

**MINUTES OF THE REGULAR MEETING OF THE
CITY OF FLORENCE BOARD OF ZONING APPEALS
VIA ZOOM VIDEO CONFERENCING
JUNE 24, 2021**

MEMBERS PRESENT: Nathaniel Poston, Larry Adams, Deborah Moses, and Ruben Chico (in person); Shelanda Deas (via Zoom Video)

MEMBERS ABSENT: Larry Chewning and Randolph Hunter

STAFF PRESENT: Jerry Dudley, Derek Johnston, and Alane Zlotnicki (in person); also Danny Young, IT (in person)

OTHERS PRESENT: James Durant (via telephone with his wife); Lester Switz, Devarise Cooper, LeRoderick McCoy (via Zoom)

CALL TO ORDER: Co-Chairman Poston called the meeting to order at 6:00 p.m.

APPROVAL OF MINUTES:

In the absence of Chairman Chewning, Co-Chairman Nathaniel Poston introduced the April 22, 2021 minutes. Voting in favor of approving the minutes was unanimous (5-0).

PUBLIC HEARINGS AND MATTERS IN POSITION FOR ACTION:

BZA-2021-07 Request for a variance from the fence requirements for a residential lot located at 1014 Hallie Drive, in the NC-6.1 zoning district; Tax Map Number 18005-01-028.

Chairman Poston introduced the variance and asked staff for their report. Mrs. Zlotnicki gave the report as submitted to the Board of Zoning Appeals. Chairman Poston asked if there were any questions of staff.

Mr. Adams asked if the applicant had sought any building permits for the fence. Mrs. Zlotnicki stated not in this case, and that permits are not required for fences in the city as long as the property owner adheres to the ordinance. She mentioned Codes Enforcement had received complaints from neighbors which is how the Planning Department became aware of the case.

Ms. Moses asked what the complaint was. Mrs. Zlotnicki stated the neighbors believed the fence was unsightly and detracted from property values in the vicinity.

Chairman Poston asked what the height of the fence was. Mrs. Zlotnicki informed him the height is 8 feet.

Mr. Chico noted the fence also violated the ordinance's minimum transparency requirement of 50%.

There being no other questions, Mrs. Zlotnicki phoned the applicant, Mr. James Durant, and put him on speaker phone as he did not want to attend in person or call in through Zoom. Chairman Poston swore in Mr. James Durant, the applicant, to speak in favor of the request. Mr. and Mrs. Durant both outlined their reasons for installing the fence and asked the board to allow them to retain it. They stated that they need the privacy the fence gives them because the neighbors were always looking at their house and had cameras pointed at their house. They want to be able to use their front porch without the neighbors watching them.

There being no further questions for the applicant from the Board, and no one else to speak for or against the request, Chairman Poston closed the public hearing and asked for a motion.

Mr. Adams moved that the Board deny the variance requested based on the following findings of fact and conclusions:

1. That a variance from the terms of the *Unified Development Ordinance* will be contrary to the public interest when, because of special conditions, a literal enforcement of the provision will not, in this individual case, result in an unnecessary hardship, in that: The applicant was looking for a degree of privacy that this fence did provide; however, it does not meet any of the literal applications of the Ordinance in this situation.
2. That the spirit of the *Unified Development Ordinance* will not be observed, public safety and welfare secured, and substantial justice done because: The intent of this Ordinance is to provide the visibility and openness along the street in this residential area; the current 8' fence does not allow that. The front yard closest to the house does have the enclosure, leaving the remainder of the front yard open, but the fence obscures the view of the home's entrance and the windows with the exception, as stated, of the garage as well as the window in the garage.
3. That there are no extraordinary and exceptional conditions pertaining to the particular piece of property, namely that these conditions do generally apply to other property in the vicinity, in that: The layout of the lot and dimensions are similar to other lots in this particular neighborhood and the vicinity of the neighborhood. There appear to be no natural, geographical, or infrastructural conditions that are out of the ordinary for this specific piece of property.
4. That because of these conditions, the application of the *Unified Development Ordinance* to the particular piece of property would not effectively prohibit or unreasonably restrict the utilization of the property by: Other lots are subject to the same requirements as the applicant.
5. That the authorization of a variance will be of substantial detriment to adjacent property or to the public good, and the character of the district will be harmed by the granting of the variance, because: The fence obscures the view of the home's entrance and the windows.

Mr. Chico seconded the motion. The motion to deny the variance as requested passed unanimously (5-0).

BZA-2021-08 Request for a variance from the impervious surface requirements for a residential lot located at 2467 Parsons Gate, in the NC-15 zoning district; Tax Map Number 01221-01-316.

Chairman Poston introduced the variance and asked staff for their report. Mr. Johnston gave the report as submitted to the Board of Zoning Appeals. Chairman Poston asked if there were any questions of staff.

Mr. Chico asked whether the pool constituted part of the 5% variance request. Mr. Johnston stated only the pool house and jacuzzi exceeded the impervious service area.

There being no further questions, Chairman Poston opened the public hearing.

There being no questions for the applicant from the Board, and no one else to speak for or against the request, Chairman Poston closed the public hearing and asked for a motion.

Mr. Chico moved that the Board grant the variance as requested based on the following findings of fact and conclusions:

1. That a variance from the terms of the *Unified Development Ordinance* will not be contrary to the public interest when, because of special conditions, a literal enforcement of the provision will, in this individual case, result in an unnecessary hardship, in that: The applicant is looking for a five percent variance on the impervious surface ratio allowed or he will not be able to utilize his property as desired.
2. That the spirit of the *Unified Development Ordinance* will be observed, public safety and welfare secured, and substantial justice done because: The approximately three percent of impervious surface added by the pool will only lead to an additional stormwater runoff when the pool is overflowed, which will most likely be at least a 25-year storm event. In most storm events the applicant's impervious surface ratio will exceed the City's maximum by only two percent. The parcel is adjacent to a stormwater pond, excessive stormwater not infiltrated into the lot will drain directly into the pond without utilizing City stormwater infrastructure. With the parcel backyard draining towards the City stormwater pond, adjacent homeowners will be minimally impacted by the additional five percent impervious surface.
3. That there are extraordinary and exceptional conditions pertaining to the particular piece of property, namely: The lot is located adjacent to the neighborhood's stormwater pond as well as a 0.40 acre lot, to the south, designated as greenspace/common area for the neighborhood. There is only one adjacent home to the north.
4. That these conditions do not generally apply to other property in the vicinity, in that: This is one of ten lots on Parsons Gate that are adjacent to and drain directly into the neighborhood stormwater pond.
5. That because of these conditions, the application of the *Unified Development Ordinance* to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property by: Strict observance of the Ordinance would not prevent the use of the property as a single-family residential structure as intended; however, it would prevent the homeowner from building the poolhouse and associated hardscape as desired.
6. That the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance, because: The proposed structure will be located in the rear yard which is surrounded by an opaque masonry fence. The adjacent homeowners and the City's infrastructure will be minimally impacted.

Mr. Adams seconded the motion. The motion passed unanimously (5-0).

BZA-2021-10

Request for a variance from the requirements for an accessory building and impervious surface for a residential lot located at 400 Peatree Court, in the NC-6.1 zoning district; Tax Map Number 15219-01-117.

Chairman Poston introduced the variance and asked staff for their report. Mr. Johnston gave the report as submitted to the Board of Zoning Appeals. Chairman Poston asked if there were any questions of staff. There being none, Chairman Poston opened the public hearing.

Ms. Moses asked if the applicant would be willing to move the playhouse. Mr. Johnston stated yes. Ms. Moses asked what the size of the large accessory building is. Mr. Johnston stated 334 square feet and that staff would treat it as a detached garage so the applicant could keep another accessory building.

There being no further questions for the applicant from the Board, and no one else to speak for or against the request, Chairman Poston closed the public hearing and asked for a motion.

Mr. Adams moved that the Board deny the variance as requested based on the following findings of fact and conclusions:

1. That a variance from the terms of the *Unified Development Ordinance* will be contrary to the public interest when, because of special conditions, a literal enforcement of the provision will, in this individual case, result in an unnecessary hardship, in that: Literal enforcement of the Ordinance is intended to limit the number of accessory structures allowed on the lot.
2. That the spirit of the *Unified Development Ordinance* will not be observed, public safety and welfare secured, and substantial justice done because: The intent of the Ordinance is to limit the dedicated building number even though the parcel amount of the storage buildings will not surpass the 25% square footage limit permitted by the Ordinance; however, it is the number of individual structures that will be surpassed and over the limit.
3. That there are not extraordinary and exceptional conditions pertaining to the particular piece of property, namely: The applicant is citing the size of their family including multiple age groups that require special accommodations for storage which puts them over the limit for the parcel. This property is located at the end of a cul-de-sac and is irregularly shaped which affords this lot a larger rear yard, however the number of buildings is what is in question.
4. That these conditions do generally apply to other property in the vicinity, in that: This property is located at the end of a cul-de-sac and is irregularly shaped which affords this lot a larger rear yard than those not located on the cul-de-sac. A small number of other lots within the neighborhood located on cul-de-sacs have similar lot configurations, but not the same number of buildings.
5. That because of these conditions, the application of the *Unified Development Ordinance* to the particular piece of property would not effectively prohibit or unreasonably restrict the utilization of the property by: A literal enforcement of the Ordinance will not restrict the intended use of the property as single-family residential.
6. That the authorization of a variance will be of substantial detriment to adjacent property or to the public good, and the character of the district will be harmed by the granting of the variance, because: Not just the location of the accessory buildings, but the number of accessory

buildings, as well as, the owner's fence minimize the visibility, however it is still over the allotted amount in the Ordinance.

Mr. Chico seconded the motion. The motion passed unanimously (5-0).

ADJOURNMENT: As there was no further business, Mr. Adams moved to adjourn the meeting. Ms. Moses seconded the motion. Voting in favor of the motion was unanimous (5-0). Chairman Poston adjourned the meeting at 6:43 p.m. The next regular meeting is scheduled for July 22, 2021.

Respectfully submitted,

Austin Cherry, Office Assistant III