

**BOARD OF ZONING APPEAL
MUNICIPAL CENTER COUNCIL CHAMBERS
Tuesday, May 12, 2015
5:30 p.m.**

The regular meeting of the Board of Zoning and Appeal was scheduled and held in the Council Chambers of the Municipal Center on May 12, 2015. Chairman Sisson called the meeting to order at 5:40 p.m. requesting the roll call. Ms. Regina Gibson called the roll of the Board and established a quorum:

COMMISSIONERS PRESENT:

Ms. Jennifer Sisson, Chairman; Mr. Frank Uhlhorn; Ms. Pat Sherman; Mr. Hunter Browndyke; and Mr. Mike Harless

DEVELOPMENT STAFF PRESENT:

Mr. Cameron Ross, Economic and Development Services Director; Mr. Wade Morgan, Chief Planner; Ms. Sheila Pounder, Planner; Ms. Regina Gibson, Administrative Secretary, and Mr. Alan Strain, Attorney

The Board of Zoning Appeals is a Quasi-Judicial body and as such, the latitude for acting on applications is somewhat limited by State Statute and City Ordinance. This meeting is recorded and those appearing before the Board would need to identify themselves, give their address and be sworn in for the record.

Motions made in all meetings are of an affirmative nature and does not necessarily mean that the motion will be approved, but that the language will be in an affirmative nature when the motion is made.

1. Approval of Minutes for March 10, 2015

Mr. Browndyke moved to approve the Board of Zoning and Appeals minutes of March 10, 2015, seconded by Mr. Uhlhorn, with no further comments or discussions.

ROLL CALL: Mr. Harless – Yes; Ms. Sherman – Yes – Mr. Browndyke – Yes; Mr. Uhlhorn – Yes; Chairman Sisson – Yes.

MOTION PASSED

2. 7946 Farmington Blvd, - Request Approval of a Variance to allow an accessory structure with a height of over 8 feet to be located a distance less than the height of the structure from the side yard of a lot in the “R-1” Medium Density Residential District (Case #: 15-521).

BACKGROUND: DATE SUBDIVISION APPROVED: Farmington Subdivision, Section F was approved by the Germantown Planning Commission in 1972.

DATE PRINCIPAL STRUCTURE APPROVED/BUILT: 1976.

PREVIOUS VARIANCE REQUESTS: None.

DISCUSSION: SPECIFIC SECTIONS OF ZONING ORDINANCE: The specific request is approval of a variance from § 23-261, which requires accessory buildings or structures with a height of eight feet or more to be located a distance equal to at least the height of the structure from the rear and side lot lines.

NATURE OF VARIANCE REQUESTED: The specific request by the applicant is to approve an existing unfinished shed that is 11.5 feet in height and located 10 feet from the side (east) property line.

APPLICANT’S JUSTIFICATION: The applicant is requesting the variance to enable them to complete the construction of a shed. Construction was begun; the applicant was notified by Code Compliance staff on March 13, 2015, that he needed to obtain a permit from Germantown for the structure. Upon the applicant’s review of the Code requirements, it was determined that the structure was too close to the

existing fenced property line and a variance must be granted before a permit could be issued for the shed construction. The homeowner stopped construction on the building and submitted an application for a variance on April 7, 2015 he noted that the current location is the best place for the structure because of the existing pool. See the application for additional reasoning.

STAFF COMMENTS:

1. If the Board approves the requested variance, the applicant shall apply for an accessory structure permit from Germantown.

PROPOSED MOTION: To approve a variance for 7946 Farmington Blvd. to allow an existing shed that is 11.5 feet in height to be located 10 feet from the side (east) lot line, subject to the staff comments contained in the staff report and the site plan submitted with the application.

Mr. Mark Thoman is the property owner and acknowledged that he was 10 feet away from the fence where he should have been 11.5 ft on the side. The back is 18 ft to the center of the 6 ft wide channel which is very steep off the back side. He explained that this building is constructed on a concrete slab and he started constructing it before he realized that he needed a permit. He stopped work immediately and contacted the city in order to comply with the ordinance.

Chairman Sisson asked if there were a reason why he didn't rotate this building at a 90 degree angle and Mr. Thoman responded it was because during flooding the water comes up to the fence line and he felt this would be the best location for this building in order to protect it from the rising water.

Mr. Harless commended Mr. Thomas for self reporting and trying to abide by the city's rules and regulations. He further explained that had he requested this board to approve this request before he had started the construction that he would have been hard pressed to get this approved because he is in violation of the ordinance. He asked if he would consider lowering his roof from 11.5 ft to 10 ft in order to be in compliance. Mr. Thoman explained that by lowering the pitch on the roof it would create a problem for the structure during the winter weather because of the ice and snow.

Mr. Uhlhorn moved to approve a variance for 7946 Farmington Blvd. to allow an existing shed that is 11.5 feet in height to be located 10 feet from the side (east) lot line, as discussed, subject to the staff comments contained in the staff report and the site plan submitted with the application, and seconded by Mr. Uhlhorn, with no further comments or discussions.

ROLL CALL: Mr. Uhlhorn – Yes; Mr. Browndyke – Yes; Mr. Harless – No, because there is no compelling reason to grant this request per our guidelines and policies. Had this request been made before the building was constructed then alternatives would have been given so as to stay in compliance; Ms. Sherman – Yes; Chairman Sisson – No, for the same reason as stated by Mr. Harless.

MOTION PASSED

ADJOURNMENT

There being no further business, comments, or questions by the Commission, the Chairman adjourned the meeting at 6:00 p.m.