

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

Present: Jim Thomas, Scott Couchenour, Charles Stec, Jody Stegall, Terri Murray, Assistant Planner Chris Pettit

Absent: Ryan Helms, Becky Campbell

Guests: Brian Glynn (3025 Slaney Court), Brian Syvrud (Anthony & Sylvan Pools)

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

APPROVAL OF MINUTES

Mr. Couchenour made a motion to approve the minutes of October 19, 2015 meeting as submitted by staff. Mr. Stec seconded the motion. The motion was approved by a vote of 5-0.

PUBLIC HEARING ITEMS

- 1. Variance request from Brian & Maura Glynn (3025 Slaney Court):** Chairman Thomas provided a brief overview of the variance request, the purpose of which was to allow an accessory use (pool) to be located 1' from the property line, which is a 4' encroachment into the setback. Mr. Brian Glynn (applicant) provided additional information on the request, noting that the way the lot is set up does not leave a lot of room in the rear. Mr. Brian Syvrud, representing the pool contractor, noted that due to the construction of the house and the angle of repose that the pool could be located no closer to the home. Mr. Stegall questioned whether or not the pool could be reduced in size to meet the requirements of the zoning ordinance. Mr. Glynn noted that the size was already small and that they would preferably like to keep the pool size as submitted.

Mr. Stegall questioned whether or not the pool would be allowed to be located near the stormwater swale. Assistant Planner Pettit noted that the plans had been looked at by the town's engineering director and that regardless of what approvals the board gives, the plans would have to satisfy any additional requirement of the engineering department. Mr. Syvrud noted that the improvements would be approximately 1' out of the ground to still allow stormwater to flow through the swale as it exists today.

Mr. Stec began going through the requirements for granting a variance, as defined by the state, and questioned what extraordinary and exceptional conditions existed with the property. Mr. Glynn noted the size of the cul-de-sac lot, the placement of the home on the lot, and the significant slope located toward the rear of the property.

Mr. Stec questioned whether or not these exceptional conditions were specific to the property or also applied to others in the vicinity. A discussion took place whether or not the location was extraordinary or whether other lots were similar throughout the area. Assistant Planner Pettit showed the board the preliminary plat for the neighborhood to show the lot sizes and layouts. Mr. Stec pointed that there were several other properties that had similar conditions.

Not hearing any further discussion, 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. Mr. Stec made a motion that there were not extraordinary and exceptional conditions pertaining to the particular piece of property. The motion failed for a lack of a second. Ms. Murray made a motion that there were 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 4-1, with Mr. Stec opposed.

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. Stec made a motion that the extraordinary and exceptional conditions do generally apply to other property in the vicinity. The motion failed for a lack of a second. Ms. Murray made a motion that the extraordinary and exceptional conditions do not generally apply to other property in the vicinity. Mr. Stegall seconded the motion. There being no further discussion, Chairman Thomas called for a vote. The motion was approved by a vote of 3-2, with Mr. Stec and Mr. Couchenour opposed.

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. Ms. Murray 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. The motion failed for a lack of a second. Mr. Stec made a motion that the application of the ordinance to the particular piece of property would not effectively prohibit or unreasonably restrict the utilization of the property. Mr. Couchenour seconded the motion. There being no further discussion, Chairman Thomas called for a vote. The motion failed by a vote of 2-2, with Ms. Murray and Mr. Thomas opposed and Mr. Stegall abstaining.

Given the votes of the previous motions, Chairman Thomas requested a motion on approval or denial for the variance. Mr. Couchenour made a motion to deny the variance request. Mr. Stec seconded the motion. There being no further discussion, Chairman Thomas called for a vote. The motion passed with a vote of 3-2, with Mr. Thomas and Ms. Murray opposed.

Mr. Thomas stated that although the variance was denied, the applicants could come back at a later date with a different request for future consideration.

There being no further business, the meeting was adjourned at 6:36 pm.

Respectfully submitted,

Chris Pettit, AICP
Planning Department