-Chairman Crohan stated if this were a smaller pool that served the same purpose no variance would be needed.

Andrew Ring asked the applicant why it should be considered a hardship and why the pool has to be installed exactly as proposed and not meet the zoning regulations.

Mr. Robinson asked the Board what they would consider a hardship in any case. He asked for the definition of a hardship and at what point would the Board consider a hardship for a developer.

Vice-Chairman Crohan stated that the Board would consider the request a hardship only if there wasn't any other place on the property to place any type of pool. He further stated that in his opinion if there is a place on the property where a pool could be located then he would not consider the request a hardship.

Andrew Ring concurred with the Vice-Chairman.

Mr. Robinson asked the Board if they had an example of a hardship that they had approved.

Attorney Kristi Ranson stated the question was not appropriate for the discussion.

Vice-Chairman Crohan stated the Board has to judge what is presently presented to them. Each request has to be judged on its own merit. He explained that the Board does see a place on the property to place a pool, so therefore they don't see a hardship.

Mr. Robinson stated that the Board was defining something being approved on a definition according to the interpretation of each individual so they needed an example of what a hardship is.

Vice-Chairman Crohan stated the Board is seeing a place on the property where a pool could be located without a variance, therefore, there is no hardship.

Mr. Rojas stated that they were going with a fiberglass pool from a financial standpoint and those types only come in certain sizes so a smaller pool would have to be a gunite pool which would cost nearly twice as much. He further stated they could shift the pool to go past the side of the house and meet the setback requirements but aesthetically it would not look good for the neighborhood.

Secretary Karen Emerson-McPeak asked the applicant why they couldn't come closer to the covered porch.

Mr. Robinson stated Building Codes would not let you come any closer than five feet without an engineered design and there is a safety factor with the foundation of the house if you get closer.

Vice-Chairman Crohan read to the applicant the rules for a variance from the Zoning Ordinance which states, "it is not intended that the variance be granted to remove inconvenience or financial burden." He stated that is part of the considerations for a variance. He re-stated that if there is a way to place a pool on the property, then the Board cannot grant a variance.

Mr. Robinson began to ask that if they couldn't place a pool on the property and Vice-President Crohan made the following statement.

Mr. Crohan stated the Board is voting on the current matter that has presently come before them and will not discuss hypothetical situations.

Secretary Karen Emerson-McPeak made a motion to deny the request for a rear setback variance according to Article 11, Section 11.04, stating the request does not meet the necessary requirements to allow the variance as the provision of Section 5.02 have not been met. Andrew Ring seconded the motion. Motion was approved by unanimous voice vote.

ITEM 2

Application by property owners Ryan and Kim McGroarty to request a rear setback variance in the Suburban Infill and Conservation-(SIC) zoning district at 1407 Willowbrooke Circle (Map 014D, Group A, Parcel 00800). The property is located in the 8th district.

John Bledsoe read the staff report and showed an aerial view of the property and the site plan using the overhead screens. He pointed out to the Board the proposed location of the addition along with the setbacks. He showed photos of the existing house, the existing porch and the existing retaining wall. He stated the proposed addition would encroach 13.43 ft. into the rear setback which would allow the applicants to build 61.57 ft. from the rear property line instead of the required 75 feet.

Property owners Ryan and Kim McGroarty and contractor Matthew Britt with Music City Renovations and Construction represented the item.

Mr. Britt stated he had talked to Mr. Bledsoe about rezoning, but decided to request a variance first.

John Bledsoe stated to the Board that he would like to clarify what he had explained to Mr. Britt. He had stated to Mr. Britt that he could apply for a plat revision, not a rezoning of the property.

Andrew Ring asked Mr. Bledsoe to explain the difference between rezoning and a plat revision

Mr. Bledsoe stated zoning is the current designation of a property such as Suburban Infill or Rural Preservation 5. The plat revision would be where the applicant could submit a document to the Planning Department that shows, for example, a 60 ft. setback that is currently required for the Suburban Infill District. If everything is approved by staff, then the applicant could record that plat revision with the Register of Deeds for that one particular lot which would make it a legal lot with a 60 ft. rear setback instead of a 75 ft. rear setback. He stated this is a fairly common procedure for some of the older subdivisions.

At this time, Vice-Chairman Crohan opened the public hearing. Seeing no one wishing to speak, he then closed the public hearing and turned to the Board for questions to staff or the applicant.

Secretary Karen Emerson McPeak asked for the reason why they wanted to build a porch with a cover.

Mr. McGroarty stated that when they designed the porch they looked at what would go with the flow of the property and didn't realize there was a 75 ft. setback. They wanted outdoor living space and that is the reason for the design that they have.

Mr. Britt stated they wanted to utilize the retaining wall, a poured in place solid concrete wall, to utilize the space that is already there.

Andrew Ring stated that being an engineer himself, the request makes perfect sense, but he was having a hard time justifying why the applicant's request constitutes a hardship.

Mr. Britt stated the hardship is that there is no other place to build a covered porch structure to fit within the setback line. He stated the covered porch will be for an outdoor cooking area and to keep the smoke and grease away from the house.

Secretary Emerson-McPeak asked the applicant how big was the existing porch.

Mr. Britt stated 11 ft. three inches.

Vice-Chairman Crohan asked the applicant if it would be possible to build a smaller porch and stay within the requirements of the Ordinance.

Mr. Britt stated that according to codes he could build a concrete slab all the way to the retaining wall, but they would also like a cover for the porch. He stated if smaller, it would be a narrow porch, therefore not worth the trouble to construct.

Vice-Chairman Crohan stated the applicants could go a different route by submitting a plat revision with a 60 ft. setback. If the plat revision was approved there would be no need for a variance.

Secretary Emerson-McPeak made a motion to deny the setback request because it does not meet the requirements of Subsection 5.02 of the Zoning Ordinance and the applicants have the option of a plat revision. Andrew Ring seconded the motion. Motion was approved by unanimous voice vote.

With no other business to come before the Board, the meeting was adjourned.

Secretary's Signature

Date