

**FRANKLIN ZONING BOARD
REGULAR MEETING AND PUBLIC HEARING**

Wednesday, September 5, 2018 at 7:00 p.m.; City Council Chambers

Minutes

Call to Order

☐ Salute to the Flag

☐ Roll Call: PRESENT - Chairman Glenn Feener, Vice Chair Debbie Davis, Jeffrey Dickinson, Cecile Cormier, & David Testerman ABSENT - Kathlene Fleckenstein
Cecile Cormier is seated for Kathlene Fleckenstein

☐ Approval of Minutes of the July 11th and August 1st, 2018 Public Meetings of the Board. Motion to Approve both sets of minutes made by Member Testerman and seconded by Member Dickinson. Member Cormier asked who seconded the motion to deny on the Auger application and the secretary said it was Chairman Feener. The Chairman acknowledged that with a nod. This information will be noted in the approved minutes for August 1st. By a **vote of 4-0-1** the minutes passed with Member Cormier abstaining since she wasn't in attendance at the August meeting.

Old Business: Discussion and Decision

Z 18-06: Gary & Debra Auger, owners are seeking a variance from 305-29.4, Sheds, to place a 112 sq. ft. shed 2 feet [versus 10 feet required] from the side property line. The property is located at 39 Maple Square [Map/Lot 134-174-00, Map sheet N9] in the R-3 [one-, two-, & three-family residential] zoning district.

Chairman Feener informed the applicants that having received information from the City Attorney that the 2-1 vote to deny is a valid vote, there would be no further action or discussion on the application. He added that the applicants have until Oct. 5 to appeal the board's decision. Member Testerman said that as the one person who voted against denying the application, because all the neighbors were in favor, it bothered him that the City Attorney weighed in on the subject. Member Cormier stated that the pictures of the property and the shed didn't do it justice, that the area is not at all crowded and that the shed can't be seen from the road. Chairman Feener stated that at the advice of the attorney there would be no further discussion.

Debra Auger, applicant, asked if she could ask a question. Chairman Feener stated that there would be no more discussion. Member Cormier asked if the applicant understood the situation. Mrs. Auger started to answer, but Chairman Feener said that she would

need to talk to Planning Director Richard Lewis and that he would give her any information she might need.

New Business: New Hearing

Z 18-07: Brenda Guilmett, owner, is seeking a variance from 305.14, Lot and Yard, to construct a 20 ft. by 24 ft. garage that will not meet the side yard setbacks [17 feet proposed versus 25 feet required]. The property is located at 24 Birch Drive [Map/Lot 135-405-02, Map Sheet 09] in the RS [Single Family Residential] zoning district.

Brenda Guilmett, owner stated that she was looking to have a standard two car garage built on her property and that the closet abutting property owner didn't have an issue with that. She added that she had spoken to a couple contractors and they suggested she put up a 24-foot x 24-foot garage as opposed to the 20 ft. x 24 ft. structure she had requested in the application. The 24 ft. x 24 ft. garage would put the structure 13 feet from the property line instead of 15 feet.

Chairman Feener said that this would encroach more on the setback and Ms. Guilmett said that it would a bit, but that there is a small wooded area between the two properties which would not be affected by the building. Member Cormier asked why the contractor was suggesting a 24' x 24' garage and Ms. Guilmett stated the existing driveway is twenty feet wide and building inside the dimensions of the driveway would leave the interior space of the garage even smaller. In answer to another question from Member Cormier, Ms. Guilmett stated that the garage would be located where there is currently a small shed and that the shed would be removed from the property once the garage was completed.

Member Dickinson stated that on the application it was stated that a 17-foot variance was being requested as opposed to the required 25-foot setback and yet the City Planner noted that the measurement was closer to 12 feet. Member Cormier asked the applicant if she was able to locate her boundary markers and the applicant said she could. Chairman Feener added that with both the further encroachment into the setback and the increased size of the garage, he felt that the hearing should be postponed until the next meeting when clarification could be made as to what this will do to the setback.

Ms. Guilmett said that she thought that she could just request a change in the size of the garage at this time, but Member Cormier said that the public notice had been sent out stating the size of the garage and the distance to the property line and that there isn't time to notify the abutters of the changes requested. Chairman Feener again remarked that the applicant was now seeking a change to the size of the garage and the amount of setback. Member Dickinson stated that he felt the board should have a clear answer about the discrepancy between the Planner's and the applicant's measurements regarding the amount of encroachment. Vice Chair Davis said that she agreed and that she preferred to ask the Planner first before deciding.

Member Cormier said that the abutters would need to be notified again. She asked if the applicant had a plan of the subdivision and the recording secretary said that the Planner had looked at the plan before writing up his memo.

Chairman Feener said that it looked like the Planner didn't have an issue with the 12-foot setback, but that was with the original size of the garage. Member Testerman echoed that statement. Member Cormier then asked the applicant if she could work with the 20' x 24' garage and Ms. Guilmett said that she could if the application could be approved at this meeting. Member Cormier then suggested the possibility of placing the garage closer to the house which would accommodate the wider garage. The recording secretary mentioned that such a placement would have to meet the fire codes since the applicant's bedroom egress window might be compromised.

Ms. Guilmett asked if the garage could be moved closer to the house could she do a 22 foot or 24-foot-wide garage as long as fire code regulations were maintained and Member Cormier said yes. However, Chairman Feener reiterated that the application requested a 20' x 24' garage and in changing the width she would be changing the application and the abutters would need to be notified of that change. Member Cormier argued that the main issue is the setback and not the size of the garage, that if the original requested variance from the setback was maintained that was all that mattered. Chairman Feener again stated that the size difference in the garage did matter.

The Meeting was opened to the public. Randi Hoppe at 22 Birch Drive said she was the closest neighbor, and that it was her property that would be most impacted. She added that Brenda Guilmett keeps her property in good repair all by herself. Being a single person, Brenda doesn't have the advantage of having someone help take care of the car or driveway. She stated that she was fine with the 24' x 20' garage and only worried about the larger size limiting egress if the garage and house rooflines dumped snow in that area.

The public hearing was closed and the discussion brought back to the board.

Member Testerman said that the real issue is the garage being too close to the property line. If the Planner is happy with the 12 feet he didn't think the size of the garage mattered as long as the Planner approved the enlargement. Vice Chairman Davis said that she agreed with what Member Testerman said but added that she wasn't certain if the public needed to be notified of that change prior to the board making a decision. Chairman Feener suggested they go ahead and vote on it tonight and then the applicant could check with the City Planner and see if he required another notice if she decided to go with the bigger garage.

Member Dickinson said that if the board went that route they'd be putting the cart before the horse and that he isn't comfortable with that. There is still the difference in the 15-foot setback as stated by the applicant and the 12-foot setback as mentioned by the Planner in his memo. It wouldn't be right to make that decision right now and then go to the Planner after the fact. He added that he wasn't saying that anyone was

misrepresenting the facts, but it is a knowable piece of information that should be clear. He felt that the direction of the discussion was one that he didn't feel qualified to make.

Member Cormier asked if the abutters would need to be re-notified if the board decided on a continuance for clarification. Chairman Feener felt that sending out a second notification wouldn't be necessary and added that the people who are here tonight are the ones that are really interested. Vice Chairman Davis asked if they were going back to the original footprint and the Chairman said that is what he thought. Member Dickinson said he was still concerned about the area of 12 feet versus 17 feet.

Chairman Feener asked for a motion. Member Cormier motioned to approve the application request by Brenda Guilmett, owner, for a variance form 305.14, Lot and yard, to construct a 20 ft. by 24 ft. garage that will not meet the side yard setbacks [approximately 12 feet proposed versus 25 feet required]. She went on to suggest that the rest of the Draft Decision of Approval be amended with the deletion of several sections as the wording was superfluous. Member Testerman seconded the motion with the amendments. Chairman Feener said he felt that the original wording was the standard wording for granting a variance. Member Dickinson also added that the wording is probably based on legal criteria suggested by the city attorney. Member Cormier protested that she was knowledgeable about the wording of decisions from her many years working on other cities' zoning boards. Chairman Feener said he would vote against this decision because of all the changes being made. Member Dickinson said that he would as well, that it was a mess. Vice Chairman Davis felt the same way.

A vote to approve the motion with the stated amendments was declined by a vote of four to one. A second motion to approve the application with the original wording was made by Member Testerman and seconded by Vice Chairman Davis. **The vote was 4-1-0 to approve the 20' x 24' garage with a 12-foot variance.** Member Dickinson voted against.

Member Cormier asked if the Franklin Zoning Board had any by laws or formal procedures. Chairman Feener said that he believed that it did.

Adjournment:

Member Cormier motioned adjournment which was seconded by Vice Chairman Davis. All were in favor and the meeting adjourned at 7:47 PM.

The next scheduled meeting of the Zoning Board of Adjustments is Wednesday, October 3, 2018, at 7:00 p.m.; the deadline date for submission of applications for this meeting is Wednesday, September 12, 2018.

Recorded by Cheryl Y. Fisher, Administrative Assistant Planning & Zoning