

ON MONDAY, MARCH 5, 2018, THE BOARD OF ADJUSTMENT HELD A MEETING IN THE 2ND FLOOR COURTROOM OF THE WOODFORD COUNTY COURTHOUSE AT 6:30 P.M.

PLEDGE OF ALLEGIANCE

MEMBERS PRESENT: Al Schooler, Frank Stark, Tim Turney, Fred Powers

MINUTES: A motion was made by Mr. Schooler, as seconded by Mr. Powers, to approve the February 5, 2018 minutes, as submitted. The motion carried with four (4) aye votes.

Application #03-004-2018 – Dimensional Variance – LK Real Estate LLC – Wooldridge Garden Phase II, Unit 3A - 124-146 Abbey Rd, 135-161 Chenault Alley and 128-188 McCowans Ferry Alley – R-1C/PUD District – New Urban Code, Chapters IV and V - Owner/Applicant is seeking: A. 4’ variance from 8’ depth of porch; B. 4’ variance from 16’ to 12’ width of porch; C. 12” variance from 18” to 6” height of porch from elevation above sidewalk.

Chairman Turney called the hearing open and called upon Isaac Hughes, Building Inspector for comments. Mr. Hughes noted that the applicant is seeking a 4’ variance in depth of front porch from 8’ to 4’; 4’ Variance from 16’ to 12’ width of porch; Variance of 12” from 18” to 6” height of porch above sidewalk elevation. The variances are for the following addresses: 124 -146 Abbey Road (Townhomes), 135 – 161 Chenault Alley (Townhomes), and 128 – 188 McCowans Ferry Alley. Mr. Hughes noted that the applicant did not own 128-140 McCowans Ferry Alley. The Wooldridge Gardens Development is in a Low Density Residential Zone R-1C/PUD. New Urban Code, Chapters IV and V as attached in the packets applies. Previously a 6” variance (porch from 18” to 12” above sidewalk) and a 2’ variance (8’ to 6’ depth of porch) were approved by BOA for another applicant. The New Urban Code for Woodford County, City of Versailles and the City of Midway was implemented back in January 2002 as guidance for future development of the county, its cities and communities. The Board shall not grant a variance unless all of these general criteria are met and Mr. Hughes noted that the applicant did meet all four criteria. Public notices were mailed to adjacent property owners in accordance with KRS 100.237(6) and a Public Notice was published in The Woodford Sun on February 22, 2018. The request for this variance does appear to meet the necessary criteria listed. Mr. Hughes noted that if the Board approves this application, it is recommended that the following conditions be attached to the Variance:

1. **This property is subject to all requirements of the Versailles-Midway-Woodford County Zoning Ordinance.**
2. **The owners shall comply with all other federal, state and local regulatory entities and shall provide copies to the Planning Commission office of any and all permits issued on behalf of the owners as a result of the approval of the Variance.**
3. **The approved Variance is granted only for the addresses as listed above and on the aerial view marked in yellow as attached. Any future structures or additions shall conform to the standards of the Zoning Ordinance.**
4. **The owner shall obtain all necessary permits from the Versailles-Midway-Woodford County Building Inspector for the construction of the structures.**

Chairman Turney questioned the lots highlighted on the attached plat, noting that both sides of McCowans Ferry Alley were highlighted. The application is only for the addresses listed in the staff

report. Mr. Hughes noted that Linsey Mosley would have to explain that. Mr. Hughes asked if some of those were already built, Chairman Turney replied that they were all built. Mr. Powers noted that Mr. Hughes stated that in criteria #3 that the Ordinance was in place prior to and does not allow the builder to properly control the grade between houses, how was Mr. Hughes aware of that? Was there some type of engineer report provided that said the grade cannot be controlled? Mr. Hughes noted that after the builder started building the garages he felt that the garage was going to be too tall in order to get the grade to work right. Mr. Hughes noted that the way the lay of the land, he assumed it wasn't laid out the way the Ordinance was written. Chairman Turney noted that the Ordinance was in place prior to the purchase of the land.

Linsey Mosley, Owner and Builder was present for discussion. Mr. Mosley noted that in regard to the grade of the lots there are three foot side yards, which gives you six feet between the houses. The garages are rear loading and the front of the houses face High Street and that dictates the size of the foundation and if that has to be raised 18" above grade in the front then that would mean that you have to increase it in the back. It would create several issues in regard to that. The footprint of the lot is 3,500 sf., a typical garage is about 20' deep and the taller you have to raise the garage wall up then that creates steps into the garage and eats into the garage. Mr. Mosely noted that there is about 10'-12' from the back of the garage to the Alley way. So if you cut the garage down, it forces more people to park outside of the garage. The natural slope of High Street makes grading challenging because if some houses are higher the water makes it intrusive on the neighbor because of 3' side yards. Mr. Mosley noted that a lot of his clientele is elderly and didn't want steps and if you raise the houses up above the sidewalk then that creates steps in the front and rear. Chairman Turney discussed the steps comment, because if there are no steps, the house is going to flood. Chairman Turney asked if that was the only solution. Could he not build a smaller house and that Mr. Mosley knew what the rules were going in. Chairman Turney noted that Mr. Mosley was asking for a wholesale change on every property and that is not a variance, it is changing the Ordinance. Chairman Turney noted that Mr. Mosley was not asking for something specific, it was for blanket coverage to allow him to do something which violates the Ordinance. Mr. Mosley noted that the houses on Ridgeview Road have been built, permitted, finished out and closed; the same rules were apparently in place when that occurred and he did not know the rules were in place because he was not the developer. When this was brought to his attention in April 2017, Mr. Mosley noted that it was only dealing with porches at that time and he made a change on all of the plans for the porches. Chairman Turney noted that a variance is very specific and should not be for every lot because Mr. Mosley stated that he did not need it for porches that are currently under construction. Mr. Mosley noted that he would rather have the square footage in the house and not on the porch. Chairman Turney stated that is not what the Ordinance states. There was discussion regarding the variance granted to Anderson Wooldridge. Chairman Turney noted that it was for specific addresses for homes already built.

Chairman Turney asked if there were any more questions or comments from the Board.

Chairman Turney asked if anyone from the public would like to comment. Hearing none, Chairman Turney closed the hearing and asked for a motion to approve or deny the dimensional variance.

Chairman Turney noted that his thoughts were clear. Mr. Stark noted that if the variance was requested on two or three houses it would be a different story but to be asking for all of the lots, it's an Ordinance issue.

A motion was made by Mr. Stark, as seconded by Mr. Powers, to deny Application #03-004-2018 – Dimensional Variance – LK Real Estate LLC – Wooldridge Garden Phase II, Unit 3A - 124-146 Abbey Rd, 135-161 Chenault Alley and 128-188 McCowans Ferry Alley – R-1C/PUD District – New Urban Code, Chapters IV and V - Owner/Applicant is seeking: A. 4' variance from 8' depth of porch; B. 4' variance from 16' to 12' width of porch; C. 12" variance from 18" to 6" height of porch from elevation above sidewalk due to the Zoning Ordinance and New Urban Code being in place at the time of construction. The motion carried with four (4) aye votes.

Application #03-005-2018 – Dimensional Variance – Curtis & Rebecca Lowe – 397 Gleneagles Way – R-1B District – Article V, Section 504.2 - Owners are seeking a 28' front yard variance from the 30' setback in order to maintain a 6' privacy fence recently built 2 feet from the sidewalk along Hanover Drive, on a corner lot.

Chairman Turney called the hearing open and called upon Mr. Hughes for comments. Mr. Hughes noted that the owner is requesting a dimensional variance of 28' from the 30' setback, to allow a 6' privacy fence, 2' from the sidewalk along Hanover Drive to stay in place. This property is zoned R-1B. It is a corner lot which makes the side yard along Hanover Drive, considered a front yard. October 6, 2017 a complaint was called in pertaining to a 6' fence built at the above address built along Hanover Drive. October 9, 2017 a door hanger was handed to the homeowner explaining the fence violation according to zoning ordinance, than January 5, 2018 a letter was sent explaining their options to keep the fence.

There are no records of any prior variances to the subject property, although there are like variances in the area. Noted in the staff report are five other properties in the neighborhood which applied and received like variances. However on June 5, 2017, the Board of Adjustment heard two similar requests for 76 Hanover Drive and 96 Drake Landing and those were denied based on criteria C not being met. The Single Family Residential ordinance, **Article V, Section 504.2** specifies the height of a 6' fence on a corner lot cannot be closer than 30' to the sidewalk or it will encroach into the front yard, causing the fence to be limited to 42" for the front yard. The front setback for Single Family (R-1B) District zone is 30' according to Article 706.6. Both Articles were attached to the application. The Board shall not grant a variance unless all of general criteria are met. Mr. Hughes noted that this request is a result of the applicant's actions. Ordinance has not changed. However the applicant did not own the property when the zoning ordinance was adopted. Public notices were mailed to adjacent property owners on February 22, 2018 and a Public Notice was published in The Woodford Sun on February 16, 2018 in accordance with KRS 100.237(6). The request for the variance appeared to meet three of the four necessary criteria. If the Board approves this application, it is recommended that the following conditions be attached to the Variance:

- 1. This property is subject to all requirements of the Versailles-Midway-Woodford County Zoning Ordinance.**

2. **The owner shall comply with all other federal, state and local regulatory entities and shall provide copies to the Planning Commission office of any and all permits issued on behalf of the owners as a result of the approval of the Variance.**
3. **The approved Variance is granted only for the specific items as shown on the attached site plan. Any future structures or additions shall conform to the standards of the Zoning Ordinance setback.**
4. **The owner shall obtain all necessary permits from the Versailles-Midway-Woodford County Building Inspector for the construction of the fence.**

Chairman Turney asked if any Board members had questions for Mr. Hughes. Mr. Stark asked when were the two requests denied. Mr. Hughes noted that it was June 5, 2017. The reason for the denial was due to not meeting criteria "C".

Curtis and Rebecca Lowe, Owner/Applicant was present for discussion. Mr. Lowe noted that he had only been a resident of the County for a few months but his wife was born and raised here. Mr. Lowe noted that they are looking for definitions of their violation and what they can do to correct it. He understood that he failed to get a permit for the fence but wanted to rectify that. Mr. Lowe did not agree that the definition of the violation had been cleared up and he was talking about 504.2, distances of setbacks. He noted that each time they had asked for clarification, they have not been shown where those codes are that they were actually in violation of. Mr. Lowe noted that they have a couple of options that would suffice for the intent of their family. Mr. Lowe understood that there had been prior approvals and denials but was hoping to bring a unique or refreshed approach to this specific request. Mr. Lowe noted that at no point did they intend to violate the codes and he has read through the codes very closely and did not find the things that Mr. Hughes said they were in violation of and when he sought to understand the violations with Mrs. Wilson, they were not afforded any answers that clarified what they were asking. They were presented double fronts, setbacks, viewing distances, safety guidelines and other things. His biggest complaint was the door hanger that they were given and it did not talk about 30' setback. Chairman Turney noted that this property is on a corner and has two front yards; any side of the house that faces a road has a setback similar to the building line and has to be back from the sidewalk 30 feet. The Ordinance says a fence over 42" has to be setback 30 feet. Mr. Lowe questioned where it was stated in the Ordinance. Chairman Turney noted that it was on the plat. Mr. Lowe noted that they reviewed the plat and sought advice from multi professional's from the engineering side, building side and legal side. The building lines defined to them by the professional's was for buildings; the facing of the house and they missed the part that it applied to fences.

Chairman Turney did agree that it posed a safety hazard. Chairman Turney explained that the Board will look at whether it is safe for everybody in the neighborhood. Mrs. Lowe noted that she grew up on Hanover and that was one of the draws in moving back. They don't want to be in any violation of anything that is going to pose a safety risk for any child; they have a two year old. Chairman Turney suggested that they move the fence back 15 feet to allow visibility when backing out of the driveway and the bushes cause an issue if they get larger. Chairman Turney noted that since they are not exceeding the variance but diminishing it, then the change could be voted on. Chairman Turney noted that four of the five addresses that have been granted variances are on dead end streets and there is a

condition on each one that states if the street opens up then the fence must be removed; they would have to return to the Board. Mr. Powers asked if the Lowe's could drop the height of the fence. Mr. Lowe circulated a photo of a plank and wire fence at 48" tall and be able to keep it in the same location. Chairman Turney noted that if the fence is 42" or shorter then there does not need to be a meeting. Mrs. Lowe noted that they want the fence to be 48" to keep their dog in. Chairman Turney agreed that it is a good solution but needed to make sure they can do this because they requested a setback variance and not a height variance and in order to do that, the Lowes would have to reapply. Due to the way it was advertised, the Board cannot act on the 48" fence. The current application would have to be withdrawn or denied and then they would return to the Board with a new request. Mr. Schooler noted that the variance request was for a 28' setback in order to maintain a 6' fence; it did not say anything about a variance on a fence and the Board would not be able to act on the height of the fence. Chairman Turney explained that they would still be requesting the 28' setback variance and as a condition to the variance the Board could restrict the fence to be 48".

Chairman Turney asked if there was anyone from the public wishing to speak, hearing none, Chairman Turney closed the hearing.

Chairman Turney asked for a motion to deny or approve the request with conditions.

A motion was made by Mr. Stark, as seconded by Mr. Schooler, to deny Application #03-005-2018 – Dimensional Variance – Curtis & Rebecca Lowe – 397 Gleneagles Way – R-1B District – Article V, Section 504.2 - Owners are seeking a 28' front yard variance from the 30' setback in order to maintain a 6' privacy fence recently built 2 feet from the sidewalk along Hanover Drive, on a corner lot due to safety and criteria "C" not being met. The motion carried with four (4) aye votes.

Application #03-006-2018 – Dimensional Variance – James A. Frazier – 2325 Paynes Mill Rd – A-1 District – Applicant is seeking an 80 foot front yard variance from Williams Lane to remodel a legal non-conforming accessory structure.

Chairman Turney called the hearing open and called upon Mr. Hughes for comments. Mr. Hughes noted that the applicant is seeking an 80 foot variance from the required 80 foot minimum front yard setback in order to remodel a garage on a legal non-conforming lot of record along Williams Lane. The property is located in an A-1 (Agriculture) Zone, on the corner located west of Paynes Mill Road and north of Williams Lane. It consist of 5.1 acres. The farm was originally 62 acres purchased in 1960 by the French family. The 5 acre parcel was separated from the 62 acres in the mid 1970's, presently part of Winstar Farm. January 9, 2018 the applicant was approached by the Building Inspector while working on the garage and was asked to cease work until a building permit was obtained. Upon applying for a permit, he was advised the structure could not be remodeled due to the cost of construction would exceed the 50 percent rule of remodeling on a legal non-conforming lot. To continue he would have to appear before the BOA and ask for an 80' front yard dimensional variance. The lot and structure predate zoning. Being on a corner lot in the A-1 zone it has an 80' foot front yard building line from Williams Lane as shown on the site plan aerial photo. There are no records of any prior variances to the subject property. Mr. Hughes referenced the Ordinance associated with this request. Mr. Hughes noted that the request for the variance did appear to meet all four of the necessary criteria. Public notices were mailed to

adjacent property owners on February 16, 2018 and a Public Notice was published in The Woodford Sun on February 22, 2018 in accordance with KRS 100.237(6).

Mr. Hughes reviewed the following criteria:

1. **The structure was originally a detached garage built prior to zoning shortly after the original house.**
2. **The applicant is trying to utilize the foundation of the existing structure as a green approach to the project. Moving the structure 80 feet would pose a financial hardship.**
3. **The structure was built shortly after 1971, predating the zoning ordinance.**
4. **The structure in its current location has not and does not affect the public health, safety and welfare of the public. The structure will improve the character of the area.**

Mr. Hughes noted that the structure was being raised higher.

If the Board approves this application, it was recommended that the following conditions be attached to the Variance:

1. **This property is subject to all requirements of the Versailles-Midway-Woodford County Zoning Ordinance.**
2. **The owner shall comply with all other federal, state and local regulatory entities and shall provide copies to the Planning Commission office of any and all permits issued on behalf of the owners as a result of the approval of the Variance.**
3. **The approved Variance is granted only for the construction of the detached garage in the location shown on the attached site plan.**
4. **The owner shall obtain all necessary permits from the Versailles-Midway-Woodford County Building Inspector for the construction of the detached garage. The dwelling shall conform to all other required setbacks for the A-1 zoning district.**
5. **The garage cannot be used for residential purposes.**

Chairman Turney asked if the Board members had any questions for Mr. Hughes.

James Frazier was present and noted that he has an aging mother and needed to move in to take care of her and is more manageable to be on the property. Mr. Frazier noted that the house has some maintenance issues and he wanted to build a better garage and would be remodeling it. Chairman Turney asked if Mr. Frazier had plans to live in the garage. Mr. Frazier noted that it would not be for living quarters but did want to put an office upstairs with a bathroom.

Chairman Turney asked if there was anyone from the public wishing to speak, hearing none, Chairman Turney closed the hearing.

Chairman Turney asked for a motion to deny or approve the Dimensional Variance request.

A motion was made by Mr. Schooler, as seconded by Mr. Stark, to approve Application #03-006-2018 – Dimensional Variance – James A. Frazier – 2325 Paynes Mill Rd – A-1 District – Applicant is seeking an 80 foot front yard variance from Williams Lane to remodel a legal non-conforming accessory structure, with noted conditions. The motion carried with four (4) aye votes.

A motion was made by Mr. Schooler, so moved by Chairman Turney, to adjourn at 7:26 p.m. The motion carried with four (4) aye votes.

Tim Turney, Chairman

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