

**MINUTES
TOWN OF FORT MILL
BOARD OF ZONING APPEALS
October 20, 2014
6:00 PM**

Present: Jim Thomas, Jay McMullen, Rhonda McCall, Jody Stegall, Ryan Helms, Planning Director Joe Cronin, Assistant Planner Chris Pettit

Absent: Terri Murray, Becky Campbell

Guests: Patricia Brohm, Michelle Soto, Lynn Davis, Kevin Myers, David Faile, Julie Faile, Trudie Bolin Heemsoth, George McGuigan, Kathy McGuigan, Kay Gibson, Walter Hartness Jr.

Chairman Thomas called the meeting to order at 6:00 pm and welcomed everyone in attendance.

Chairman Thomas welcomed Mr. Helms and Mr. Stegall, who were recently appointed to the board by town council.

Planning Director Cronin introduced Chris Pettit, who joined the town as Assistant Planner in August.

APPROVAL OF MINUTES

Mr. Thomas made a motion to approve the minutes of the July 21, 2014, meeting as submitted by staff. Mr. McMullen seconded the motion. The motion was approved by a vote of 5-0.

PUBLIC HEARING ITEMS

- 1. Variance request from Patricia Brohm (400 Unity Street):** Planning Director Cronin provided a brief overview of the applicant's request, the purpose of which was to allow a 6' wood privacy fence to extend past the primary residence and in to the front yard setback on a corner lot. Planning Director Cronin added that the fence has already been installed, though no permit had been applied for or issued by the town.

Chairman Thomas opened the public hearing.

The applicant, Ms. Patricia Brohm of 400 Unity Street, provided additional details regarding the request. Ms. Brohm stated that there was previously a 4' chain link fence in the same location as the new 6' wood stockade fence. She stated that she did not know she needed a permit to replace the old fence with a new one. She added that the old fence was in poor condition, and she was worried about being viewed as disrespectful to funerals and visitors at Unity Cemetery when children play in her yard. Ms. Brohm added that she was concerned for the safety of herself and the children playing in her yard. Allowing a fence

to extend into the front yard would allow her to maintain the same size yard area as before, while providing better screening and safety on her property.

Ms. Julie Faile of 405 Nims Street spoke in favor of the request. She provided photos of several other properties in the area that also have privacy fences in the front yard, including several on corner lots. Ms. Faile added that there were concerns among neighbors about homeless people sleeping in the cemetery, and drug deals and other crimes also alleged to have taken place.

Ms. Michelle Soto of 400 Nims Street, Ms. Lynn Davis of 401 Nims Street, Mr. Kevin Myers of 402 Nims Street, and Mr. David Faile of 405 Nims Street, also spoke in favor of the request.

Chairman Thomas asked if anyone else wished to speak. There were no other speakers, and the public hearing was closed.

Mr. McMullen asked if there would be an adverse impact to any existing residences or vehicular travelers on Hill Street as a result of approving the variance. Ms. Brohm stated that there would be no impact. Planning Director Cronin stated that fences are restricted in front yards by the zoning ordinance so as to not inhibit visibility near driveways and intersections. The fence at 400 Unity Street was seen by staff to block most of the driveway from passing traffic, including pedestrian traffic.

Mr. Thomas asked about the status of nearby fences which are also located in front yards. Planning Director Cronin stated his belief that no fences had been permitted in that area during his time with the town. Some fences may have been installed prior to when the current codes went into effect. Others may have been installed without a permit and were unnoticed by code enforcement personnel.

Mr. McMullen asked if Duke owned a power line easement at the front of the property, which may require the fence to be set back further from the right-of-way than it is currently. Planning Director Cronin stated that since the fence was installed without a permit, staff has not reviewed a survey or been in contact with Duke regarding the existence of a possible easement.

Mr. McMullen made a motion to approve the variance request to allow the fence to extend into the front yard and exceed the 4' maximum height requirement, due to the presence of a non-traditional use across the street. Mr. McMullen added a condition that should Duke maintain a power line easement along the front of the property, the fence may not extend into the easement. The motion died for lack of a second.

Ms. McCall expressed concern about establishing a precedent that would be seen to allow nonconforming fences whenever a resident does not like a neighboring land use. She worried about this precedent being extending to other areas of the town, and thought the board could be undermining the intent of the zoning ordinance. Ms. McCall added that she thought that the safety concerns were valid, and stated that they would likely influence her

vote. Additional discussion took place regarding public safety issues in and around the cemetery.

Chairman Thomas asked if there anyone else wished to comment on the request. There being no further discussion, Chairman Thomas called for a motion.

Mr. McMullen re-stated his motion to approve the variance request to allow the fence to extend into the front yard and exceed the 4' maximum height requirement, due to the presence of a non-traditional use across the street. Mr. McMullen added a condition that should Duke maintain a power line easement along the front of the property, the fence may not extend into the easement. Ms. McCall seconded the motion. The motion was approved by a vote of 5-0.

2. **Variance request from Walter W. Hartness Jr. (102 Meacham Street):** Assistant Planner Pettit provided a brief overview of the applicant's request, the purpose of which was to allow three variances related to two carports proposed to be located on the property. The first request was to reduce the side yard setback from 5' to 1' on the right side of the house. The second request was to reduce the side yard setback from 5' to 2' feet on the left side of the house. The final request was to allow both detached carports to be partially located in front of the primary residence.

Chairman Thomas opened the public hearing. The applicant, Mr. Walter Hartness Jr, spoke in favor of the request. Mr. Hartness stated that his car had been damaged by the recent hail storm, and he wanted to install a carport to protect his vehicle from further damage in the future. He added that the family was taking care of an elderly relative, and they wanted to make it easier for her to get into and out of a vehicle during inclement weather. Mr. Hartness stated that both carports would need to extend into the front yard due to an existing addition on the left side of the house, as well as an existing fence on the right side of the house. Mr. Hartness added that the lot was very narrow, and there was nowhere else to install the proposed carports.

Chairman Thomas asked if anyone else wished to speak. There were no other speakers, and the public hearing was closed.

Mr. Thomas asked the applicant to verify the precise location of the proposed carports. Assistant Planner Pettit pulled up several photos on the overhead monitor, and Mr. Hartness pointed out the exact location of the proposed carports on the photos.

Mr. Thomas noted that there was an overhead power line between the street and the front corner of the house on the left side of the property. This line is located above where the applicant is seeking to install one of the carports. Mr. Thomas questioned whether the carport would have sufficient clearance between the roof of the carport and the power line.

Ms. McCall stated that she did not have an issue with granting a variance on side yard setback given the narrowness of the lot; however, she reminded the board of its recent precedent in denying requests to be locate carports in front of residential structures. Ms.

McCall added that she thought there was sufficient room on the right side of the property to locate a carport behind the front corner of the residence, even though the existing fence may need to be set back further from the road to ensure the carport does not extend past the front corner of the residence. Because of the residential addition on the left side of the house, it was not feasible to install a carport on that side of the property because the carport would extend into the front yard. Ms. McCall stated that she supported the installation of a carport on the right side, but not the left.

There being no further discussion, Chairman Thomas called for a motion. Mr. Thomas made a motion to approve the variance request to reduce the side yard setback from 5' to 1' on the right side of the property, so as to allow the installation of a carport in that location, provided the carport may not extend past the front corner of the residence. Mr. Thomas also motioned to deny the reduction in the side yard setback from 5' to 2' on the left side of the property, and to deny the request to allow the carports to encroach beyond the front of the residence. Mr. McCall seconded the motion. The motion was approved by a vote of 5-0.

- 3. Variance request from George & Kathy McGuigan (120 E Hill Street):** Assistant Planner Pettit provided a brief overview of the applicant's request, the purpose of which was to reduce the 5' side yard setback for an accessory structure (detached carport).

Chairman Thomas opened the public hearing. The applicant, Mr. George McGuigan of 120 E Hill Street, spoke in support of his request. Mr. McGuigan stated that he wished to install a 20' wide carport behind his primary residence on E Hill Street. His desire was to locate the carport over an existing driveway. Because the driveway encroached into the 5' side yard setback, he was seeking a variance to locate the carport within the setback area.

Ms. Kay Gibson, of 116 E Hill Street, also spoke in favor of the request. Ms. Gibson, who owns the neighboring property closest to the proposed carport, stated that she had no objection to the carport being located within the 5' side yard setback at the rear of the house, as long as the carport did not extend into the side or front yards.

Chairman Thomas asked if anyone else wished to speak. There were no other speakers, and the public hearing was closed.

Mr. Thomas asked the applicant to verify the precise location of the proposed carport. Mr. McGuigan stated that he wished to install the carport in the rear yard, behind the primary residence, but within the 5' side yard setback. Assistant Planner Pettit pulled up several photos on the overhead monitor, and Mr. McGuigan pointed out the exact location of the proposed carport on the photos.

Mr. McMullen asked whether the fence was on the applicant's property or the neighbor's property. Mr. McGuigan and Ms. Gibson stated that the fence was on the Gibson property, and was set back about 1' from the property line.

There being no further discussion, Chairman Thomas called for a motion. Mr. McMullen made a motion to approve the variance request to allow a carport to encroach 4' into the required 5' side yard setback within the rear yard of the property. Ms. McCall seconded the motion. The motion was approved by a vote of 5-0.

Planning Director Cronin stated that he and Assistant Planner Pettit had attended the SC Planning Association Conference the prior week, and both had attended a very informative workshop on the proper role of Boards of Zoning Appeals and the legalities related to the variance process. Planning Director Cronin stated that he would like to send a copy of the presentation materials to the Board as soon as they are posted on the SCAPA website, and would like to set some time aside at a future meeting to review the information.

There being no further business, the meeting was adjourned at 8:05 pm.

Respectfully submitted,

Joe Cronin
Planning Director