

**Minutes
Williamson County
Board of Zoning Appeals
January 27, 2011**

Members Present

David Ausbrooks, Chairman
Steve Wherley, Vice-Chairman
Don Crohan, Secretary

Staff Present

Lee Sanders
Linda Hodges
Brenda Midgett
Bobby Cook, County Attorney

The Williamson County Board of Zoning Appeals met in regular session on January 27, 2011 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 October 28, 2010, meeting as printed, and Steve Wherley seconded the motion. The motion was unanimously approved.

ITEM 1

A request by Louis and Candyce Glaser, for a setback variance to allow an accessory structure (deck) at 119 Gillette Drive. The property is zoned Suburban Estate and is located in the 9th district.

Linda Hodges read the staff report, and reviewed the background (see agenda report). Lee Sanders pointed out to the Board the adjoining properties, and displayed the site plans, utilizing the overhead projector. He stated a deck was built on the edge of the property on a bluff overlooking the Harpeth River without a permit and in violation of the 15 ft. rear zoning setback requirement for accessory structures. The location also violated a "Waterway Natural Area", but the Stormwater Appeals Board has granted a variance conditional upon obtaining all other permits and approvals. Mr. Sanders stated the applicants want the Board to grant a variance so they may obtain the permit.

Mr. & Mrs. Glaser represented the item. Mr. Glaser presented to the Board a letter from neighbors in support of the applicants' request.

Mr. Sanders also presented to the Board a letter and an e-mail from two neighbors in support of the applicants' request.

Mr. Glaser stated due to the uniqueness of the lot the deck would not cause a hindrance to their neighbors. He stated they went before the Homeowners Association Board and was given approval.

Mr. Glaser stated nothing would ever be built past the bluff due to the closeness of the Harpeth River. He stated he was trying to build the deck to blend into the young woods of the area. Mr. Glaser stated he plans to place railings on the deck.

Chairman Ausbrooks opened the meeting to the public.

Ms. Ann Thurman of 827 Highgrove Circle stated the Glasers have asked several neighbors to look at their deck. She stated this is a slope area and the deck is not interrupting any landscaping. Ms. Thurman stated the location of the deck makes total sense and she felt it is the most thought out structure and raises property value.

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

Chairman Ausbrooks explained to the applicants, this is a quasi judicial Board. He then asked Mr. Sanders to present to the Board and the public, Section 9601 General Standards for Variance. Chairman Ausbrooks asked the applicants if the deck could be built anywhere else on the property and meet the setback requirement?

Mr. Glaser stated he would have to cut perhaps 20 trees at one site and another location would disturb the natural waterways and dirt. He presented to the Board, photos taken and submitted at the Stormwater Board meeting. Mr. Glaser stated the rear yard is encumbered by a protected "Waterway Natural Area". He stated the deck encroached that area as well, but the Stormwater Board granted a variance if all other permits are obtained.

Mrs. Glaser stated they cannot place the deck anywhere except where it presently is located. She stated it is built on a rock bluff and anchored in rock. Mrs. Glaser stated the laws have been changed since they purchased the house and lot.

Don Crohan stated he sees a safety problem/hazard with the deck because it currently has no railings and is not fenced to control access.

Mrs. Glaser stated this is a solid bluff and the adjoining area is common open space for their subdivision. She stated the deck would have railings that would be environmentally friendly and substantially built.

Chairman Ausbrooks asked Mr. Sanders to present Section 9601 again to the Board. He stated the Homeowners Association Board's approval is for the aesthetics. However, the standards for the Board of Zoning Appeals to approve a variance are limited by state law.

Mr. Sanders read the letter from the Stormwater Board Department Manager regarding their variance and the Board's requirements. Mr. Sanders also stated that the minutes of that meeting were not available yet.

Mrs. Glaser stated the Stormwater Board would only approve where the deck is due to the solid rock. She stated anything from the driveway on is considered the Harpeth River waterway natural area.

Steve Wherley stated there seems to be a large area of the rear yard where the deck could be constructed to meet the zoning setback of 15 feet. Therefore, he finds it very difficult to see how this request meets the requirements of Section 9601 of the zoning ordinance.

Don Crohan made a motion to deny the request, stating he feels there are other alternative locations to build the deck and therefore it does not meet the requirements of Sections 4300B and 9601 of the zoning ordinance. Steve Wherley seconded the motion.

Chairman Ausbrooks asked the Board for a 10 minute recess. Chairman Ausbrooks reconvened the meeting.

Mr. Glaser asked to withdraw their request until next month so that he may provide information from the Stormwater Board meeting in relation to the limits of being able to locate the deck anywhere else in his rear yard.

Steve Wherley withdrew his second of the motion on the table.

Don Crohan withdrew his motion to deny the request because he wants the applicant to present any and all evidence on behalf of his request.

Chairman Ausbrooks stated the applicants' request was withdrawn and will be placed on the next agenda convenient for the applicant.

ITEM 2

A request by Skeeter Coleman (Julian and Carol Patty, property owners), for a setback variance to allow an accessory structure (outdoor kitchen) at 396 Sandcastle Road. The property is zoned Neighborhood Conservation and is located in the 9th district.

Linda Hodges read the staff report, and reviewed the background (see agenda report). Lee Sanders pointed out to the Board the adjoining properties, and displayed site plans utilizing the overhead projector. He stated this is a corner lot with a steep sloping back that was cut out in order to build the house. Mr. Sanders stated there is a 16 ft. tall retaining wall in the back of the property with an existing whirlpool and swimming pool located in the rear yard. He stated the applicant is proposing to build a roofed structure with a kitchen area that would encroach the 15 ft. setback requirements.

Mr. Skeeter Coleman of Coleman Construction and Mr. Julian Patty, property owner, represented the item.

Mr. Patty presented to the Board a photo of how the structure would look once built. He stated the proposed structure would be below the retaining wall and that would keep neighbors from seeing it. Mr. Patty wants to build the structure in order to shield the grilling area.

Mr. Coleman stated the retaining walls and the Cyprus trees would help hide the structure. He stated a structural engineer viewed the site and stated the owner should not build anything behind the shorter retaining wall because it would obstruct the drainage.

Chairman Ausbrooks opened the meeting to the public.

There being no one to speak, he closed the public hearing.

Steve Wherley asked the applicant about the sloping area of the property.

Mr. Patty stated the land behind the wall is four to five feet higher.

Mr. Coleman stated the roofline would be 14' tall and the two retaining walls would hide the structure from the adjoining property owners. Mr. Coleman stated they had the property surveyed and found that a portion of the proposed structure extended over the setback line.

Chairman Ausbrooks asked the applicant how many square feet would be under roofline.

Mr. Coleman estimated between 250-275 sq. ft.

Chairman Ausbrooks asked the applicant if there was any reason other than symmetry to allow the request to be outside of the building envelope.

Mr. Coleman explained to the Board that if you cut back, it would emasculate the design. He added that the proposed structure cannot go back behind the second retaining wall. Mr. Coleman stated he cannot find a design to accommodate the setbacks, yet remain attractive.

Mr. Patty stated they didn't want a cheap looking structure.

Steve Wherley asked Mr. Sanders to display Section 9601 of the zoning ordinance on the overhead projector. He stated he finds it difficult to find how the request meets Section 9601 of the zoning ordinance, General Standards for Variance.

Don Crohan stated he finds it difficult to approve the request because of the design and numerous accessories already enjoyed in this small rear yard. He felt like this request is not a "have to" situation and the issue comes down to esthetics.

Chairman Ausbrooks stated he doesn't feel the request meets Section 9601 either.

Steve Wherley made a motion to deny the request, stating it did not meet the requirements of Section 9601 and 4300B of the zoning ordinance. Don Crohan seconded the motion. Motion was approved by unanimous voice vote.

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

Secretary's Signature

Date