



**Forest Acres Zoning Board of Appeals
Minutes
November 20, 2023
City Council Chambers
6:00 PM**

I. Call to Order

Robin O'Neil called the meeting to order at 6:00 PM.

- 1. Determination of a Quorum** – There was a quorum with Robin O'Neil, Kate Usry, Jesse Smith, Will Owens, and Pete Balthazor. Shirley Fawley and Derek Pace were absent. Andy Smith, Assistant City Administrator, and Keith Linder, Building Official, were present.

II. Approval of Minutes

1. October 30, 2023

The minutes were not prepared in time for consideration.

III. New Business

1. Variance request

6257 Satchel Ford. (Baker); TMS 14110-05-14. Requesting a variance of 277 square feet to increase the total allowed square feet (750) for all accessory structures to a total of 1,600 square feet to accommodate a covered pavilion. A second variance request of two feet to decrease the accessory structure side setback from five feet to three feet.

Ms. O'Neil reminded the Commission that this item was returning from the last meeting and invited Mr. Baker to provide any updates. Mr. Baker noted that the square footage variance request is now part of the application and that the setback variance request remains in the application.

Ms. O'Neil asked for clarification on the needed square footage variance with respect to total square footage of all accessory structures. Mr. Balthazor asked for total square footage and the variance needed.

Andy Smith noted that the current cumulative square footage of all accessory structures granted to this property by right and by variance is 1,456 (even though granted under an earlier version of the ordinance). He noted that the request is for 144 sq ft (the size of the pavilion) which is the amount that exceeds the current amount total amount of accessory structure square footage.

Andy Smith noted that Mr. Lindler and City Administrator, Shaun Greenwood, determined that the only variance needed is the 144 sq ft, not the total noted in the agenda and public notice. Since this is less than the amount publicly noticed, we can proceed with the request.

Because of the change in the verbiage in the ordinance (i.e., that all accessory structures can't exceed 750 sq ft on a cumulative basis), this pavilion (even though under 750 individually) needs a variance to be allowed.

Mr. Balthazor asked the applicant, Mr. Baker, if there was anything unusual/peculiar about the property that would cause an unnecessary hardship. He noted the location of the proposed pavilion and that it needed the setback variance to keep the legs out of the line of the stairway from the rear of the house. Mr. Balthazor clarified that the question pertained to the square footage in addition to the setback.

Ms. Usry clarified comments from the previous meeting that the pavilion would not be visible from the road. Mr. Baker confirmed that there's a large privacy wall that would obstruct view. He also noted that his neighbors (on the side adjacent to where this is proposed to go) wrote a letter in support of the project and granting the variance.

Ms. Usry made a motion to approve the rear setback. Mr. Owens seconded. The motion passed 3-1 (with Mr. Balthazor opposed).

Mr. Ownes made a motion to grant the 144 sq foot variance for cumulative square footage of all accessory structures. Mr. Jesse Smith seconded. The motion passed 3-1 (with Mr. Balthazor opposed).

2. Tree appeal

4455 Chicora Street. (Bettis); TMS 13916-12-10. Appeal of tree permit denial.

The applicant, Mr. Bettis, introduced his request. He noted that the tree in question is in the middle of his yard and the canopy and roots are getting bigger. He noted that he's had trouble in the past with a 48" drain pipe that runs nearby and ends in Lake Katherine. He's concerned that the roots of this tree are threatening the pipe and, if it collapsed, it would cause significant drainage issues for the neighborhood. He noted that this tree prevents full establishment of a lawn and that it poses safety issues for the neighbors. He noted that he has at least 70 significant trees in his yard and that he's not against trees.

Mr. Balthazor asked what kind of tree it is. The applicant wasn't sure and staff speculated that it's an oak. Mr. Balthazor asked what the diameter at breast height (dbh) is. The applicant wasn't sure. Mr. Balthazor confirmed that the tree has to be 12" at breast height to be subject to the tree protection ordinance. Code Enforcement Officer Eric Sapp noted that he wasn't sure if it was that large because the tree splits before reach breast height. Mr. Balthazor asked and

Mr. Sapp confirmed that he has no solid measurement of dbh. Mr. Owens asked about the establishment of a lawn provision. Mr. Sapp noted that his interpretation was that this didn't apply because the lawn is already established and there is pine straw around the base of the tree.

There was further discussion of site configuration and establishment of a lawn. Mr. Lindler noted that some of this is subjective and staff has to make the best determination they can.

Bryan Walters, a neighbor on Clemson Ave. who backs up to the lot in question, noted that in this area there's clay at a certain layer of the soil and that water doesn't get easily absorbed. He noted that with this soil instability and the roots from the tree, there is a significant threat to the previously mentioned pipe.

Mr. Owens made a motion to approve the appeal. Ms. Usry seconded. Motion passed unanimously.

The applicant asked and Mr. Lindler confirmed that staff would put together a approval permit in light of the ZBA's decision.

IV. Adjournment

Mr. Balthazor made a motion to adjourn. Mr. Owens seconded. The meeting was adjourned at 6:30 P.M.

Respectfully Submitted,
Andy Smith, Assistant City Administrator/Finance Director
(Administrative support of Zoning Board of Appeals)