

FARRAGUT BOARD OF ZONING APPEALS AGENDA

Farragut Town Hall
March 27, 2019
7:00 p.m.

1. Approval of Minutes for the November 28, 2018 meeting
2. Public hearing on a request for a variance from the building and total lot coverage requirements as applied to Lot 54R-1, 11270 Matthews Cove Lane, .279 Acres, Zoned R-1/OSR (Thomas G. Johnson, III, Applicant)

It is the policy of the Town of Farragut not to discriminate on the basis of race, color, national origin, age, sex, or disability pursuant to Title VI of the Civil Rights Act of 1964, Public Law 93-112 and 101-336 in its hiring, employment practices and programs. To request accommodations due to disabilities, please call 865966-7057 in advance of the meeting.

**MINUTES
FARRAGUT BOARD OF ZONING APPEALS**

November 28, 2018

Present: Keith Alley, Jennifer Collins, Scott Meyer, Michael Wilson, and Jim Holladay
Absent: None
Staff: Mark Shipley, Community Development Director

Item 1. Approval of Minutes for the October 24, 2018 meeting

A motion was made by Wilson to approve the minutes. The motion was seconded by Meyer and the motion passed 5-0.

Ayes: Alley, Collins, Wilson, Holladay, and Meyer
Nays: None
Absent: None
Abstaining: None

Item 2. Public hearing on a request for a special exception to consider the use of the Concord United Methodist Church property at 11020 Roane Drive as multi-use (church/agricultural), 12.13 Acres, Zoned R-2 (Wade Ragan, Applicant)

This agenda item was withdrawn by the applicant.

Item 3. Public hearing on a request for a setback variance of ten (10) feet from the rear property line associated with an accessory building under construction at Concord United Methodist Church at 11020 Roane Drive, 12.13 Acres, Zoned R-2 (Wade Ragan, Applicant)

Staff reviewed this request and noted that the Concord United Methodist Church is situated within the Thornton Heights Subdivision and is zoned General Single-Family Residential (R-2). It was noted that, in most of the Town's residential zoning districts, schools, churches, and other places of worship are permitted uses. However, since these uses have physical characteristics (e.g. parking lots, lighting, playgrounds, buildings larger in scale than homes, etc.) that are not typical for residential uses, they are subject to development criteria that are designed to protect nearby residents. For example, around the periphery of such uses, there is a requirement for a 25-foot planted buffer strip. There are also building and structure setback requirements that are greater than would be typical for residential uses. The R-2 Zoning District requires accessory structures for schools and churches to be set back at least thirty (30) feet from the side and rear property lines.

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Staff explained that a few weeks ago, as part of an Eagle Scout project, the applicant began construction on a detached storage shed as an accessory structure to house materials and supplies related to the community garden on the western portion of the church's property. A building inspector noticed the shed under construction and initiated a meeting on site on October 31 to review the status. It was discovered that the 12x16 structure was less than 200 square feet and would not need a building permit from the perspective of building code compliance. The shed would, however, need to meet any applicable zoning requirements, such as setbacks, size, and height.

Staff determined from measurements in the field and from reviewing the plat of record for Concord Methodist, that the shed, at its nearest point to the closest side/rear property line, would be 20 feet. To the immediate east of the shed is an existing building that predates the zoning requirements and is approximately 18 feet from the same side/rear property line. The applicant had thought that, since their shed would be a little further from the property line than the existing building, that there would be no issues with setbacks. After discovering that the shed would not comply with setbacks, the applicant decided to request a variance of ten (10) feet from the side/rear property line setback requirement for accessory structures to allow the structure in question to remain in its current configuration. Staff noted that the need for a variance could have been avoided if the applicant had verified setbacks and any other applicable requirements with the Town prior to initiating construction. Since the shed can be constructed/modified to meet required setbacks, staff could not support the variance request.

A long discussion ensued, and a motion was made by Holladay to deny the variance due to a lack of statutory grounds but perhaps work with the applicant on a time line to allow the Eagle Scout to complete the project with the understanding that the portion in violation of setbacks would ultimately have to be removed at the direction of the Town staff. The motion was seconded by Meyer and the motion passed 5-0.

Ayes:	Alley, Collins, Wilson, Holladay, and Meyer
Nays:	None
Absent:	None
Abstaining:	None

The meeting adjourned at 8:40 p.m.

Jennifer Collins, Secretary _____

FARRAGUT BOARD OF ZONING APPEALS

March 27, 2019 Meeting - Staff Recommendations

2. Public hearing on a request for a variance from the building and total lot coverage requirements as applied to Lot 54R-1, 11270 Matthews Cove Lane, .279 Acres, Zoned R-1/OSR (Thomas G. Johnson, III, Applicant)

This item involves a request for a variance from the building and total lot coverage requirements as applied to the Cove at Turkey Creek Subdivision off Parkside Drive. For purposes of some background, the term “lot coverage” is defined in Chapter 2 of the Farragut Zoning Ordinance as “that portion of the lot that is covered by any nonvegetative surface, including, but not limited to, buildings, decks, swimming pools, asphalt, concrete, and rock of all sizes. Any surface that is the opposite of a pervious surface. On single-family lots 15,000 square feet or larger, however, the water surface area of a permanent swimming pool or a pond is not counted toward lot coverage.”

A “building” is defined in Chapter 2 as “any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.” Coverage limitations are common in zoning ordinances and are intended to provide for light, space, air, and a certain amount of vegetative surface on a developed property. There is also a stormwater runoff component to coverage limitations.

As applied in the Town of Farragut, coverage requirements vary depending on the zoning district with most districts having a certain percentage of the lot that can be covered. However, in the R-1, Rural Single-Family Residential District, with the Open Space Residential Overlay (OSR), – the zoning district for the Cove at Turkey Creek – the maximum lot coverage is determined as follows:

Maximum lot coverage. The maximum building and lot coverages shall be based on the total tract size of the development, not the individual lots, as prescribed below:

- a. Total building area for each dwelling unit equals 75 percent of the gross land area multiplied by the maximum building coverage established in the base zone divided by the total number of dwelling units in the development.
- b. Total lot coverage for each dwelling unit equals 75 percent of the gross land area multiplied by the maximum lot coverage established in the base zone divided by the total number of dwelling units in the development.

A primary objective of the OSR overlay is to provide more overall open space (at least 35% of the gross land area of the development) in comparison to other single-family districts but, in exchange, provide for more flexibility in lot sizes,

lot coverage, and setbacks on individual lots. The open space in an OSR overlay is intended as a mix of common open space in different portions of the larger development with a smaller amount of open space (regulated largely by coverage percentages) on individual lots. In the case of the OSR coverage formula, the “base zone” is R-1 and the coverage percentages in R-1 are 25% for building coverage and 35% for total coverage.

Based on the coverage formulas provided for in the OSR overlay, the recorded plat for the Cove at Turkey Creek listed the building coverage maximum as 3,649 square feet and the total lot coverage maximum as 5,109 square feet. The original plat for the Cove at Turkey Creek created 74 house lots.

In the case of the lot in question, a building permit was issued on June 20, 2017. Based on information provided on the house plans, codes staff listed on the building permit application the building coverage as 2,325 square feet and the total coverage as 4,499 square feet (please note that the permit application and other information pertaining to this variance are included in the “Owners/Applicants’ Memorandum in Support of Request for Variance” that is part of the review packet and included separately). This was later discovered to only include the first-floor house footprint. The building contractor was asked to list the square footages on the plans to verify compliance with coverages. Based on the information provided by the contractor, the building coverages still totaled less than 3,649 square feet.

As the project proceeded, the building contractor apparently made some modifications to what was originally approved by the Town. One of the inspectors, Elliott Sievers, noted on an inspection ticket dated January 12, 2018, that an as-built survey will be required before a final inspection is given (**Exhibit A**). The need for the as-built survey to verify coverage was again noted on an inspection ticket dated January 24, 2018 (**Exhibit B**) and on an inspection ticket dated February 13, 2018 (**Exhibit C**). The building contractor clearly knew of the coverage requirements and that this would ultimately have to be compliant with the plat of record. The staff would typically expect the contractor to verify this before proceeding further since the contractor had made some modifications to the plans that could affect coverage. Apparently, the contractor did not perform such verification.

When the as-built survey was provided on February 22, 2019, it indicated that the constructed building coverage was 4,164.4 square feet and the total coverage was 5,350.2 square feet. In comparison to the plat of record, the constructed building coverage exceeded the permitted coverage by 515 square feet and the total coverage by 241 square feet. Once the department director (Shipley) was made aware of the coverage issue, a final inspection was permitted to be scheduled and a temporary Certificate of Occupancy was issued with a permanent Certificate of Occupancy being subject to addressing the building and total coverage issues.

Staff (Shipley) met with the homeowner to try to identify any options to help address this situation - which essentially was the result of the building contractor's actions by not following (or following up on changes to) the original approved plans as represented to the Town's codes staff. Staff mistakenly noted to the owner that he may consider acquiring and platting more property to create a condition where the proportion of the lot that is covered would not be in excess of the proportion that would be covered had the contractor complied with the platted coverages. Though this would not help directly in this case since the plat of record specified raw numbers for both the building and total coverages, it may be useful should a text amendment be pursued to have the coverage formulas re-visited for the OSR overlay.

Staff also asked the surveyor to re-check his numbers on the as-built survey. Staff then re-visited the plat of record for the Cove at Turkey Creek and re-checked the building and total coverage numbers. Based on the number of lots originally platted, the coverage numbers on the plat of record were correct. Staff did discover that apparently two lots in the subdivision had been combined since the original plat was recorded which lowered the total number of lots from 74 to 72. By using the OSR overlay formula, this would increase the building coverage number from 3,649 square feet to 3,750 square feet and the total coverage number from 5,109 square feet to 5,250.6 square feet. Though this would lessen the amount of overage, the adjustment for the total number of lots would still not rectify the issue.

In terms of a recommendation, staff would note that a variance is essentially a request to do something that others in a similar condition are not permitted to do. In order to grant relief through a variance the standards are high in order to ensure that equal protection and application of requirements are in place. Essentially, the standard is that, without a variance, a property owner would not otherwise have a reasonable use of their property. The fact that the building contractor added more improvements on the lot in question and did not follow their plans certainly does not, in the staffs' view, satisfy the grounds for granting relief through a variance. To do so, would be unfair to other homeowners in this development that were bound to the numbers on the plat of record.

A more equitable approach to pursuing the issue at hand would be through the legislative process by having the coverage formula applied to the OSR being re-visited to account for, perhaps, a coverage based on the greater of either a raw number or a set proportion of the lot that is covered (similar to the plat modification recommended to the owner by staff). Though such a text amendment process may still not alleviate the issue in this specific case, it would address situations that maybe were unforeseen when the coverage formula was originally created. Staff recommends denial of the variance and that the applicant petition for a text amendment instead. The temporary Certificate of Occupancy would be extended, as needed, until the text amendment process was finalized.

TOWN OF FARRAGUT, TN



Exhibit A

BUILDING INSPECTION REPORT

PERMIT #: B-17-0519 RESIDENTIAL COMMERCIAL INSPECTOR: Elliott

NAME/CONTRACTOR: Riberis DAY: Friday DATE: 1-12-18 TIME: 1:30

ADDRESS: 11270 Matthews Cove SBDV: own & TC LOT #: 58

POINT OF CONTACT: _____ PHONE NUMBER: 388-1055 54R-1

BUILDING INSPECTION	FIRE INSPECTION	GENERAL INSPECTION
1. Footer	11. Thrust Block Inspection	21. Final Inspection
2. Energy Code - Slab	12. Hydrostatic Test - Below Ground	22. Re-Occupancy Inspection
3. Plumbing Slab	13. Hydrostatic Test - Above Ground	23. Courtesy Inspection
4. Crawl Space / Basement	14. Above Ceiling	
5. Plumbing - Rough In / Final	15. Fire Wall	
6. Gas - Rough In / Final	16. Fire Stopping	
7. Mechanical - Rough In / Final	17. Fire Alarm	
8. Ext. Wall Covering & Flashing	18. Kitchen Hood Suppression System	
9. Framing	19.	
10. Energy Code - Wall	20.	

* An As built survey will be required before a final inspection is given

① NEED APPROVED PLANS & ISS DRAWINGS BEAN SCHEDULE ON SITE

② NEED THE FIRE NOTES SUBMITTED & INSPECTED

③ NEED ENGINEERING ON REAR PERFORMING WALL

④ UPSTAIRS BEDROOM WINDOWS DO NOT MEET EGRESS HEIGHT

THIS INSPECTION HAS BEEN: APPROVED REJECTED

INSPECTOR: [Signature] CONTRACTOR: _____ DATE: 1-12-18

A TEMPORARY CERTIFICATE OF OCCUPANCY IS ISSUED FOR _____ DAYS FROM THE DATE OF THIS INSPECTION

A RE-INSPECTION FEE OF \$ 50.00 .00, MUST BE PAID, AND A RE-INSPECTION COMPLETED PRIOR TO SCHEDULING ANY NEW OR ADDITIONAL INSPECTIONS.

ALL VIOLATIONS NOTED SHALL BE CORRECTED AND A RE-INSPECTION SCHEDULED BY CALLING (865)675-2384

TOWN OF FARRAGUT, TN



Exhibit B

BUILDING INSPECTION REPORT

PERMIT #: B-17-0519 RESIDENTIAL COMMERCIAL INSPECTOR: Elliff

NAME/CONTRACTOR: Bob New DAY: Wed DATE: 1-24-18 TIME: 1:30

ADDRESS: 11270 Matthews Cove SBDV: Cove P TC LOT #: 54R-1

POINT OF CONTACT: Bob New PHONE NUMBER: 617-3141

BUILDING INSPECTION	FIRE INSPECTION	GENERAL INSPECTION
1. Footer	11. Thrust Block Inspection	21. Final Inspection
2. Energy Code - Slab	12. Hydrostatic Test - Below Ground	22. Re-Occupancy Inspection
3. Plumbing Slab	13. Hydrostatic Test - Above Ground	23. Courtesy Inspection
4. Crawl Space / Basement	14. Above Ceiling	
5. Plumbing - Rough In / Final	15. Fire Wall	
6. Gas - Rough In / Final	16. Fire Stopping	
7. Mechanical - Rough In / Final	17. Fire Alarm	
8. Ext. Wall Covering & Flashing	18. Kitchen Hood Suppression System	
9. Framing	19.	
10. Energy Code - Wall	20.	

BE REF PD 1-22-18

noted items addressed
engineering provided

(1) still need engineering on rear retaining wall

*An AS build survey will be requested before a final inspection is given to verify lot coverage

THIS INSPECTION HAS BEEN: APPROVED REJECTED

INSPECTOR: [Signature] CONTRACTOR: [Signature] DATE: 1-24-18

A TEMPORARY CERTIFICATE OF OCCUPANCY IS ISSUED FOR _____ DAYS FROM THE DATE OF THIS INSPECTION

A RE-INSPECTION FEE OF \$ _____ .00, MUST BE PAID, AND A RE-INSPECTION COMPLETED PRIOR TO SCHEDULING ANY NEW OR ADDITIONAL INSPECTIONS.

ALL VIOLATIONS NOTED SHALL BE CORRECTED AND A RE-INSPECTION SCHEDULED BY CALLING (865)675-2384

TOWN OF FARRAGUT, TN



Exhibit C

BUILDING INSPECTION REPORT

PERMIT #: B-17-0519 RESIDENTIAL COMMERCIAL INSPECTOR: Adam

NAME/CONTRACTOR: _____ DAY: Tues DATE: 2/13 TIME: 10 AM

ADDRESS: 11270 Matthew's Cove SBDV: _____ LOT #: 54

POINT OF CONTACT: Brett Roberts PHONE NUMBER: 617-3161

BUILDING INSPECTION	FIRE INSPECTION	GENERAL INSPECTION
<input type="checkbox"/> 1. Footer	<input type="checkbox"/> 11. Thrust Block Inspection	<input type="checkbox"/> 21. Final Inspection
<input type="checkbox"/> 2. Energy Code - Slab	<input type="checkbox"/> 12. Hydrostatic Test - Below Ground	<input type="checkbox"/> 22. Re-Occupancy Inspection
<input type="checkbox"/> 3. Plumbing Slab	<input type="checkbox"/> 13. Hydrostatic Test - Above Ground	<input type="checkbox"/> 23. Courtesy Inspection
<input type="checkbox"/> 4. Crawl Space / Basement	<input type="checkbox"/> 14. Above Ceiling	
<input type="checkbox"/> 5. Plumbing - Rough In / Final	<input type="checkbox"/> 15. Fire Wall	
<input type="checkbox"/> 6. Gas - Rough In / Final	<input type="checkbox"/> 16. Fire Stopping	
<input type="checkbox"/> 7. Mechanical - Rough In / Final	<input type="checkbox"/> 17. Fire Alarm	
<input type="checkbox"/> 8. Ext. Wall Covering & Flashing	<input type="checkbox"/> 18. Kitchen Hood Suppression System	
<input checked="" type="checkbox"/> 9. Framing	<input type="checkbox"/> 19.	
<input checked="" type="checkbox"/> 10. Energy Code - Wall	<input type="checkbox"/> 20.	

* Reminder - An As-Built Survey will be required to verify lot coverage per notes on previous Inspection tickets. - Framing 1-24-18, Framing 1-12-18.

THIS INSPECTION HAS BEEN: APPROVED REJECTED

INSPECTOR: Adam CONTRACTOR: Brett Roberts DATE: 2-13-18

A TEMPORARY CERTIFICATE OF OCCUPANCY IS ISSUED FOR _____ DAYS FROM THE DATE OF THIS INSPECTION

A RE-INSPECTION FEE OF \$ _____ .00, MUST BE PAID, AND A RE-INSPECTION COMPLETED PRIOR TO SCHEDULING ANY NEW OR ADDITIONAL INSPECTIONS.

ALL VIOLATIONS NOTED SHALL BE CORRECTED AND A RE-INSPECTION SCHEDULED BY CALLING (865)675-2384