

Department of Planning & Community Development



A meeting of the Franklin County Board of Zoning Appeals was held on June 6, 2023, in the Board of Supervisors room located at the Franklin County Government Center.

THOSE PRESENT:

William D.S. Lee- Chair

William Cooper

Pamela Washington

Kevin Hunt

Wayne Worley

OTHERS PRESENT:

Lisa Cooper- Planning Director/Zoning Administrator

Megan Fenner – Clerk

Chris Dadak – Zoning Administrator Legal Counsel

THOSE ABSENT:

Billy Kingery- Vice Chair

Melissa Keen

The meeting was called to order by Chairman William Lee at 6:00 p.m.

The first order of business was the approval of the May 2, 2023, meeting minutes.

Chairman William Lee motioned to adopt the minutes as written. Mr. Wayne Worley seconded the motion.

Chairman Lee asked if there was any discussion. Hearing none, Chairman Lee asked for the roll call vote.

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A roll-call vote was conducted. The minutes shall stand as written, 4-0-2-1; voting on the minutes was as follows:

- AYES: Washington, Hunt, Worley, Lee
- NAYES: None
- ABSENT: Keen, Kingery
- ABSTAIN: Cooper

Chairman Lee introduced the next item on the agenda and asked for the staff report.

APPLICATION for VARIANCE – Application of Stephen Crumley, Applicant and Stephen and Linda Morrisett, Owners, requesting a variance to Section 25-272 (a) Front Yard Setback, of the Franklin County Zoning ordinance, on an approximate 0.75 acres of property zoned RC-1, Residential Combined Subdivision District. The property is located at 518 Brookside Lane in the Gills Creek Election District of Franklin County and further identified by real estate records as Tax Map/Parcel Number 0310103000. The RC-1, Residential Combined Subdivision District requires the minimum distance from the nearest point of the house or principal structure (including porches, stoops, or any accessory buildings) to the center line of the specified right-of-way shall be equal to fifty-five (55) feet or thirty (30) feet from the edge of the right-of-way, whichever is greater, for property adjacent to all other roads. The applicants request a variance of ten (10) feet to reduce the front yard setback from fifty-five (55) feet to forty-five (45) feet from the center of the right -of-way (Case # VAR-03-23-17662).

Director Lisa Cooper presented the staff report.

This is a petition of Stephen Crumley requesting a front yard setback from Section 25-272 (a) Front Yard Setback of the Franklin County Zoning Ordinance to allow the construction of a proposed detached two car garage 26' .8" x 26'8", which includes 12" overhangs as shown on the concept plan prepared by Stephen Crumley. The request is for a variance of ten (10) feet to reduce the front setback from fifty-five (55) feet to forty-five (45) feet from the center of the right-of-way.

The Lakewood Forest subdivision has several variances that have been approved on four (4) of the streets in the subdivision. The following are the variances approved by the Board of Zoning Appeals:

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- Front yard setback variance of 29' on lot lot74-A identified as parcel 0310102500 for a dwelling. (This property is located at the corner of Brookside Lane and Arden Lane.) Approved February 24, 2004.
- Front yard setback variance of 4'.6" on lot 53 identified as parcel 0310104900 for an existing dwelling to be in conformance with the ordinance and be able to make an expansion to the dwelling. (This property is located on Overlook Circle.) Approved May 2, 2017.
- Front yard setback variance of 20'.5" and side yard variance of 11' identified as parcel 0300103300 for a doublewide to replace an existing single-wide. (This property is located on Hideaway Lane.) Approved June 25, 1991.
- Side yard setback variance of 4' for both sides yards located on lot 37 identified as parcel 0310106500 for a dwelling. (This property is located on Hideaway Lane.) Approved October 28, 2003.
- Side yard setback variances for both sides 5' and 1' identified as parcel 0310108600 for a double wide. (This property is located on Lakewood Forest Circle.) Approved March 2, 2010.

The staff's opinion by granting a variance for the proposed detached garage would meet the criteria set out in the Code of Virginia for granting a variance. The irregularly shaped and size of the lot along with the sloping of the property does impose some challenges for the construction of a detached garage. The location of the septic drain fields between the house and the lake along with the terrain of the property makes this location the best on the property. Several variances have been granted in this subdivision and one variance on Brookside Lane due to the terrain and size of the lot.

The granting of the variance would alleviate a hardship due to the physical condition of the property; however, this is shared by several properties in the subdivision.

The hardship imposed by the ordinance was not created by the applicant. Lakewood Forest Subdivision was platted in 1961 and the regulations were different for subdivisions than what the regulations are today.

The granting of the variance would not be a substantial detriment to adjacent properties or properties nearby. Granting the ten (10) foot variance would not be detrimental to the adjacent properties. One of the properties on Brookside that is larger was granted a larger front yard setback. Several variances have been

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granted in this subdivision due to the sloping and irregular shapes of the lots.

The variance does not correct a problem or condition that is general and recurring that a general ordinance amendment is practical. There are other parcels in the subdivision that share the same issue of not being able to meet the front yard setback. However, due to the year the subdivision was platted, and the granting of variances that have been issued since zoning was adopted in 1988, an ordinance amendment would not be practical.

The variance will not result in the establishment of a land use that is not otherwise permitted in the RC-1, Residential Combined Subdivision district.

The variance cannot be achieved through a rezoning or special use permit process currently allowed in the ordinance.

Chairman William Lee asked if there were any questions for staff. Hearing none and seeing none, Chairman Lee advised they would now hear from the applicant.

Mr. Stephen Crumley addressed the Board of Zoning Appeals. Mr. Crumley stated Director Cooper addressed all the aspects of his variance application, and he didn't have anything to add. Mr. Crumley offered to answer any questions.

Director Lisa Cooper wanted to inform the Board of Zoning Appeals of an email staff received regarding the variance application. Director Cooper also informed the Board of Zoning Appeals that a neighbor of hers contacted her inquiring about the variance application but did not state an opinion on the application.

Mr. Stephen Crumley added that he has spoken to his neighbors about their plans for the property and their request for a variance. No one expressed any opposition to their plans.

Chairman William Lee advised they would now enter deliberations. Chairman Lee noted the report was very in depth. He stated it would not make much sense to deny this application for a variance when so many others in the area have been approved. He called attention to the first condition of granting a variance: the hardship must not have been imposed by the applicant. Chairman Lee stated he supported the applicant meeting this condition.

Mr. William Cooper motioned based upon the fact the applicant has demonstrated the ordinance would unreasonably restrict the utilization of the property and that the granting of the variance would alleviate the hardship of the physical condition

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of the property as shown on the concept plan and the applicant has demonstrated granting the variance meets all criteria identified in Sections 15.2-2201 and 15.2-2309 of the Code of Virginia. Mr. Cooper moved to approve the variance requested to Section 25- 272 (a) of the Franklin County Code for a variance of ten (10) feet, which will reduce the front yard setback from fifty-five (55) feet to forty-five (45) feet for the proposed 26'.8" x 26'.8" detached garage as shown on the concept plan prepared by Stephen Crumley, dated April 7, 2023.

Ms. Pamela Washington seconded the motion.

A roll-call vote was conducted. The minutes shall stand as written, 6-0-1-0; voting on the minutes was as follows:

AYES: Worley, Washington, Hunt, Cooper, Lee
NAYES: Keen, Kingery
ABSENT: None
ABSTAIN: None

Chairman Lee asked Director Cooper if she had anything for the Board of Zoning Appeals before they dismissed.

Director Lisa Cooper advised the Board of Zoning Appeals, Mr. Jim Gilbert has filed an appeal of their determination in the case related to Royal Estates known as APRQ-03-23-17612. Director Cooper advised the papers were served to select people involved in the case, and rather than the Board of Zoning Appeals, it's served to the Board of Supervisors. The requested documents are submitted to the courts, and the next course of action will be determined. Director Cooper stated in the case of the determination being overruled, the county can take it to the next level, or possibly the owner of 399 Royal Estates Boulevard. Director Cooper has not had experience past circuit court.

Chairman Lee asked if there has ever been a reversal of the Board of Zoning Appeals' decision. Director Cooper advised she believes the courts reversed the decision of the Board of Zoning Appeals and allowed a company to post their commercial sign on the side of Route 220. She also believed there was another case that involved a storage facility that was reversed because the zoning ordinance had not been updated.

Mr. William Cooper stated a stop work order was posted on 399 Royal Estates Boulevard which was then torn down, and the property continued working. There was another stop work order posted. Mr. Cooper asked if Director Cooper knew

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anything about that. Director Cooper stated their office had received a complaint that there was work being done prior to the stop work order. John Broughton, Building Official, sent two (2) building inspectors out to the site who observed the beginning of decks being constructed without a building permit. This is why the stop work order was issued. With the stop work order torn down, the Building Official will determine the next course of action. Director Cooper is not aware of any work continuing on the property.

Mr. William Cooper stated that wooden platforms have been assembled within the last ten (10) days. Director Lisa Cooper advised that she would inform the building official.

Director Lisa Cooper advised that is all she had for the Board of Zoning Appeals.

Meeting adjourned at 6:24 pm.