



AGENDA ITEM COVERSHEET

PREPARED BY: Gloria Abbotts, Sr Planner

DEPARTMENT: Planning &
Development

MEETING: Board of Adjustment – 9/20/2021

SUBJECT: Variance to the required 20' front yard setback of 5' for 206 Lake Drive Lot 10R Block 51A

BACKGROUND:

The applicant The Freeman Group, LLC, is requesting a variance of 5' from Section Sec. 40-75. - Dimensional standards for accessory structures that requires a 20' front yard setback. The property is located at 206 Lake Drive and is in the R-1 zoning district. A three story two-unit townhome is currently under construction on the property. The property consists of one 7,656 sq ft lot that was recombined in 2020 (LOT 10R BLK 51A). The lot is considered double frontage because it fronts both Birmingham Ave & Lake Dr rights-of-way. The minimum front yard setback is to be utilized for both frontages. Staff presented a text amendment in May 2021 proposing a 5' setback for pools in the designated rear yard of through lots and Council decided to take no action on the amendment.

To resolve the situation the applicant is seeking a variance of 5' from the front property line on Birmingham Avenue. If approved, the pool would be located out of the wetlands delineated on the lot. The applicant is seeking a variance from the front setback requirement on Birmingham Ave because it is an unimproved right-of way.

REQUIRED FINDINGS:

When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the board of adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the

neighborhood or the general public, may not be the basis for granting a variance.

3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

CONDITIONS:

In granting any variance, the Board may prescribe reasonable and appropriate conditions and safeguards, in conformity with this ordinance. Violation of any such conditions or safeguards, when made part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Article 19 of the Zoning Ordinance:

If the board supports the findings staff recommends the below condition for the variance

The variance is granted for the proposed pool only and any new structures on the property shall conform to the setback requirements.

Attachments

1. Application
2. Proposed Site Plan