



**TOWN OF FORT MILL
BOARD OF ZONING APPEALS
November 16, 2015
112 Confederate Street
6:00 PM**

AGENDA

CALL TO ORDER

APPROVAL OF MINUTES

Regular Meeting: October 19, 2015 *[Pages 2-3]*

PUBLIC HEARING ITEMS

- 1. CASE # 2015-770
Brian & Maura Glynn
3025 Slaney Court
Tax Map # 020-27-01-121
Zoning District: MXU**

Applicant is requesting a variance from the zoning ordinance to allow a reduction in the 5' rear yard setback requirement for accessory uses (pool)
[Pages 4-11]

ADJOURN

**MINUTES
TOWN OF FORT MILL
BOARD OF ZONING APPEALS
October 19, 2015
6:00 PM**

Present: Jim Thomas, Scott Couchenour, Charles Stec, Ryan Helms, Becky Campbell, Jody Stegall, Assistant Planner Chris Pettit

Absent: Terri Murray

Guests: Trish Plucker (101 Sharonview Street – Applicant), Nikki Killough (Sharonview Street Resident)

Chairman Thomas called the meeting to order at 6:00 p.m. and welcomed everyone in attendance. Assistant Planner Pettit noted that he had spoken to Ms. Murray and that she would be out of town and thus unable to attend the meeting.

APPROVAL OF MINUTES

Mr. Couchenour made a motion to approve the minutes of August 17, 2015 meeting as submitted by staff. Mr. Stegall seconded the motion. The motion was approved by a vote of 6-0.

PUBLIC HEARING ITEMS

- A) **Variance request from Trish Plucker (101 Sharonview Street)**: Chairman Thomas provided a brief overview of the variance request, the purpose of which was to allow an accessory use (storage shed) to be located in front of the principal structure on a corner lot. Ms. Plucker provided additional details regarding her request for variance, noting that the topography and layout of the lot leaves a majority of the property unusable based on zoning regulations. Ms. Plucker additionally provided a PowerPoint presentation showing other homes in the area that have sheds in front yards on a corner lot. Assistant Planner Pettit provided the board with additional views of the subject property using Google Street View and other online resources.

Nikki Killough, a resident of Sharonview Street, asked about why others were allowed to have sheds in front yards and Ms. Plucker was not. Chairman Thomas stated that Ms. Killough's question was related to an enforcement issue and that she should ask town council about it. Assistant Planner Pettit noted that the existence of other sheds in front yards should not be considered as justification for a variance, and that the board should focus on the conditions required for granting a variance as provided by state law.

Mr. Stec stated that he was having a hard time thinking about the potential of setting a precedent with the case. Assistant Planner Pettit noted that variances are to be considered on a case by case basis and that a precedent would only really apply in situations that were extremely similar to the case as presented by Ms. Plucker. Assistant Planner Pettit suggested that, due to the concerns, the board vote on the four required conditions for granting variance separately as opposed to together in one vote.

Chairman Thomas read the first required condition for granting variances, which is that there are extraordinary and exceptional conditions pertaining to the particular piece of property. Ms. Campbell made a motion that there are extraordinary and exceptional conditions pertaining to the particular piece of property. Mr. Couchenour seconded the motion. There being no further discussion, Chairman Thomas called for a vote. The motion was approved by a vote of 4-2, with Mr. Stec and Mr. Helms in opposition.

Chairman Thomas read the second required condition for granting variances, which is that the extraordinary and exceptional conditions do not generally apply to other property in the vicinity. Mr. Stegall made a motion that the extraordinary and exceptional conditions do not generally apply to other property in the vicinity. Mr. Couchenour seconded the motion. There being no further discussion, Chairman Thomas called for a vote. The motion was approved by a vote of 4-2, with Mr. Stec and Mr. Helms in opposition.

Chairman Thomas read the third required condition for granting variances, which is that because of the extraordinary and exceptional conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property. Mr. Couchenour made a motion that because of the extraordinary and exceptional conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property. Ms. Campbell seconded the motion. There being no further discussion, Chairman Thomas called for a vote. The motion was approved by a vote of 4-2, with Mr. Stec and Mr. Helms in opposition.

Chairman Thomas read the fourth and final required condition for granting variances, which is that the authorization of the variance will not be of substantial detriment to adjacent property or to the public good, and that the character of the district will not be harmed by the granting of the variance. Mr. Stegall made a motion that the authorization of the variance will not be of substantial detriment to adjacent property or to the public good, and that the character of the district will not be harmed by the granting of the variance. A question was raised as to what was meant by the word “district” in the context of the required condition. Assistant Planner Pettit noted that an exact definition was not provided within the Code of Laws and thus it was left up to the interpretation of the individual. Ms. Campbell seconded the motion. There being no further discussion, Chairman Thomas called for a vote. The motion failed by a vote of 3-3, with Mr. Couchenour, Mr. Stec, and Mr. Helms in opposition.

Chairman Thomas noted pursuant to the South Carolina Code of Laws, the board was unable to determine that all four required findings for “unnecessary hardships” were applicable for the variance request and therefore the variance was not approved.

There being no further business, the meeting was adjourned at 7:10 pm.

Respectfully submitted,

Chris Pettit, AICP
Planning Department

Town of Fort Mill
Board of Zoning Appeals
Item for Action

Item #1 **CASE # 2015-770**
Brian & Maura Glynn
3025 Slaney Court
Tax Map # 020-27-01-121
Zoning District: MXU

Applicant is requesting a variance from the zoning ordinance to allow a reduction in the 5' rear yard setback requirement for accessory uses (pool)

Background / Discussion

The Town has received a variance request from Mr. Brian Glynn and Ms. Maura Glynn for a proposed nonconformity related to the construction of a pool (an “accessory use”) at 3025 Slaney Court in the Riverchase subdivision.

The purpose of the request is to permit a reduction in the rear yard setback requirement from 5' to 1' for the accessory use (pool + decking). The applicant has provided a designed drawing showing the proposed location of all improvements related to the construction of the pool. Per the International Swimming Pool and Spa Code, a fence would also be required for the back yard of the property if a pool were to be constructed. As an additional note, the town’s Engineering Department has some concern regarding the flow of stormwater along the rear of the property if a pool is to be constructed. Therefore, any land disturbance to occur in the rear of the property will have to be approved by the town’s Engineering Department.

The applicant states that the reason for the variance request is due to the extraordinarily and exceptionally small size of the rear yard, which is related to the way the home had to be placed on the lot to meet the required front yard setback. The applicant does note that there is a large hill located at the rear of the property, which provides a buffer between any other usable spaces on the rear neighbor’s property.

Pursuant to Section 6-29-800(A)(2) of the SC Code of Laws, the Board of Zoning Appeals has the power to:

Hear and decide appeals for variance from the requirements of the zoning ordinance when strict application of the provisions of the ordinance would result in unnecessary hardship. A variance may be granted in an individual case of unnecessary hardship if the board makes and explains in writing the following findings:

- (a) there are extraordinary and exceptional conditions pertaining to the particular piece of property;
- (b) these conditions do not generally apply to other property in the vicinity;

- (c) because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and
- (d) 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.
 - (i) The board may not grant a variance, the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a nonconforming use of land or to change the zoning district boundaries shown on the official zoning map. The fact that property may be utilized more profitably, if a variance is granted, may not be considered grounds for a variance. Other requirements may be prescribed by the zoning ordinance.

A local governing body by ordinance may permit or preclude the granting of a variance for a use of land, a building, or a structure that is prohibited in a given district, and if it does permit a variance, the governing body may require the affirmative vote of two-thirds of the local adjustment board members present and voting. Notwithstanding any other provision of this section, the local governing body may overrule the decision of the local board of adjustment concerning a use variance.

- (ii) In granting a variance, the board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare.

Submitted by:

Chris Pettit, AICP
Assistant Planner / Zoning Administrator
November 11, 2015

2015-

770

Date Received: 10/27/15
Board of Zoning Appeals Date: 11/16/15

Variance Appeal Application

Town of Fort Mill, South Carolina

Owner / Applicant Information:

Applicant Name: Brian & Maura Glyn

Mailing Address: 3025 Slaney Court

Telephone Number: 973-277-3035

Property Information:

Address: 3025 Slaney Court

Current Zoning: York County

Current Use of Property: Residential/Home

Submission Checklist

- Completed application*
- Drawings and specifications of proposed improvements
- Site plan showing location of proposed improvements
- Application fee (\$100 residential / \$250 non-residential)*

Additional materials may be required
*Required with submission

The Board of Zoning Appeals may grant a variance from the requirements of the Zoning Ordinance when strict application of the provisions of the Ordinance would result in unnecessary hardship.

The findings required by the Board for variances are identified in Sec. 6-29-800 (attached) of the South Carolina Code of Laws. Responses to each of the following questions will assist the Board in making a determination.

1. Describe the variance request: I am requesting to encroach into our rear yard setback so that I may build my family a tiny pool & install a fence I need 8'-9' of additional feet

2. Describe any extraordinary and exceptional conditions pertaining to the particular piece of property (size, shape, topography, etc.):

My backyard is extraordinarily & exceptionally small @
The variance takes up 1/3 of my available property. The neighbor behind me is atop a 25' hill.

APPLICATION CONTINUED ON NEXT PAGE

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3. Describe how the conditions listed above are unique to the property for which the variance is sought:

I only have 27' from the foundation of the house to the rear property line. The builder set my home too far back.

4. Describe how the current zoning regulations prohibit or unreasonably restrict utilization of the property:

The 10' rear yard setback is more than 1/3 of my entire backyard. 1/3 of the property is the "angle of repose" from the foundation which cannot be dug in. That only leaves me 10'

5. Describe why the granting of the requested variance will not be injurious to adjacent properties, the neighborhood, or the general public:

My mother lives to the right, my best friend from another state is to the left, and the family behind us is on a 25' hill & cannot see my yard. Their yard cannot be used as a walkway or pass through

Acknowledgement of Requirements: Notices of appeal shall be posted on affected property so as to be clearly visible from a traveled street. The owner or appellant is instructed to maintain posting and to be responsible for notifying the town promptly if the sign is damaged or removed. Failure to do so may delay Board action. Additional permitting after Board approval may be required prior to beginning work, including zoning review, stormwater/engineering review, building permitting, and business licensing. Please note, incomplete submissions will not be accepted.

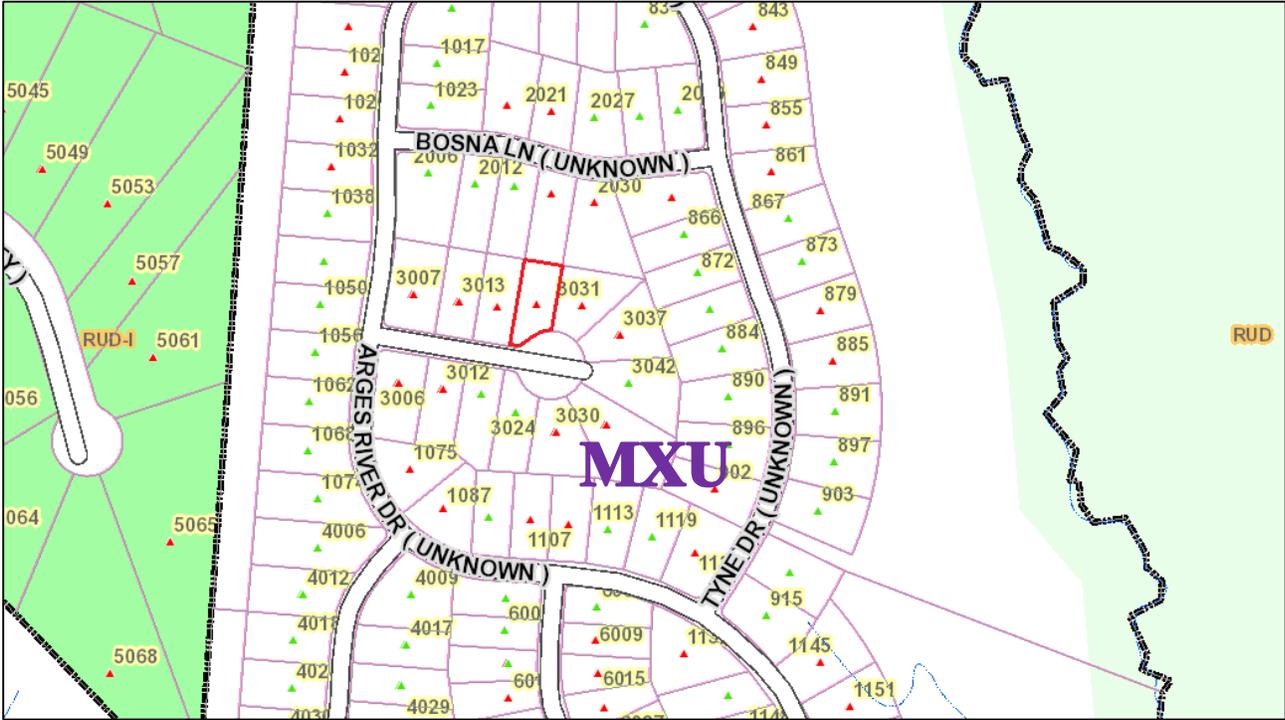


Signature

Date

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York County Tax Map # 020-27-01-121
Zoning Map



**York County Tax Map # 020-27-01-121
Aerial Map**





Property Pins