

**FLORENCE BOARD OF ADJUSTMENT
FLORENCE GOVERNMENT CENTER
BUSINESS MEETING
July 10, 2013
7:00 P.M.**

Mr. Pieper called the meeting to order at 7:00 P.M.

BOARD MEMBERS PRESENT:

Mr. Timothy Pieper, Chairman
Ms. Lois Evans, Vice-Chairwoman
Mrs. Lori Heilman
Mrs. Linda Schaffer
Mr. Ritsel Sparks

LEGAL COUNSEL PRESENT:

Mr. Thomas Nienaber

APPROVAL OF THE MINUTES:

Mr. Pieper stated the Board members received copies of the minutes of the Florence Board of Adjustment Meeting of June 12, 2013. He asked if there were any comments or corrections. There being no changes, Ms. Evans moved to approve the minutes and Mr. Pieper seconded the motion. Mr. Pieper called for a vote and it carried unanimously.

AGENDA ITEMS:

- 1. Request of Mike Faehr for a Change in Non-Conforming Use to allow the construction of a 24' x 48' garage as an accessory use to a single-family residential dwelling in a Commercial Two (C-2) zoning district. The approximate 0.95 acre site is located at 281 Rosetta Drive, Florence, Kentucky.**

Staff Member, Todd Morgan, AICP, presented the Staff Report which included a PowerPoint presentation (see Staff Report).

Mr. Pieper asked what would happen if the Board imposed conditions and the property is rezoned to Suburban Residential Two (SR-2) through the Zoning Update? He asked if the conditions would still be valid? Mr. Morgan said the conditions would be enforceable because the property will still be non-conforming. The property contains two houses and the Boone County Zoning Regulations would now require them to be on individual lots of record. Mr. Nienaber agreed.

Mr. Mike Faehr said he was present to answer questions. Ms. Evans asked what would be stored inside the garage? He indicated that they would be storing lawn equipment and their boat. He also stated that they want to build the garage because the front of their property floods when there is substantial rain. Ms. Evans asked if the lawn equipment was for personal use or part of a business. Mr. Faehr said it was personal use only.

Mr. Pieper asked if the structure would be built as shown in the Staff Report? Mr. Faehr replied it would.

Mrs. Schaffer asked if the applicant had put in a request to rezone the property through the Zoning Update? Mr. Morgan replied the applicant had submitted the request and Staff has evaluated it. Staff is recommending that the property be rezoned to SR-2. The Planning Commission will hold a public hearing later this year or early next year on the Zoning Update. Eventually each legislative body will take final action on the zoning text and zoning map.

Mrs. Schaffer asked if garages were permitted accessory uses to single-family residential dwellings in SR-2 zones as long as they met all code requirements. Mr. Morgan stated that was correct. Mrs. Schaffer asked if the aerial map could be shown again and if Mr. Morgan could explain what was the front and corner side yards. Mr. Morgan replied that the houses currently front on a non-maintained city right-of-way and the corner side yard would be Rosetta Drive. He added that the garage cannot be located any closer to Rosetta Drive than the smaller house because it would place it in the corner side yard. Mrs. Schaffer asked if a Variance could be sought? Mr. Morgan stated that a use Variance cannot be sought. The Zoning Code doesn't allow accessory structures in the corner side yard.

Mrs. Schaffer asked what would happen if they subdivide the property in the future? Mr. Morgan said it would depend on the outcome of the Zoning Update and how they propose to subdivide the property. It is possible that one lot would front on Rosetta Drive and the other could front on the non-maintained right of way. Staff would need to analyze a specific proposal from the property owner.

Mr. Morgan asked Mr. Faehr why the garage couldn't be placed in the northeastern portion of the property? Mr. Faehr responded that the property falls and rises in that area and a lot of water sits there.

Mrs. Heilman asked if the garage would be permitted if the property was zoned SR-2? Mr. Morgan said it would be permitted because it is no closer to Rosetta Drive than the smaller house and no closer to the non-maintained right-of-way than the larger house. As a result, it is not located in the front or corner side yards.

Mr. Sparks asked if the smaller house was a garage at one time? Mr. Faehr indicated that it was.

Mrs. Schaffer said one of the Staff recommendations is adding a condition that the garage cannot be used for business purposes. Mr. Morgan said that is already the case but he is recommending the condition to reinforce the point.

Mrs. Heilman asked if the property and both houses are owned by one owner? Mr. Faehr said he owns the property and both houses. His son lives in the smaller house.

Mrs. Schaffer made a motion to approve the request based on the applicable zoning regulations. She included the following conditions as part of her motion:

- 1. The garage shall be constructed as presented.**
- 2. The garage shall not be used for business purposes.**

Ms. Evans seconded the motion.

Mr. Pieper asked for a roll call vote and Mr. Pieper, Ms. Evans, Mrs. Heilman, Mrs. Schaffer, and Mr. Sparks were all in favor. The motion carried 5-0.

2. **Request of Jason Catanzaro (applicant) for Jason Catanzaro and Lori Catanzaro (owners) for a Variance to reduce the rear yard setback to allow the construction of a covered patio. The approximate 0.2568 acre site is located at 1814 Waverly Drive, Florence, Kentucky and is currently zoned Residential Planned Development (RPD).**

Staff Member, Todd Morgan, AICP, presented the Staff Report which included a PowerPoint presentation (see Staff Report).

Mrs. Heilman said the site history section of the Staff Report indicates that the back corner of the house was constructed 26.54 feet from the rear property line. As a result, the owners could not build much of a covered porch or deck without encroaching into the 25 foot rear yard setback. Mr. Morgan agreed and said the survey shows the existing patio pad is located less than 25 feet from the rear property line.

Mr. Sparks asked if this house was the only one on the street that had a setback problem? Mr. Morgan said this lot is located on a 90° bend on Waverly Drive. The right-of-way design caused this house to sit further back on the lot.

Mr. Jason Catanzaro said he was present to answer questions.

Ms. Evans asked if he was the original owner? Mr. Catanzaro said he is the third owner.

Ms. Evans asked if the Home Owners Association (HOA) has granted approval for the covered patio to be located in the landscaping easement? Mr. Catanzaro stated the HOA documentation does not address constructing in the easement. Mr. Morgan asked if the covered patio needs to be approved by the HOA? Mr. Catanzaro said he does not believe so. He said a lot of covered patios and sunrooms have been constructed in the subdivision without HOA approval. Ms. Evans asked if that is something Staff wants before construction begins? Mr. Morgan stated Staff does not need the HOA approval. However, he would advise Mr. Catanzaro to check into this further before he builds. Mr. Catanzaro said he did get verbal approval from the HOA but they also advised him that they do not have the authority to do anything. They told him that a neighbor could take him to court under the HOA documentation. Mr. Nienaber said the HOA restrictions would be independent of anything the Board does here. He agreed with Mr. Morgan that it would be a good idea for him to get something in writing from the HOA if its required.

Mrs. Heilman asked if the neighbors know about his plan to construct the covered patio? Mr. Catanzaro said all the neighbors saw the white Board of Adjustment sign in his yard and were happy with the proposal.

Mr. Morgan indicated that he received several phone calls from neighbors when they saw the sign. None of the neighbors he talked to had concerns once he reviewed the proposal. Ms. Evans asked if any landscaping was being proposed in the side or rear yard? Mr. Catanzaro replied that they will be planting some small evergreen trees in the rear yard.

Mrs. Schaffer said one of the Staff comments asks if the covered patio could be made smaller so it better meets the 25 foot rear yard setback. Mr. Morgan said he always asks this question when a setback Variance is proposed for deck or covered patio. In this particular case he is not as concerned because the adjoining property is zoned commercial. The commercial property will install a 25' wide buffer at the rear property line at the time it develops.

Mrs. Schaffer asked if there would be any impact on the adjoining property owner to the west? Mr. Morgan reviewed the PowerPoint slides and indicated that the rear and sides of this property contain a lot of evergreen trees.

Mrs. Schaffer made a motion to approve the request based on the applicable zoning regulations. She included the following condition as part of her motion:

1. **The covered patio shall be constructed as presented.**

Mrs. Heilman seconded the motion.

Mr. Morgan asked the applicant if he had any problems with that? He indicated that he did not.

Mr. Pieper asked for a roll call vote and Mr. Pieper, Ms. Evans, Mrs. Heilman, Mrs. Schaffer, and Mr. Sparks were all in favor. The motion carried 5-0.

OTHER

Mrs. Schaffer asked if Staff had reviewed the Murphy Express signs that were discussed at the last Florence Board of Adjustment meeting and determined if they are electronic signs? Mr. Morgan replied that Staff took a look at the photos and information that was supplied by the applicant and determined that they were not electronic signs per the zoning code because they do not have an LED or electronic appearance.

ADJOURNMENT

Mr. Pieper asked for a motion to adjourn. Ms. Evans so moved and Mr. Sparks seconded the motion. Mr. Pieper called for a vote and the meeting adjourned by unanimous consent at 7:42 PM.

APPROVED

Timothy L. Pieper, Chairman

Attest:

**Todd K. Morgan, AICP
Senior Planner, Zoning Services**