MINUTES OF BRENTWOOD BOARD OF CONSTRUCTION APPEALS

The Brentwood Board of Construction Appeals met on Monday, August 16, 2021 at 6:30 p.m. at the Brentwood City Hall.

Present were Chairman Michael Vines, Vice Chairman Christian Noble, Jim Spangler, Dan Jordan, and David Flow. Staff members present were Tim Harrington, Todd Petrowski, Bobby Butts and Allison Henry. Mr. Vines led the Pledge of Allegiance.

Mr. Flow moved for approval of the minutes from the February 25, 2019 meeting as written; seconded by Mr. Jordan. Approval was unanimous.

**New Business**

**Item 1: BBCA2007-001 Request not to provide a 36-inch landing at an existing stairway for a covered porch converted to conditioned space. Doors have been added at the top of the existing stairway. The adopted 2018 International Residential Code requires a landing at the at the new door location. A 20-inch landing is currently in place - 6007 Wellesley Way**

On November 19, 2019, a building permit application was submitted to the City of Brentwood Planning & Codes Department by Frawood Custom Builders, Inc. for the residence located at 6007 Wellesley Way. The property was located within the Landmark of Brentwood Subdivision. The improvements consisted of the conversion of covered porch having an area of 224 square feet to conditioned space.

Building Inspector Brian Vick completed the building plans review and approved the project on December 18, 2019. The permit was issued on December 19, 2019.

Mr. Vick completed the rough-in framing inspection, a rough-in reinspection and insulation inspection allowing construction to continue. Note: During staff’s plan review and inspections no notification was provided to the builder regarding the requirement of a landing at the top of existing exterior stairs. The landing provided measured approximately 20 inches wide.

A final inspection was completed by Building Inspector Bobby Butts on March 31, 2020. As part of the inspection Mr. Butts identified that a 36-inch wide landing at the top of exterior stairs was not provided. Section R311.3 of the 2018 International Residential Code stated “There shall be a landing or floor on each side of each exterior door. The width of each landing shall be not less than the door served. Landings shall have a dimension of not less than 36-inches measured in the direction of travel.”

In addition, Section R102.7.1 of the 2018 International Residential Code-Existing Structures stated “Additions, alterations, or repairs to any structure shall conform to the requirements for a new structure without requiring the existing structure to comply with the requirements of this code, unless otherwise stated.” Additions, alternations, repairs and relocations shall not cause an existing structure to become unsafe or adversely affect the performance of the building.”

Due to the improvements, which included converting a covered porch to conditioned space and the addition of exterior doors, staff recommended that the Brentwood Board of Construction Appeals require the landing as stated under Section R311.3 of the 2018 International Residential Code. The property owner stated they are not currently using the secondary entrance as a point of ingress/egress to the residence, however a future-potential owner may. Section R311.3 references all exterior stairways used to access the structure. “There shall be a landing or floor on each side of each exterior door. The width of each landing shall be not less than the door served. Landings shall have a dimension of not less than 36 inches.” The landing provided measures approximately 20 inches wide.

Mr. Jordan moved that the Board grant the variance. Mr. Flow seconded; motion was denied 2-3 with Mr. Vines, Mr. Noble, and Mr. Spangler voting no.

**Item 2: BBCA2108-001 Request of variance from Chapter 56, Article II – Flood Prevention. Relief from substantial cumulative improvement language - 1940 Harpeth River Drive**

Mr. Whelchel requested approval of a variance from Section 56-82(1) of the Brentwood Municipal Code to repair damage to his home sustained from the March 2021 flood event. Section 56-83 prohibited “substantial improvements” within the floodway. “Substantial improvement” was defined in Section 56-63 of the Code as “any reconstruction, rehabilitation, addition, alteration or other improvement, taking place during a five-year period, in which the cumulative cost equals or exceeds 50 percent of the market value of the structure before the ‘start of construction’ of the initial improvement.” Note that this valuation did not include the land.

The City’s inclusion of cumulative costs incurred over a five-year period set a higher standard than the Federal Emergency Management Agency’s (FEMA’s) minimum requirements. FEMA’s definition of substantial improvement did not include cumulative improvements. In including cumulative costs to determine whether improvements are “substantial,” the City’s intent was to prevent incremental improvements to structures phased in over time to avoid elevating the entire structure. The City did not intend that repairs made necessary by the recent flood would be added to previously approved and completed improvements to the home for purposes of determining if the “substantial improvement” threshold was met.

In October 2020, Mr. Whelchel received a building permit for an interior remodel. The work is ongoing at a permitted cost of $120,000. The appraised value of the home, excluding the land, is $475,000. The threshold for determining a substantial improvement is $237,500 ($475,000/2). Mr. Whelchel has submitted detailed flood repair costs totaling $106,317. Because of the flood, Mr. Whelchel would like to convert the lower level of the home back to a garage and unfinished flood resistant space. To do this, the master bedroom and bath currently located in the lower level of the home would need to be relocated upstairs with an elevated addition complying with the elevation requirements in Section 56-82 of the Brentwood Municipal Code. The cost of the elevated master bedroom addition is estimated to be $115,000. The elevated master addition, the 2020 remodel and the 2021 flood repairs would exceed the $237,500. Should the cost of interior remodel ongoing since 2020, the cost of the proposed flood repairs, and the proposed elevated bedroom relocation be added together, the “substantial improvement” threshold would be exceeded, and he could not proceed unless a variance was granted. Mr. Whelchel requested a variance to allow the proposed flood repairs to be considered separately from the October 2020 improvements, and from the proposed elevated master bedroom and bath addition for purposes of calculating “substantial improvement” costs. If the exclusion of the 2021 flood repair costs of $106,317 were approved, all other work (permitted and proposed) would not exceed the 50% allowance of $237,500 for the 5-year cumulative period beginning October 2020.

Because all criteria of Sec. 56-93 had been met, staff recommended approval of the variance request to treat the flood repair costs sustained during the March 2021 flood event independently for purposes of determining whether this structure was substantially improved.

Mr. Flow moved that the Board grant the variance. Mr. Spangler seconded; motion was passed unanimously.

Being no further business, the meeting adjourned at 7:05 p.m.

Approved: September 20, 2021 Holly Earls

 Holly Earls, City Recorder