**MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING APPEALS BRENTWOOD, TENNESSEE**

The Brentwood Board of Zoning Appeals (BZA) met in a regularly scheduled session on June 20, 2022 at 5:30 p.m. in the Brentwood Municipal Center.

Present were Todd Lockhart, Clellon Loveall, and Eric Hauch. The staff members present were Todd Petrowski, Kristen Corn, Kirk Bednar and Allison Roberts.

Mr. Hauch made a motion to approve the April 18, 2022 minutes. Mr. Loveall seconded the motion; approval was 3-0.

***ITEM 1:***

**BZA2205-002 *Variance Request – Crockett Springs Subdivision, Phase 1, Lot 5, 113 Rue de Grande –*** *Zoned OSRD*

**Representative: Franklin Stone and Outdoor Living**

***PROJECT SUMMARY:***

*Franklin Stone and Outdoor Living requests approval of a pool to be located outside building envelope. Section 78-182(6) of the Brentwood Municipal Code requires that accessory uses such as swimming pool and related pads and decks must be placed within the buildable area of the rear yard. The pool would encroach approximately 23 feet outside of the rear setback.*

*The building envelope for this lot includes the following setbacks:*

* *The front setback is 20 feet*
* *The side setbacks are 20 feet*
* *The rear setback is 30 feet*

*This lot was recorded on March 18, 2014 and a building permit was issued in 2015 for the house to be constructed. The building plans show that the house is built from setback to setback with a patio that extends from the back of the house. Patios are allowed to be located outside of the building envelope as long as it is at-grade. There are existing improvements on this lot that were done without a permit and without the approval of the City of Brentwood. These improvements include an outdoor fireplace and kitchen that are also required to be within the building envelope. From a recent survey, the outdoor fireplace is located outside of the rear property line and encroaches into the common area for the Crockett Springs Subdivision. Should the setback variance be denied, all existing encroachments must be removed or brought into compliance.*

*Pursuant to Section 78-59 of the Brentwood Municipal Code, the Board of Zoning Appeals has the authority to hear and decide applications for variances, but only where three criteria are met by state law. Those three criteria are as follows:*

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 was created in 2014 under the City of Brentwood’s OSRD standards at the time of platting. When this lot was created, it combined four lots into one single-family lot. The surrounding properties were built under the standards set by Williamson County when the original subdivision was developed in 1975. This lot is a standard lot and does not have a topographic hardship. Since there is no exceptional situation or condition, staff does not feel this criteria has been met.*

1. *The strict application of any provision enacted under the Zoning Ordinance would result in practical difficulties to or undue hardship upon the owner of the property.*

*This lot was created after the original subdivision because it met the zoning ordinance for Open Space Residential Development. The Planning Commission and the Board of Zoning Appeals granted an exception for the reduced front setback to match the existing homes in the subdivision. The front setback was reduced from 50 feet to 20 feet. The City does not have a requirement that prevents the builder from building a house that encompasses the entire building envelope. The builder did not leave any additional room to accommodate future improvements in the rear buildable area of this lot. Since an exception was granted for the reduced front setback and the house encompasses the entire building envelope, staff does not feel this criteria has been met.*

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

*If relief were to be granted for this lot, it would have a substantial determent to the purpose of the Zoning Ordinance. Brentwood Municipal Code requires swimming pools to be located within the rear buildable area of the lot. This could establish a precedent for future encroachments outside of platted setbacks. Staff does not feel this criteria has been met.*

***Recommendation:***

***Staff recommends denial of the variance / appeal request because this lot was created after the original subdivision was developed and does not fall under the same criteria as the existing lots. There is no exceptional topographic condition or other extraordinary or exceptional situation or condition to the property for which the strict application or provisions of the zoning ordinance would result in practical difficulties or undue hardship upon the owner of the property.***

*A motion to deny the variance request based on the staff report was made by Mr. Hauch. Mr. Loveall seconded the motion; the vote for denial was 2-1.*

***ITEM 2:***

**BZA2204-001 *Variance Request – Fountainbrooke Subdivision, Section 11, Lot 167, 504 Childe Harolds Lane –*** *Zoned OSRD*

**Representative: Franklin Stone and Outdoor Living**

***PROJECT SUMMARY:***

*Franklin Stone and Outdoor Living requests of a 400 square foot detached structure located outside of the side setback of the lot. The partially constructed pergola was built without Board of Zoning Appeals approval and without a permit issued by the City. The pergola is constructed of wood and has a standing seam metal roof. Section 78-182(6) of the Brentwood Municipal Code requires that accessory structures such as gazebos, pergolas, or pavilions must be placed within the buildable area of the rear yard.*

*Section 78-191 of the Brentwood Municipal Code allows the Board of Zoning Appeals to grant and exception to allow the accessory structure to be placed outside the buildable area. The Board of Zoning Appeals shall consider the potential detriments or advantages to the neighboring properties and the surrounding neighborhood in general. However, in no event shall an accessory structure within the OSRD zoning district be less than 15 feet away from any adjoining property line. One of the posts of the pergola as well as the outdoor kitchen is located 18 inches outside of the 15-foot side setback for the property.*

*Pursuant to Section 78-59 of the Brentwood Municipal Code, the Board of Zoning Appeals has the authority to hear and decide applications for variances, but only where three criteria are met by state law. Those three criteria are as follows:*

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 was created under the City of Brentwood’s OSRD standards at the time of platting. This lot is similar to surrounding properties and there is no exceptional narrowness, shallowness or shape of the lot. This lot is a transitional lot with slopes in excess of 15% but does not create a topographic hardship. Since there is no exceptional situation or condition, staff does not feel this criteria has been met.*

1. *The strict application of any provision enacted under the Zoning Ordinance would result in practical difficulties to or undue hardship upon the owner of the property.*

*The subject property has a reduced side setback of 15 feet which is less than the OSRD minimum side setback. In addition, financial disadvantage to the property is no proof of a hardship within the purpose of zoning. Since the standard side setback is 20 feet, staff does not feel this criteria has been met.*

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

*If relief were to be granted for this lot, it would have a substantial determent to the purpose of the Zoning Ordinance. Brentwood Municipal Code requires accessory structures to be located within the rear buildable area of the lot. This may establish a precedent for future encroachments outside of platted setbacks. Staff does not feel this criteria has been met.*

***Recommendation:***

***Staff recommends denial of the variance / appeal request because the accessory structure was built outside of the setbacks without approval by the Board of Zoning Appeals and no permit issued by City Staff. There is no exceptional topographic condition or other extraordinary or exceptional situation or condition to the property for which the strict application or provisions of the zoning ordinance would result in practical difficulties or undue hardship upon the owner of the property.***

*A motion to deny the variance request based on the staff report was made by Mr. Loveall. Mr. Hauch seconded the motion, the vote for denial was 2-1. After further discussion, a motion to recommend denial of the variance request but to recommend approval the detached structure in a compliant location subject to staff review and approval was made by Mr. Lockhart. Mr. Hauch seconded, the vote was 3-0 for approval.*

***ITEM 3:***

**BZA2205-001 *Accessory Structure Request – Witherspoon Subdivision, Section 5, Lot 62, 9275 Fordham Drive –*** *Zoned OSRD*

**Representative: Franklin Stone and Outdoor Living**

***PROJECT SUMMARY:***

*Franklin Stone and Outdoor Living requests of a 240 square foot detached structure to be constructed in the rear buildable area of the lot. The structure will be constructed of wood and will be approximately 11’ tall. The structure will have a standing seam metal roof that will match the front accent roof of the house*.

***CONDITIONS OF APPROVAL***

The department recommends that the following4requirementsbe attached to the approval of the request:

1. Any changes to the building or site plans will require staff review and re-approval from the Board of Zoning Appeals prior to issuance of a building permit.
2. Complete plans shall be submitted for review, approval, and issuance of a building permit.
3. Except on parcels of three or more acres in size, no accessory building shall be designed and/or used for living quarters or sleeping quarters. If proposed, this would require a separate BZA review and approval.
4. Accessory structures cannot be used for home occupation/commercial purposes.

***Recommendation:***

*Staff recommends approval of the detached accessory structure, subject to all building codes and staff notes.*

*A motion to approve was made by Mr. Hauch. Mr. Loveall seconded the motion; approval was 3-0.*

***ITEM 4:***

**BZA2205-003 *Accessory Structure Request – Governors Club at Pleasant Hill, Phase V, Lot 167, 33 Governors Way –*** *Zoned OSRD*

**Representative: Shaub Builders LLC**

***PROJECT SUMMARY:***

*Shaub Builders, LLC requests of a 611 square foot detached structure to be constructed in the rear buildable area of the lot. The structure will be constructed of brick and will be approximately 11’ tall. The structure is proposed to have a standing seam metal roof.*

***CONDITIONS OF APPROVAL***

The department recommends that the following5requirementsbe attached to the approval of the request:

1. The detached structure shall not be used for living or sleeping quarters.
2. Any changes to the building or site plans will require staff review and re-approval from the Board of Zoning Appeals prior to issuance of a building permit.
3. Complete plans shall be submitted for review, approval, and issuance of a building permit.
4. Except on parcels of three or more acres in size, no accessory building shall be designed and/or used for living quarters or sleeping quarters. If proposed, this would require a separate BZA review and approval.
5. Accessory structures cannot be used for home occupation/commercial purposes.

***Recommendation:***

*Staff recommends approval of the detached accessory structure, subject to all building codes and staff notes.*

*A motion to approve was made by Mr. Loveall. Mr. Hauch seconded the motion; approval was 3-0.*

***ITEM 5:***

**BZA2205-004 *Accessory Structure Request – 9390 Crockett Road –*** *Zoned R-2*

**Representative: Province Builders, LLC**

***PROJECT SUMMARY:***

*Province Builders, LLC requests of a 1,126 square foot detached structure with living quarters to be constructed in the rear buildable area of the lot. The structure will be constructed of brick and will be approximately 26’ tall. The structure will have a shingle roof to match the proposed house.*

*The lot includes an area of 4.96 acres.*

*Section 78-22 (10) of the municipal codes states that except on parcels of three or more acres in size, no accessory building shall be designed and/or used for living quarters or sleeping quarters. Since this lot has an area exceeding 3 acres, this proposal meets this requirement of the code.*

***CONDITIONS OF APPROVAL***

The department recommends that the following3requirementsbe attached to the approval of the request:

1. Any changes to the building or site plans will require staff review and re-approval from the Board of Zoning Appeals prior to issuance of a building permit.
2. Complete plans shall be submitted for review, approval, and issuance of a building permit.
3. Accessory structures cannot be used for home occupation/commercial purposes.

***Recommendation:***

*Staff recommends approval of the detached accessory structure, subject to all building codes and staff notes.*

*A motion to approve was made by Mr. Loveall. Mr. Hauch seconded the motion; approval was 3-0.*

*The meeting was adjourned at 6:50pm.*

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APPROVED: 07/18/2022