

**BOARD OF ZONING APPEALS
MUNICIPAL CENTER COUNCIL CHAMBERS**

July 10, 2012

6:00 p.m.

COMMISSION PRESENT:

Mr. Henry Evans; Ms. Elizabeth Boyd; Mr. Tony Salvaggio; Alderman Palazzolo; Frank Uhlhorn; Ms. Patricia Sherman

DEVELOPMENT STAFF PRESENT:

Ms. Marie Burgess, Planner; Ms. Carmen Richardson, Secretary

Interested Individual(s) present:

Ms. Ann Knox – 2749 Dewhurst Cove, Germantown, TN 38138

Mr. Herbert K. Henley – 2822 Baytown Cove, Germantown, TN 38138

Ms. Cindy Henley – 2822 Baytown Cove, Germantown, TN 38138

Chairman Evans called the meeting to order and established a quorum.

ROLL CALL: – Ms. Boyd – present; Alderman Palazzolo – present; Mr. Salvaggio – present; Ms. Sherman – present; Mr. Klevan – absent; Mr. Uhlhorn – present; Chairman Evans – present

Chairman Evans reminded those in attendance that 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. He also reminded those appearing before the Board that the meeting is recorded and they would need to identify themselves, give their address and be sworn in for the record. He then swore in the staff.

Chairman Evans stated that he would like to make note that the motions made in all meetings are of an affirmative nature. He stated this 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.

Approval of June 12, 2012 Minutes

Elizabeth Boyd made a motion to approve the minutes from the June 12, 2012 meeting that was seconded by Alderman Palazzolo.

ROLL CALL: Ms. Boyd – yes; Mr. Klevan – absent; Mr. Uhlhorn – yes; Mr. Salvaggio – yes; Alderman Palazzolo – yes; Ms. Sherman – absent; Chairman Evans – yes

MOTION PASSED

SUBJECT: 2105 Star Meadow. – Request variance to allow the principal structure to encroach into the required rear yard setback in the “R” Low Density Residential Zoning District

BACKGROUND:

DATE SUBDIVISION APPROVED: The First Addition (Section A) of the Dogwood Grove subdivision was approved in 1987.

DATE PRINCIPAL STRUCTURE APPROVED/BUILT: 1989

PREVIOUS VARIANCE REQUESTS: None

DISCUSSION:

NATURE OF VARIANCE REQUESTED: The specific request by the applicant is to obtain approval to construct a 12 ft. by 20 ft. single story addition to the northwest corner of the house. The addition will encroach six feet into the required rear yard and result in a rear yard setback of 19 feet.

SPECIFIC SECTIONS OF ZONING ORDINANCE: The specific request is a variance from §23-232(3) which requires there to be a rear yard of at least 25 feet. The addition requires a variance of six feet from that standard rear yard setback.

APPLICANT'S JUSTIFICATION: The applicant is requesting the variance based on the criteria of exceptional narrowness, shallowness, or shape, resulting in undue hardship upon the owner. The applicant states "the narrowness of the bedroom wing requires that we go deeper into the property than we would if it were wider."

STAFF COMMENTS:

1. Photos of the existing dwelling are attached.
2. The applicant has provided a site plan illustrating the proposed addition.
3. If the variance request is granted, the applicant must apply for a building permit through the Memphis/Shelby County Office of Construction Code Enforcement.

Chairman Evans asked if there was anyone who would like to speak in favor of this variance request.

**Ann Knox, Representative
2749 Dewhurst Cove
Germantown, TN 38138**

Ms. Knox began by advising that her client is not able to climb stairs due to several back surgeries. She further advised that applicant's house is very large and all of the storage is upstairs. Per Ms. Knox, the only storage downstairs is one modest sized walk-in closet and one single closet. Because applicant will not be able to do steps again, a new downstairs closet is being built. Ms. Knox said that it is just not feasible to tear out and relocate the closet that is presently in the bathroom. Ms. Knox explained that the new storage room will be based on the same design as a dog house (dropped below the hip-roof, come out twelve feet and finished up with the use of Hardy Plank). She said in time, it will be hard to identify that there has been an addition. Ms. Knox also advised that the applicant spoke with surrounding neighbors and there is no opposition. She said that although this is a unique need, she does not feel approval of this variance will set any type of precedence.

Chairman Evans asked if there was anyone who would like to speak against this variance request.

No one came forward.

PROPOSED MOTION: To approve a variance for 2105 Star Meadow Cove to allow the principal structure to encroach six (6) feet into the required rear yard setback in the "R" Residential zoning district, subject to the staff comments and site plan filed with this application.

Frank Uhlhorn moved to approve a variance for 2105 Star Meadow Cove to allow the principal structure to encroach six (6) feet into the required rear yard setback in the "R" Residential zoning district, subject to the staff comments and site plan filed with this application. Pat Sherman seconded the motion.

ROLL CALL: Mr. Salvaggio – yes; Mr. Uhlhorn – yes; Ms. Sherman – yes; Ms. Boyd – yes; Mr. Klevan – absent; Alderman Palazzolo – yes; Chairman Evans – yes

MOTION PASSED

SUBJECT: 2822 Baytown Cove – Request Approval of a Variance to Allow an Accessory Structure to be Located in the Required Front Yard in the “R-1” Residential zoning district

BACKGROUND:

SUBDIVISION NAME AND DATE APPROVED: section A of the Germantown Station subdivision was approved in 1977.

DATE PRINCIPAL STRUCTURE APPROVED/BUILT 1979.

PREVIOUS VARIANCES: none.

DISCUSSION:

NATURE OF VARIANCE REQUESTED: The applicant requests a variance so as to allow him to construct a 10 ft. by 10 ft. accessory building (a storage building), 8 feet from the lot line along C. D. Smith Rd. The building is 11 feet in total height (to the peak) and 8 feet, 5 inches to the mid-point.

SPECIFIC SECTIONS OF ZONING ORDINANCE: The specific request is a variance from section 23-257(b) of the Code of Ordinances, which requires double frontage lots to have a required front yard on each street, and section 23-261(1) which prohibits accessory buildings/structures from extending beyond the front line of the principle building. The regulations effectively prevent accessory buildings or structures from being placed either in front of or to the rear of the principle building on double frontage lots.

APPLICANT’S JUSTIFICATION: The applicant bases the variance request on the exceptional narrowness, shallowness or shape of his lot. He notes that the depth of the yard along the C. D. Smith frontage is narrow. Placing the proposed storage building behind the building line would put it in conflict with the air conditioner outdoor units.

STAFF COMMENTS:

1. Air photos of the property and photos from C. D. Smith Rd. are attached.
2. The Germantown Station subdivision plat prohibits vehicle access from this lot to C. D. Smith Rd.

If the variance is approved, the applicant shall obtain a permit from the Germantown Neighborhood Services Department prior to commencing any work on the structure

Chairman Evans asked if there was anyone who would like to speak in favor of this variance request.

Herbert K. Henley, Applicant
2822 Baytown Cove
Germantown, TN 38138

Mr. Henley said that all he wants to do is build a storage shed. After coming in to get a permit Mr. Henley became aware that he had two front yards (double-frontage lot). Mr. Henley stated that his rear

yard is not wide enough to allow storage shed to be built without encroaching into the forty feet setback. He said that anything over eight feet is going to put the shed right next to the house. Mr. Henley's said his main reason for building the shed is to relocate and store his lawn mower and gas cans.

Cindy Henley, Applicant
2822 Baytown Cove
Germantown, TN 38138

Ms. Henley said that she agreed with her husband. She said she was also unaware that they had two front yards. She also stated that she did not know about the restrictions for building a shed.

Ms. Boyd asked the Henley's if neighbors on either side had any issues with them building a storage shed in the rear yard. Mr. Henley said that all neighbors were okay with it; one neighbor even volunteered to write a letter supporting the variance.

Chairman Evans asked if there was anyone who would like to speak against this variance request.

No one came forward.

PROPOSED MOTION: To approve a variance to allow an accessory structure to be located with the required front yard adjacent to C. D. Smith Rd. at 2822 Baytown Cove, subject to staff comments and the site plan filed with the application.

Frank Uhlhorn moved to approve a variance to allow an accessory structure to be located with the required front yard adjacent to C. D. Smith Rd. at 2822 Baytown Cove, subject to staff comments and the site plan filed with the application. Elizabeth Boyd seconded the motion.

ROLL CALL: Alderman Palazzolo – yes; Mr. Klevan – absent; Mr. Uhlhorn – yes; Ms. Boyd – yes; Mr. Salvaggio – yes; Ms. Sherman – yes; Chairman Evans – yes

MOTION PASSED

Meeting Adjourned at 6:12 p.m.