



CITY OF NEWNAN
Board of Zoning Appeals
Meeting Minutes
March 1, 2022
10:00 a.m.

Board Members in Attendance: Ken Parker, Willie Walton, Skin Edge, Kris Lovell, Frank Flournoy, Sally Hensley

Board Members Absent: Cliff Smith

Others in Attendance: Tracy Dunnavant, Planning & Zoning Director
Chris Cole, Planner
Samantha Wood, Administrative Assistant to Planning & Zoning
Carson Sears, Representing City Attorney Brad Sears

CALL TO ORDER

Chairman Edge called the meeting to order at 10:00 a.m. in the Richard A. Bolin Council Chambers, City Hall, 25 LaGrange Street.

READING OF THE MINUTES

Chairman Edge asked the Board if they had reviewed the minutes from the February 1, 2022 meeting. After no questions or discussion, Lovell motioned to accept the minutes. Hensley seconded the motion.

MOTION CARRIED (6-0)

Public Hearing – Variance Request – 34 Carmichael Street – (2022-03)

Chairman Edge opened a public hearing. Chairman Edge asked staff to give their report:

Chris Cole introduced a request by Eric Smith to construct a patio that measures 6 feet wide by 13 feet in depth that is within five feet of a side property line. Cole pointed out that the applicant had already constructed the patio and the owner filed for a variance request once he was made aware of the setback requirement. Cole stated the applicant is seeking to obtain a variance to allow for a concrete patio to be located within five feet of a side property line. The subject property is approximately 0.11 acre. Cole stated the applicant indicated the 5-foot setback requirement would create an unusual amount of hardship to his family and read an

excerpt from the application discussing the location of the patio and distances of the steps and neighboring house to the side property line.

Cole presented slides related to the case. Hensley asked if the pictures reflect the current conditions. Cole said no and proceeded to give the history of the patio from the time of construction to the present. Dunnivant reminded the Board that the fence is not part of the variance request.

Cole reviewed the site plan details included in the application materials. Cole stated staff believes the concrete patio is appropriate and presents no negative impacts. He added staff believes this proposal works within the restrictions of the lot size, shape and topography and also emphasized that the concrete area will not be visible to the neighbors or the general public due to the fence.

Cole reviewed details related to the recommendation including, but not limited to the lot size, the age of the home, pedestrian ingress and egress, water run-off, and other factors relevant to the variance request. He gave an overview of the case indicating that the applicant did obtain a fence permit before building the fence, but did not address the patio construction. Cole stated that on February 3rd, Jerri White, the adjacent property owner at 36 Carmichael Street, informed staff that the patio and fence had been built on her property. She proceeded to have her property surveyed and provided evidence that the applicant had indeed crossed her property line with the new fencing and patio. The applicant proceeded to coordinate with his contractors to have the fence and concrete pad moved to the correct property line and filed for a variance for the patio.

Chairman Edge asked if the Board had any questions for staff. Hensley asked for clarification as to who lived on which adjacent properties.

Chairman Edge asked the applicant to come forward and present their case.

Sears swore in Wendy Smith, the applicant's wife. She stated that initially they had some water intrusion in the crawl space, which created their desire to change the topography a little bit. Smith informed the Directors that the crawl space had flooded with 12 inches of water two different times since they purchased the property in July of 2021. She indicated they were told by a contractor that the water is entering from the side of the house. Smith stated a landscape contractor was retained to remove the dirt, waterproof the home and put back the dirt. Smith added that the sun does not shine on that side of the house during the day, so that side of the house stays wet after heavy rains causing the area to be a safety concern due to slippage on the muddy ground. Smith added that they decided to lay the concrete not knowing they needed to include the City and obtain a permit. She explained that when they did pour the concrete, they used an old survey that they pulled off the County website from John Christopher. They proceeded to find a pin between 32 Carmichael Street and 34 Carmichael Street and used that as their measurement. Smith stated they erected the fence and poured the concrete, only to later find out that they were a foot off.

Smith stated both the fence and the concrete were moved on February 14, 2022 at the same time. She said they are now within an inch or two of the property line. Smith said their exit is now safe with the concrete pad in place. Smith added the steps had been there for years and she had never heard of White having an issue with them. She asked the Board to allow them to keep the patio as it is today.

Chairman Edge asked there were any questions from the Board for Smith.

Chairman Edge asked if there was anyone present that wanted to speak in favor or against the request.

George Alexander was sworn in by Sears. Alexander indicated he was there to speak as a private citizen and not in his official capacity as a Councilmember. He stated that he had sat on the Planning Commission from 1989 to 2003 and was the Chairman for 10 years. Alexander stated that it took years to completely revamp the ordinances including the patio setback requirements that were put in place for safety reasons. He added the applicant's contractor should have checked the requirements before building. Alexander stated that he was also concerned about a potential spread of a fire from the applicant's home.

Dan Williams, with Duke and Heath from Carrollton, Georgia, spoke on behalf of Jerri White, the property owner at 36 Carmichael Street. He stated that his client is against the granting of this variance. Williams proceeded to discuss his client's concerns including soil erosion, the financial impact on his client, and the slippery-nature of the subject property described by the applicant.

Carlton McCoy was sworn in by Sears. McCoy stated that he is against the variance because he has been living at his home for 75 years (38 Carmichael Street) and there was only one house there before. McCoy indicated that he does not know why the City celebrates C. J. Smith, because he is the one that created this problem. McCoy then stated a house fire years ago led to the creation of two lots instead of one lot, which led to the close nature of these homes. He concluded that he is against the proposal. Chairman Edge asked McCoy if he lived two doors down from the property. McCoy answered yes. Chairman Edge asked if he was against the concrete pad. McCoy answered yes.

Chairman Edge asked if the applicant's representative had any rebuttal.

Smith clarified that the previous homeowner (Ms. Wilson), had wanted to put a deck in the side yard and White did oppose her request. The wood was delivered to the house, but Wilson never intended to pour a concrete slab. Smith continued to explain that the City asked Wilson to apply for a permit and it ended up being denied. She stressed that Wilson did not apply for any type of concrete to be poured. Smith concluded by stating that instead of building the deck, Wilson simply replaced the tread on the steps as they were rotten.

Jerri White was sworn in by Sears. White stated that safety is a huge issue to her in terms of a potential fire. As far as the fence recently constructed by the applicant, White stated that she does not have an issue with that; however, she added that the 6-foot wooden fence between the properties is quick fuel for fires. White stated that she takes care of her elderly mom and a disabled daughter in her home and she has to think about getting them out of the home safely if a fire occurs.

Besides safety, quiet, and privacy, White stated she also has concern with noise emanating from the patio where the neighbors might be entertaining or grilling after 10 p.m. She added the patio would be right outside of her bedroom window and wondered if there would be a problem where she would have to call the police for quiet. White asked the Board to abide by the City codes and not grant the patio due to safety, fire and privacy issues.

Chairman Edge asked if there was anyone else that wanted to speak on the matter. Seeing no one come forward, Chairman Edge closed the public hearing.

Parker asked staff to clarify the distance from the house to the property line. Cole stated 76 inches. Parker reminded everyone that the fence is not up for discussion as it is allowed. Dunnavant added that the stairs were grandfathered as well. Chairman Edge mentioned that the BZA does not regulate grill locations. Cole pointed out that the concrete landing in front of the steps is required by code so that could remain as well. Specifically, the concrete landing right in front of the steps would have to stay there (so we are talking about the remainder of the concrete outside the front of the steps as being part of this review).

Parker stated his concern with pads like this is that it is not long before it has a roof over it and it becomes a structure. Chairman Edge asked if the applicant wanted to make it into a structure, would the applicant have to come back in front of the Board. Cole answered yes. He explained the review process for obtaining a permit. Flournoy said he felt the neighbor next door would be calling if that occurred. Chairman Edge concurred.

Chairman Edge asked for a motion.

Flournoy made a motion to approve the request. Hensley seconded the motion.

MOTION CARRIED (5-1) (Opposed by Parker)

New Business

Dunnavant informed the Board that the July meeting date needed to be changed because it was scheduled for a day that City Hall would be closed. She suggested that the meeting be held either on July 6 or July 12th at 10:00 a.m.

A motion was made by Chairman Edge to move the July meeting to July 12th at 10:00 a.m. Flournoy seconded.

MOTION CARRIED (6-0)

ADJOURN

Flournoy motioned to adjourn the meeting at 10:36 a.m. Hensley seconded.

MOTION CARRIED (6-0)


Chairman Skin Edge

 VICE CHAIRMAN