

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

Due to the COVID-19 pandemic, the Zoning Board meeting was conducted remotely via this link:

<https://us02web.zoom.us/j/85182282954>

or by phone: +1 312 626 6799 US (Chicago) Meeting ID: 851 8228 2954

Wednesday, December 2, 2020 at 6:30 p.m.

Minutes

Call to Order Chairman Feener called the meeting to order at 6:30 pm.

☐ **Reading of the Virtual Meeting Authorization** – Read by Planner Richard Lewis

☐ **Salute to the Flag**

☐ **Roll Call: Present** – Chairman Glen Feener [home alone], Vice Chair Kathlene Fleckenstein [home alone], Debbie Davis [home alone], and Jeffrey Dickinson [home alone]. Also present – Planning Director Richard Lewis and Admin. Assistant Cheryl Fisher [at the Planning Office]. **Absent** – David Testerman, Robert Hubble and Cecile Cormier

☐ **Approval of Minutes of the October 7, 2020 Public Meeting of the Board.** Vice Chair Fleckenstein motioned for the minutes to be approved. The motion was seconded by Member Dickinson. There were no corrections noted and the **motion carried by a roll call vote of 4-0-0.**

Old Business: None

New Business:

Z20-08: Vanessa Caldon, applicant, is requesting a variance from 305.14 Lot/Yard for an accessory structure for which no permits were ever issued and which is located within the setbacks at 526 Salisbury Road, Map/Lot 044-002-00 in the Conservation Zoning District.

Mrs. Caldon, who was ill, joined the meeting via telephone. Her attorney, Christopher Seufert joined by computer. He asked his client a series of questions: 1) Has the property in question been in the family some fifty or sixty years? [Mrs. Caldon believed that was so], 2) Your husband passed away in 2008? [she believed so], 3) You inherited the property at that point? [yes]. 4) It looks like you got behind in paying the taxes and in 2013 the City took the property and about a month later the city agreed to let you pay the back taxes. Is that about right? [Mrs. Caldon stated that she never got any notifications although the City said she did]. 5) Have you been paying the taxes ever since? [Yes, but she owes some now]. 6) Is this the only asset you received from your late husband? [Yes.]

Attorney Seufert confirmed with his client that she now wants to sell the property, that her property is less than an acre and that the storage building in question is about 11 feet from the

side property line. He added that the condition on the deed from the City was that either a building permit was obtained or a variance was granted for this shed. He then asked if surrounding properties had shed or barns on them. Mrs. Caldon said yes to all these questions. Mr. Seufert confirmed that the property is currently vacant, that no one is living there.

Mr. Seufert showed the Board a deed that indicated that the property has been in the family since 1954. The other documents shared were a couple of maps showing the location and size of the property, the location of the shed and a few photographs of the property, one of which shows the shed in question.

Mr. Seufert explained to the Board that they are trying to get this issue cleared up since Mrs. Caldon is also trying to resolve a litigation issue between the City and her. He reminded the Board that the intent is to sell the property and the only thing of value on the property is this partially constructed accessory structure. The mobile home that currently sits on the property will need to be hauled off by the prospective buyer. Mr. Seufert remarked that there was a history with vagrants on the property, so getting the issues resolved will be to everyone's benefit.

Member Davis asked that if the intent is to sell and this is an accessory building, why is this even an issue since the structure isn't compliant? Mr. Seufert explained that this was a condition from the City when the property was given back to Mrs. Caldon and that they are just trying to get things resolved before the sale of the property. Member Dickinson asked if the building permit is retroactive. Mr. Seufert said that Vanessa's son put this building up without a permit and that it is only two-thirds complete. Mr. Lewis told them that he couldn't issue a building permit because the structure was in the setbacks.

Planner Lewis asked Attorney Seufert the date of the photograph he shared with the Board. Mr. Seufert thought it was July 27, 2020. Planner Lewis then shared an image that he just took on November 9th of this year, which shows the structure as it is now. Planner Lewis added that he wouldn't have issued a building permit because, not only is the structure too close to the property line, it is too tall. There was also no demo permit issued for the shed that was previously on the property. During multiple site visits to the property between 2017 and 2019 there were three different occasions where it was evident that people were living in the structure, running extension lines to supply lights. The property was sold back to the Estate of Robert Caldon in 2013 and none of the conditions of the deed were addressed in the seven years since then. Chairman Feener asked when any maintenance was done at the property. Planner Lewis stated that he wasn't aware of any maintenance. Mr. Seufert added that nothing much has been done on the property since 2013, but questioned the relevance of the fact that the structure was inhabited in the past.

When opened to the public, Victoria and David Smith, the immediate abutters to the property said that they were opposed to the variance. That there are safety concerns and that there is room to move this building away from the property line.

Chairman Feener closed the public hearing. Member Dickinson asked the Planner what the result would be in the Board denying the motion. Planner Lewis said that the applicant could file for a rehearing, if that was denied, they could apply to the Superior Court. There was a hearing regarding the ownership of the property on November 13, but because of the health of Mrs. Caldon, that was rescheduled for late January 2021. Member Davis asked if the ownership is resolved does that make this whole thing null and void. Planner Lewis said that was the case. If the court rules in favor of the City, then ownership would revert back to the City of Franklin and the City could sell the property as is, and either condition that the accessory structure be moved or removed, or the City could remove the structure and have the mobile home demolished. Member Davis felt that making a decision on this now is jumping the gun since that particular issue isn't ironed out. Planner Lewis responded by saying, that because there are multiple layers with this property, getting one or more issues resolved is a positive step. "If the Board would approve this, then one of the findings of the Board would need to be that given the upcoming hearing in January 2021, the exact ownership of the property is in question and the granting of the variance by the Board would not change the position of the City of Franklin regarding its filing with the court."

With no further questions from the Board, Member Dickinson made a motion to deny the request by Vanessa Caldon seeking a variance from 305.14. The motion was seconded by Member Davis. **By roll call vote, the motion to deny carried by a vote of 4-0-0.**

220-09: Kenneth Hodge and Jessica George, owners/applicants are requesting a variance from 305.14 Lot/Yard to install an 18 ft. x 24 ft. enclosed metal carport approx. 14 feet [vs. 25 ft. required] from the side and rear property lines. The property is located at 33 Cricket Hill Way, Map/Lot 135-405-06, in the RS [single family residential] zoning district.

Kenneth Hodge stated that they wish to build a metal carport that won't meet the setbacks. They have changed the size from the original application from 20'x24' to 18'x24' and they plan to move it a bit forward and thereby bring it a bit further away from the property lines. Chairman Feener opened the discussion to the public and Pat and Buster Dickinson informed the Board that they are totally in agreement with the project as Mr. Hodge presented it.

The discussion was brought back to the Board and Member Davis thanked Mr. Hodge for making the project more compliant than the original request. Chairman Feener and Member Dickinson added that they both concurred and that they had received positive responses from the abutters. Vice Chair Fleckenstein made a motion to approve the application. The motion was seconded by Member Dickinson. **By roll call vote, the motion carried by a vote of 4-0-0.**

220-10: David & Keeley Rollert, owners/applicants are requesting a variance from 305.14 Lot/Yard to enlarge an 8 ft. x 12 ft. shed to create a 20 ft. x 28 ft. accessory structure which will be 13.5 feet [25 ft. required] from the side property line. The property is located at 35 Woodrow Avenue, Map/Lot 133-046-00 in the RS [Single Family Residential] zoning district.

Keeley Rollert described the project to add to the existing pool house on their property. The shed is currently being used for wood storage. Now that her parents have moved in with them, they want to take the items stored in the garage and put those things in the expanded accessory structure, thereby allowing them to park their vehicles in the garage. The proposed structure would not be any closer to the side property line and it wouldn't come any further forward than the front edge of the house porch. Mrs. Rollert's dad, Bob Aspey took over for Keeley and answered the question from Jeffrey Dickinson about the construction materials for the building. Mr. Ashby explained that it would be a stick-built, wood-framed structure with possibly a metal roof. Vice Chair Fleckenstein asked about any response from abutters. Mrs. Rollert said that they heard back from the landlord from next door and he was fine with it. They also got positive responses from the neighbors across the street.

No one from the public spoke and the hearing came back to the Board. Planner Lewis gave some history regarding the property and the fact that when it was a nursing home, the house was expanded leaving little area within the setbacks to place the accessory structure. Vice Chair Fleckenstein made a motion to approve the application. The motion was seconded by Member Davis. **By roll call vote, the motion carried by a vote of 4-0-0.**

Planner's Update: Planner Lewis said that he didn't have any updates for the Board.

Other Business:

Public Comment:

There was no public comment. Chairman Feener expressed his thanks to everyone for dealing with the virtual meetings during the pandemic.

Adjournment: The meeting adjourned at 7:20 with a roll call vote of 4-0-0.

The next scheduled meeting of the Zoning Board of Adjustments is Wednesday, January 6, 2021, at 6:30 p.m. The deadline date for submission of applications for this meeting is Wednesday, December 16, 2020.

Minutes recorded by Cheryl Fisher, Administrative Assistant, Planning & Zoning