



## City of Franklin

109 3<sup>rd</sup> Ave S  
Franklin, TN 37064  
(615) 791-3217

### Meeting Minutes

### Board of Zoning Appeals

---

Thursday, July 3, 2025

6:00 PM

Eastern Flank Event Facility

---

Notice is hereby given that a meeting of the Board of Zoning Appeals will be held on the date, time, and location listed above. Additional information can be found at [www.franklintn.gov/planning](http://www.franklintn.gov/planning). For accommodations due to disabilities or other special arrangements, please contact the Human Resources Department at (615) 791-3216, at least 24 hours prior to the meeting. Accommodations have been made to ensure that the public is able to participate in the meeting. The public may participate in the following ways: • Watch the meeting on FranklinTV or the City of Franklin website. • Watch the live stream through the City of Franklin Facebook and YouTube accounts. • Email comments to [planningintake@franklintn.gov](mailto:planningintake@franklintn.gov) to be provided in full to the Commission and included in the minutes, but not read aloud in their entirety during the meeting. Emailed comments are accepted until 12:00 PM (noon) on the day before the meeting. • Comment in-person at the meeting. Speakers will be asked to fill out a speaker card prior to the meeting starting. Speakers may sit in the meeting or wait in the lobby.

#### CALL TO ORDER

Chair Langley called the meeting to order at 06:02 PM

Board Members Present: Jonathan Langley (chair), Jeff Fleishour, William Scales, Dorinda Smith

Board Members Absent: John Boehms

**CITIZEN COMMENTS (Open for citizens to be heard on any issue or concern, including those related to items on the agenda. Please submit a Speaker Card at the beginning of the meeting if you would like to address the Commission. If you would like to speak on an agenda item, the Chair will hold your comment until the public comment period associated with the item. As provided by law, the Commission shall make no decisions or consideration of action of citizen comments for items not on the agenda, except to refer the matter to the Planning Director/Staff for administrative consideration, or to a schedule the matter for consideration at a later date. Those addressing the Commission are requested to come to the microphone and identify themselves by name and address for the official record. The Chair may restrict the period for public comment, including the length of the public comment period, the number of individuals who can speak and the length of time each individual may speak. When time allows, the standard individual public comment time is two minutes.)**

Chair Langley asked if there were any citizen comments not related to items on the agenda. There were none.

**Comments on agenda items may be made in person at the meeting or by emailing [planningintake@franklintn.gov](mailto:planningintake@franklintn.gov) before noon on the day before the meeting. Emailed comments will be provided to the Board and included in the minutes, but not read aloud in their entirety during the meeting.**

#### APPROVAL OF MINUTES

##### 1. Consideration Of Approval Of The June 5, 2025 BZA Minutes

Sponsors:

A motion was made by Boardmember Smith, seconded by Boardmember Scales, to approve the Minutes from the June 5, 2025, meeting. The motion carried 4-0.

#### ANNOUNCEMENTS

Chair Langley stated that the applicant for item #2 A Variance Request To Allow A 15-Foot Encroachment Into The Required 20-Foot Rear Yard Setback For An Addition To An Existing Principal Building For The Property Located At 406 Forrest Street (F.Z.O. 3.14.5.) has requested the item to be removed from the agenda.

### **MOTION**

Board Member Smith motioned to remove item #2, A Variance Request To Allow A 15-Foot Encroachment Into The Required 20-Foot Rear Yard Setback For An Addition To An Existing Principal Building For The Property Located At 406 Forrest Street (F.Z.O. 3.14.5.) from the agenda, seconded by Board Member Scales. The motion carried by a vote of 4-0.

### **APPLICATIONS**

2. **A Variance Request To Allow A 15-Foot Encroachment Into The Required 20-Foot Rear Yard Setback For An Addition To An Existing Principal Building For The Property Located At 406 Forrest Street (F.Z.O. 3.14.5.).**

**Sponsors:** Amy Diaz-Barriga, Ariella Stanford

This item was removed from the agenda during the Announcements by a vote of 4-0.

3. **A Variance Request To Allow The Principal Building To Encroach 10 Feet Into The 25-Foot Front Setback Along Winslow Road With An Additional 6-Foot Appurtenance Encroachment For The Property Located At 246 Myles Manor Court (F.Z.O. 3.7.5.).**

**Sponsors:** Amy Diaz-Barriga, Ariella Stanford

Staff Presentation: Ariella Stanford

This 0.21 acre property is located at 246 Myles Manor Court and is zoned R-4 Residential 4 District. It is also within the Historic Preservation Overlay and the Central Franklin Overlay. The applicant is proposing a single-family house on the property. Because this is a corner lot, the property has 2 front setbacks: 31-foot setback along Myles Manor Court, and 25-foot setback along Winslow Road. With the width of the lot being approximately 60 feet, the front setback of 25 feet along Winslow Road, and the 7-foot side setback, the width of the buildable area is approximately 28 feet. The applicant has faced challenges designing a home that complies with the 25-foot front setback along Winslow Road that the Historic Preservation Design Review Committee (DRC) would also support. The applicant attended DRC on June 2024, August 2024, and September 2024. The applicant then submitted for a Certificate of Appropriateness (COA) and attended the November 2024 Historic Zoning Commission (HZC) meeting. That COA was denied, and it was discovered that the property needed to be replatted to consolidate the original lots which had been sold by deed but had not established revised lot lines. Once the property was in the process of replatting, the required 25' front setback along Winslow Road was established based on the survey and calculations of the existing block face (per R4 zoning district requirements). When it proved difficult to design a contextually relevant home within the setback requirement along Winslow Road, the applicant submitted design plans to the DRC showing 3 different setback options along Winslow Road: 15', 20', and 25'. Assistant Historic Preservation Planner Elizabeth Bulay sent the following language to the applicant as a recap of the feedback provided by the DRC at the March 2025 meeting:

- There was not support for a house that would be as narrow as it would be required to be with a 25' setback by the commissioners present at the meeting. The narrow building is not compatible with the neighborhood.
- The commissioners supported exploring an option for which the front portion of the building has a 15' setback from the frontage on Winslow Road and the rear of the building has an inset and maintains a greater setback, such as 20' or 25' more along Winslow Road. This may assist in keeping the building compatible with both block faces and be sensitive to the setbacks along Winslow Road.

Staff would like to note that DRC feedback is non-binding, so the feedback they receive regarding their preference for the design is not a binding requirement, purely discussion and feedback.

Based on this feedback, the applicant submitted a new request for a COA and attended HZC in April 2025 and that request

was denied due to architectural details that the HZC determined weren't appropriate for the house. The applicant submitted again for the June 2025 HZC meeting, at which time the application was approved with one condition being that a variance would be necessary for the setback along Winslow Road.

To move forward with the design plans approved by the HZC (with conditions), the applicant is requesting a variance to allow the principal building to encroach 10 feet into the 25-foot front setback along Winslow Road with an additional 6-foot appurtenance encroachment for the front porch.

#### Staff Analysis:

The BZA may authorize a variance only when the request has met all three criteria in accordance with F.Z.O §20.10.6 and State law. The staff has completed an analysis of the request in light of these criteria:

1. Where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the Zoning Ordinance or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition, such a piece of property is not able to accommodate development as required under this Ordinance.

This lot is not narrower than the rest of the lots along Myles Manor court on average, but being a corner lot and having 2 front setbacks does limit the buildable area of the lot to a smaller width than the existing houses on the street. In addition to the narrow condition of the lot, the property being in the Historic Preservation Overlay requires them to get approval from the Historic Zoning Commission (HZC). Since the DRC gave the applicant feedback to move forward with the 15' setback along Winslow Road, the HZC likely would not have approved a house with a 25' setback because the DRC determined it would not fit the context of the historic neighborhood. Seeing as the narrow condition of the lot likely would have prevented the HZC from approving a house that fits within the required setbacks, Staff finds this criteria is met.

2. The strict application of any provision enacted under the Zoning Ordinance would result in peculiar and exceptional practical difficulties for or exceptional or undue hardship for the owner of the property.

The strict application of the Zoning Ordinance does present exceptional practical difficulties for the owner of this property. Given the required setbacks, the house would need to be narrower than the rest of the houses on Myles Manor Court, and the design of the house would not fit the context of the street. Seeing as this is a historic neighborhood, the house fitting the context of the street is a reasonable concern, as it is a concern to both the owner of the house and to the DRC and HZC. Complying with the required setbacks would likely prevent approval from the HZC; therefore, Staff finds this criteria is met.

3. Such relief may be granted without substantial detriment to the public good and without substantially impairing the purpose and intent of the Zoning Ordinance.

Staff finds that this request would not be a detriment to the public good and would not impair the intent of the Zoning Ordinance. The intent of designing this house with a 15-foot setback from the lot line to the house is to construct a house that fits the context of the historic neighborhood. The Zoning Ordinance regulation for the front yard setback is that principal buildings much match the average setback of existing buildings on the same block face, but no closer to the front lot line than the closest adjacent building. The intent of this regulation is that houses would be designed to fit the context of the neighborhood. The goal of this design is to meet the intent of this Zoning Ordinance regulation. The width of the house helps the design fit the context of the houses along Myles Manor Court, and the varied setback of the house along Winslow Road helps that front setback fit contextually along Winslow Road. Staff finds this criteria is met.

#### Recommendation:

Staff recommends that the Board of Zoning Appeals move to approve the Variance Request To Allow The Principal Building To Encroach 10 Feet Into The 25-Foot Front Setback Along Winslow Road With An Additional 6-Foot Appurtenance Encroachment For The Property Located At 246 Myles Manor Court, because the criteria for granting a variance have been met.

#### Applicant Presentation:

Andrew King. Mr. King stated that the process of finding the acceptable massing for the building has taken a year appearing before the HZC and the Design Review Committee. Mr. King provided a brief history by explaining that 5-6 lots were subdivided in the 1990's but never officially platted. Also, Mr. King noted that the requested setback is the same as the

corner lot on Miles Manor Court.

Public Comments: None

**MOTION (Public Comment)**

Board Member Smith motioned to close the public comment section for Item #3, seconded by Board Member Fleishour. The motion carried by a vote of 4-0.

**MOTION**

Board Member Smith motioned to approve A Variance Request To Allow The Principal Building To Encroach 10 Feet Into The 25-Foot Front Setback Along Winslow Road With An Additional 6-Foot Appurtenance Encroachment For The Property Located At 246 Myles Manor Court (F.Z.O. 3.7.5.), seconded by Board Member Fleishour. There was no discussion on this item, and the motion carried by a vote of 4-0.

**4. A Variance Request To Allow A Roof Pitch Of 1.5:12 For An Addition To An Existing Building For The Property Located At 109 Carolyn Avenue (F.Z.O. 6.3).**

**Sponsors:** Amy Diaz-Barriga, Ariella Stanford

Staff Presentation: Ariella Stanford

This 0.44 acre property is located at 109 Carolyn Avenue and is zoned R-4 Residential 4 District. The applicant is proposing an addition onto the back of the existing house. The existing house has multiple roof elements, with their roof pitches ranging from 3:12 to 5:12. To extend the roof of the addition from the existing roofline, the applicant would like for the addition to have a roof pitch of 1.5:12. The roof pitch of a house is permitted to be between 3:12 and 12:12 per the Zoning Ordinance. For this reason, the applicant is requesting a variance to allow a roof pitch of 1.5:12 for an addition to an existing building.

Staff Analysis:

The BZA may authorize a variance only when the request has met all three criteria in accordance with F.Z.O §20.10.6 and State law. The staff has completed an analysis of the request in light of these criteria:

1. Staff finds there is no condition of the property preventing the addition to this home from having a 3:12 roof pitch. While it may not achieve the desired view of the house from the front, it is possible to accommodate development as required under this ordinance. Staff finds this criteria is not met.
2. The strict application of the Zoning Ordinance in this case causes practical difficulties in designing the addition. To achieve a roof pitch of 3:12 for the addition to the house, the roofline of the existing house would need to be extended upward and complicates the design of the addition. While this can be achieved, it does impose practical difficulties for cohesive construction. Staff finds this criteria is met.
3. Staff finds this request would not be a detriment to the public good or impair the intent of the Zoning Ordinance. The intent of the addition having a 1.5:12 roof pitch is to maintain the existing roofline view from the street. This would ensure that the low profile character of the house is maintained, and the house would fit the context of the street. The intent of this Zoning Ordinance regulation is to maintain consistency in the design and character of houses. Designing this addition in a way that minimizes the alteration of the character and view of the house from the street meets the intent of this ordinance regulation. Staff finds this criteria is met.

Recommendation:

Staff recommends the Board of Zoning Appeals move to deny the Variance Request To Allow A Roof Pitch Of 1.5:12 For An Addition To An Existing Building For The Property Located At 109 Carolyn Avenue, because the criteria for granting a variance have not all been met.

Applicant Presentation:

Gideon Fox, property owner. Mr. Fox explained that he and his wife purchased the one level mid-century home with the intent of maintaining the historic character of the home after remodeling. Mr. Fox stated that regarding criteria one, the uniqueness of the lot is that the building sits at the highest elevation on the street, looking down onto the other homes as

they step down in elevation. The roof pitch required by the ordinance is like placing a church steeple on top of a mid-century home making it stand out and different than the other homes on the street. Mr. Fox finished by providing photos of homes along Caroline Avenue for comparison and stated that the ordinance is keeping the home from how it was originally and historically intended.

David Ayres, Architect. Mr. Ayres explained that the goal is to maintain the look and design of the mid-century home in this section of old Franklin. In this case, the enforcement of the ordinance defeats the intent and purpose of the ordinance. The flat roof on the back of the home is very normal and typical for a home along Caroline Avenue and like the existing homes.

Nona Fox, property owner. Mrs. Fox stated that she has been a realtor in Franklin for 30 years and several years ago listed a modern mid-century home on Adams Street. Because the home is in the historic overlay, the owner was not allowed to update the roof line due to the variance requirements. The homeowner sold the home for this reason. Caroline Avenue is about 100 yards from this home and is required to meet the zoning requirements for roof pitch. Both homes are mid-century modern era homes, yet one requires a change to the roof pitch, and one requires maintenance of the existing roof pitch with no alterations. The HZC focuses on preserving the integrity of roof lines of mid-century modern homes in downtown Franklin creating a conflict within the ordinances. Mrs. Fox stated that architecturally from the front elevation, roof modification cannot be seen and noted that there is a 12-foot elevation drop between property lines.

**Public Comment:**

Gail Parker, 200 Carolyn Avenue. Ms. Parker stated that Caroline Avenue is one of the only streets that the original homes have not been demolished and replaced with large new homes. Ms. Parker asked the Board to allow Caroline Avenue to remain as it is now.

**MOTION (Public Comment)**

Board Member Scales motioned to close the public comment portion of the item, seconded by Board Member Smith. The motion carried by a vote of 4-0.

**MOTION**

Board Member Smith motioned to approve A Variance Request To Allow A Roof Pitch Of 1.5:12 For An Addition To An Existing Building For The Property Located At 109 Carolyn Avenue (F.Z.O. 6.3) because the criteria for granting a variance request have been met, seconded by Board Member Scales.

Board Member Smith stated that the extraordinary and exceptional situation or conditions of the property are that the home is situated on a street of mid-century modern homes and by elevating the roofline to a higher pitch would not be in keeping with the overall neighborhood. Therefore, criteria number one has been met.

Board Member Scales stated that he agrees with Ms. Smith and to add a higher-pitched roof takes away from the character of the neighborhood, which is especially important to maintain.

Chair Langley also agreed with the motion to approve and added that there are not many mid-century homes left, particularly an entire street of ranch-style homes. Chair Langley stated the importance of preserving the mid-century modern homes.

With no further discussion, the motion carried by a vote of 4-0.

5. **A Variance Request To Allow A 2-Foot And 6-Inch Encroachment Into The Required 7-Foot Side Yard Setback For An Existing Principal Building, And A Variance Request To Allow A 2-Foot And 6-Inch Encroachment Into The Required 5-Foot Side Yard Setback For An Existing Appurtenance On An Accessory Structure, And A Variance Request To Allow A Lot To Have A Minimum Landscape Surface Area Of 26 Percent For The Property Located At 417 Forrest Street (F.Z.O. 3.7.5., 12.2.2.).**

**Sponsors:** Emily Wright, Amy Diaz-Barriga, Ariella Stanford

Staff Presentation: Ariella Stanford

This 0.22-acre lot is located at 417 Forrest Street and is zoned R4 Residential 4 District. There is an existing house and

accessory structure on the lot. The existing house, accessory structure, and paved areas were built in 2022, but were not built according to the building permit that was submitted and approved in November 2022. As a result of this, there are multiple Zoning Ordinance violations:

1. The existing house encroaches into the east side setback. Principal buildings in the R4 zoning district are required to have a minimum side setback of 7 feet. The house is located approximately 4 feet and 8 inches from the side lot line, and may need to encroach up to 4 feet and 6 inches from the lot line to fire-rate that side wall of the house, hence the variance request to encroach up to 2 feet and 6 inches into the 7-foot setback. Structures that are located less than 5 feet from a property line are required to fire rate the structure along that property line for safety purposes. There is a possibility that they could install a sprinkler system to resolve the issue, but they may need to add additional material to the side of the house to fire rate that wall if a sprinkler system is not feasible for this property. Staff has confirmed that this solution should not add more than 2 inches onto the side of the house, if that is the solution they need to pursue.
2. The appurtenance (concrete patio) attached to the accessory structure in the backyard encroaches into the west side setback. This concrete patio was not shown on the approved Building Permit and qualifies as an appurtenance. Appurtenances are allowed to encroach up to 5 feet into a side yard setback, but no closer than 5 feet from the lot line. This patio is 2.5 feet from the side lot line.
3. The lot does not meet the Zoning Ordinance minimum Landscape Surface Area (LSA) requirement. The approved Building Permit showed significantly less paved area than what was built, and the paved driveway was shown as permeable pavers. There is a portion of permeable pavers in front yard area, but the rest of the paved areas on the lot are impervious concrete. As calculated on the submitted survey, the LSA is currently 26%. R4 Residential zoning district requires a minimum of 40% LSA.

Due to the complicated history of this lot, Staff finds it relevant to provide a timeline of events:

- 11/14/2022 - Building Permit approved by the City of Franklin
- 2022 to 2024 - Building inspections were performed as established in the 2018 International Residential Code and the City of Franklin inspection schedule. Zoning ordinance violations are not intended to be caught through the building inspection process. Building inspections are only to ensure the minimum building code is met.
- September 2024 - A red sign was posted on the property, stating that this house did not yet have a Certificate of Occupancy and was not yet allowed to be occupied.
- 2023 to 2024 - The owner attempted to sell the house.
- Staff further studied the plans and a site visit to the property brought into question the placement of the building on the lot. After confirming the discrepancies between the approved Building Permit and the house that was built, Shanna McCoy (City of Franklin's Zoning and Floodplain Administrator) made the owner of the home aware that there were multiple aspects of the home that did not meet the Zoning Ordinance requirements.
- 2025 - The owner was not able to sell the house, and the bank foreclosed on the home at the beginning of 2025.
- 2025 - First Bank listed the property with Pilkerton Realtors.
- 3/10/2025 - Shanna McCoy spoke with the listing agent with Pilkerton Realtors. Shanna McCoy explained that the existing home is encroaching into the side setback, and that a Certificate of Occupancy would not be issued until either a variance is issued or the structure is moved or demolished and rebuilt. She also explained that the driveway has to be removed and replaced with pervious material (to meet the LSA requirement).
- 3/13/2025 - Brian Biglin closed on the house.
- 3/14/2025 - Brian Biglin came to the Building and Neighborhood Services department and spoke with Randall Tosh and William Holcomb regarding the property. Brian Biglin then submitted a record's request for the property. Shanna McCoy spoke with Mr. Biglin on the phone during the week of March 17th-21st and explained the issues. Ms. McCoy then scheduled a meeting with Mr. Biglin for March 26th. Mr. Biglin came to the meeting with an attorney and Bill Squires (City of Franklin Assistant City Attorney) was unavailable so the meeting had to be rescheduled. The meeting was rescheduled for April 2nd, and Staff went through all the issues with Mr. Biglin.

Given the existing Zoning Ordinance violations, the applicant is requesting 3 variances:

1. A Variance Request To Allow A 2-Foot And 6-Inch Encroachment Into The Required 7-Foot Side Yard Setback For An Existing Principal Building
2. A Variance Request To Allow A 2-Foot And 6-Inch Encroachment Into The Required 5-Foot Side Yard Setback For An Existing Appurtenance On An Accessory Structure
3. A Variance Request To Allow A Lot To Have A Minimum Landscape Surface Area Of 26 Percent

**Staff Analysis:**

The BZA may authorize a variance only when the request has met all three criteria in accordance with F.Z.O §20.10.6 and State law. The staff has completed an analysis of the request in light of these criteria:

**Request 1: To Allow A 2-Foot And 6-Inch Encroachment Into The Required 7-Foot Side Yard Setback For An Existing Principal Building.**

1. Staff does not find any extraordinary conditions of this property that would prevent a single-family home from being located the required 7 feet from the side property line on this property. The approved Building Permit shows that an approximately 2,000 square-foot home could be built within the setback requirements of this lot. Staff finds this criteria is not met.
2. Staff does not find that the strict application of any provision enacted under the Zoning Ordinance would result in peculiar and exceptional practical difficulties for or exceptional or undue hardship for the owner of the property. The hardship of needing to remedy the existing house that was built out of compliance is self-imposed. The practical difficulties presented by this situation are a result of the house not being built according to the approved plans, not a result of the strict application of the Zoning Ordinance. Staff finds this criteria is not met.
3. Staff finds that this request may be a detriment to the public good and would impair the intent of the Zoning Ordinance. The house is located very close to the neighboring house at 415 Forrest Street. Part of the intent of this zoning ordinance regulation is to provide a buffer between buildings and to have aesthetic consistency with setbacks in a neighborhood. With this house being so close to the side lot line and the neighboring house also being close to that lot line, the space between the buildings is only 6.6 feet and does not seem to be a sufficient buffer for the property owners, and does not fit the context of the street. This does not meet the intent of the zoning ordinance. Staff finds that this criteria is not met.

**Request 2: To Allow A 2-Foot And 6-Inch Encroachment Into The Required 5-Foot Side Yard Setback For An Existing Appurtenance On An Accessory Structure.**

1. Staff does not find any extraordinary conditions of this property that would prevent development of an accessory structure and appurtenance within the setbacks on this property. The approved Building Permit shows an accessory structure built within the setback requirements of this lot, and it was not a condition of the lot that required the appurtenance to be located within the side setback. Staff finds this criteria is not met.
2. Staff does not find that the strict application of any provision enacted under the Zoning Ordinance would result in peculiar and exceptional practical difficulties for or exceptional or undue hardship for the owner of the property. The hardship of needing to remedy the existing appurtenance that was built out of compliance is self-imposed. The practical difficulties presented by this situation are a result of the appurtenance not being built according to the approved plans, not a result of the strict application of the Zoning Ordinance. Staff finds this criteria is not met.
3. Staff finds that this appurtenance may be a detriment to the public good and would impair the intent of the Zoning Ordinance. Most of the driveway is located against the property line, where the original driveway was located. At the review of the Building Permit, Staff required that any new portion of the driveway would need to curve away from the property line to comply with the required 5-foot setback for driveways. With this required curve and setback of the driveway, it is apparent that the patio encroaches closer to the lot line than the back of the driveway and accessory structure are allowed to be. In addition, the patio being so close to the neighboring property to the west may cause noise or nuisance concerns. Staff finds this criteria is not met.

**Request 3: To Allow A Lot To Have A Minimum Landscape Surface Area Of 26 Percent**

1. Staff does not find any extraordinary conditions of this property that would prevent development with the required 40% LSA on this property. The approved Building Permit meets the LSA requirements, and it was not a condition of the lot that required the additional paved areas and the lack of pervious pavement. Staff finds this criteria is not met.
2. Staff does not find that the strict application of any provision enacted under the Zoning Ordinance would result in peculiar

and exceptional practical difficulties for or exceptional or undue hardship for the owner of the property. The hardship of needing to remedy the existing pavement that was installed out of compliance is self-imposed. The practical difficulties presented by this situation are a result of the pavement not being installed according to the approved plans, not a result of the strict application of the Zoning Ordinance. Staff finds this criteria is not met.

3. Staff finds that this request may be a detriment to the public good and would impair the intent of the Zoning Ordinance. Part of the intent of the minimum Landscape Surface Area (LSA) regulation is to ensure that stormwater runoff is not displaced onto neighboring properties. With most of the lot being covered in impervious pavement, stormwater runoff will likely be displaced to the neighboring properties. LSA is also regulated to preserve green space, encourage sustainable development, and maintain consistency in the design of lots. Covering 73.9% of the lot in impervious surfaces does not align with the intent of sustainable development and green space preservation, and it is apparent that the LSA provided on this lot is not consistent with the neighboring properties. Staff finds this criteria is not met.

**Recommendation:**

Staff recommends the Board of Zoning Appeals move to deny the Variance Request To Allow A 2-Foot And 6-Inch Encroachment Into The Required 7-Foot Side Yard Setback For An Existing Principal Building, And deny the Variance Request To Allow A 2-Foot And 6-Inch Encroachment Into The Required 5-Foot Side Yard Setback For An Existing Appurtenance On An Accessory Structure, And deny the Variance Request To Allow A Lot To Have A Minimum Landscape Surface Area Of 26 Percent For The Property Located At 417 Forrest Street, because the criteria for granting a variance have not been met.

**Applicant Presentation: Brian Biglin**

Mr. Biglin stated that the home was purchased through the bank as a foreclosure with disclosure of information about the property not required. Mr. Biglin stated that everything on the inside of the building was stripped but the building was structurally sound. The initial information disclosed about the property was a Certificate of Occupancy was needed with no indication in the public records about the zoning ordinance violations. The red tag posted on the home must have been taken off by the previous owner/builder as there was not a tag attached to the building. Regarding the variance requests for criteria one relating to extraordinary conditions, Mr. Biglin stated that none of the violations, prior to March 2025, were a result of his decisions as the zoning ordinance violations were undisclosed by the seller and undiscoverable through public records. Further, Mr. Biglin stated that throughout the 51 city inspections, errors should have been discovered by the inspectors earlier in the building process and addressed. If required to demolish the property and rebuild, the cost would be around \$1.08 Million. As an insurance policy, Mr. Biglin stated that he purchased the lots to the left and right of the subject property (properties that 417 Forest Street encroaches on).

**Public Comment:**

Julie Leidel, 427 Forrest Street. Ms. Leidel stated that it is very noticeable how close the home is positioned in relationship to the adjacent property. Ms. Leidel also mentioned her concerns about stormwater runoff and a precedent being set regarding the allowable impervious surfaces in the neighborhood.

Michael Derryberry, 424 Forrest Street. Mr. Derryberry stated that there should be a set of rules for everyone to follow. Also, Mr. Derryberry explained that during the construction of the building everyone could see that the builder was overbuilding on the site, yet no one said anything, despite the many codes inspections.

**MOTION (Public Comment)**

Board Member Scales motioned to close the public comment portion of the item, seconded by Board Member Smith. The motion carried by a vote of 4-0.

Board Member Scales asked Mr. Biglin when he received his real estate license and when the initial property was purchased. Also, Mr. Scales asked if the applicant contacted staff to determine why a Certificate of Occupancy was required.

Mr. Biglin stated that he received his real estate license prior to purchasing the property at 417 Forrest Street. Mr. Biglin explained that he was new to the process and assumed the CO was not issued because the contents of the structure was stripped of everything usable. Also, Mr. Biglin noted that he was not aware that city staff could be utilized to answer questions or provide direction regarding the situation.

Board Member Fleishour asked if the adjacent lots have existing homes.

Mr. Biglin stated that there are existing homes on the adjacent lots.

Chair Langley asked staff if the applicant could replat the subject property and the adjacent lot, also purchased by the applicant.

Ms. Diaz-Barriga stated that the applicant could consolidate the subject property and the encroached lot to create one lot that would comply with the setback standards, allowing much more space to meet the setback requirements. The additional area created by the consolidation also meets the percentage LSA requirement. However, consolidation would not solve the appurtenance on the other side unless the applicant consolidated all three lots. Ms. Diaz-Barriga also clarified that there could only be one house per lot, so if the applicant consolidated lots, one home would need to be removed.

Board Member Fleishour asked the applicant about the appurtenance regarding the accessory building.

Mr. Biglin stated that it is exceedingly small, amounting to a sidewalk that leads to a back patio. The sidewalk could be removed.

### **MOTION**

Board Member Scales motioned to deny A Variance Request To Allow A 2-Foot And 6-Inch Encroachment Into The Required 7-Foot Side Yard Setback For An Existing Principal Building, And A Variance Request To Allow A 2-Foot And 6- Inch Encroachment Into The Required 5-Foot Side Yard Setback For An Existing Appurtenance On An Accessory Structure, And A Variance Request To Allow A Lot To Have A Minimum Landscape Surface Area Of 26 Percent For The Property Located At 417 Forrest Street (F.Z.O. 3.7.5., 12.2.2.) because the criteria for granting a variance request have not been met, seconded by Board Member Smith.

Board Member Scales stated that he understands that the applicant is dealing with issues prior to his ownership of the property but as a licensed real estate agent and knowing a certificate of occupancy is needed and deciding to purchase the property anyway has created issues for the applicant. If the lots are consolidated, demolition would be required or if the variance requests are granted - there isn't a way to meet each of the criteria for each variance request and remain true to the zoning ordinances, according to Board Member Scales.

Board Member Fleishour stated that the applicant could potentially take care of two out of the three variance requests with demolition but there is still a problem with the principal building being in the setback. Also, according to the distance between homes regarding the side yard setback, there appears to be an issue with the side yard setback of the adjacent home.

Ms. McCoy explained that she did not have a survey on the adjacent property but yes, it is safe to say the building is closer than seven feet to the line and is a non-conforming structure.

Board Member Fleishour stated that with a little bit of work the applicant could meet the requirements for the first two variance requests and then return to the BZA meeting for the third variance request. At this time, Board Member Fleishour stated that he agrees with the motion to deny.

Board Member Smith stated that she is very sympathetic to the applicant's situation, and it is a heart-breaking situation. Looking at the property, it does not meet the zoning requirements or the criteria for granting a variance request. Ms. Smith further stated that she agrees with the motion to deny.


Chair Langley stated that he agrees with the motion to deny and that this situation is a textbook example of what you never want to see for a variance request. From a review standpoint, time is spent planning with the creation of site plans and plot plans but on the backend if no one is inspecting work planned on the front end, what good does planning provide? There may be internal processes that can be reviewed. Most of the time, the processes work well with a small percentage of times where hardships must be addressed. Chair Langley stated he sympathizes with the applicant as he potentially faces a million-dollar demo and rebuild. The Board is in a tough position looking at the criteria for granting a variance request, but the applicant did purchase the adjacent properties which could provide other options. Chair Langley finished by stating that he agrees with the other Board Members and the motion to deny.

There being no further discussion, the motion to deny carried by a vote of 4-0.

**OTHER BUSINESS**

**ADJOURN**

There being no further business, Board Member Scales motioned to adjourn the meeting, seconded by Board Member Smith. The motion carried by a vote of 4-0, and the meeting adjourned at 07:04 p.m.

  
\_\_\_\_\_  
Chair

  
\_\_\_\_\_  
Date