



**TOWN OF FORT MILL  
BOARD OF ZONING APPEALS MEETING  
September 21, 2020  
6:00 PM**

**Live Viewing Online: Request Access by emailing before 5:00 pm on Monday, September 21, 2020 to Penelope G. Karagounis, Planning Director at [pkaragounis@fortmillsc.gov](mailto:pkaragounis@fortmillsc.gov)  
Public Access by Phone: Dial (toll free) 1-866-899-4679 and use access code 220-823-293  
In Person Public Hearing located at 200 Tom Hall Street (Outside of Town Hall)**

**AGENDA**

**CALL TO ORDER**

**APPROVAL OF MINUTES**

Regular Meeting: July 20, 2020 [Pages 2-5]

**PUBLIC HEARING ITEMS**

- 1. CASE # 2020-0683  
Dan Ryan Builders  
2850 Wateran Way  
Tax Map # 020-30-01-247  
Zoning District: MXU** Applicant is requesting a variance from the zoning ordinance to allow a reduction in the 5' side yard setback requirement for principal structures.  
[Pages 6-15]

**ADJOURN**

*The following press was notified of the meeting by email or fax in accordance of the Freedom of Information Act: The Herald; CN2; WRHI; Fort Mill Times and WBTV. The agenda was also posted at the entrance to Town Hall the required length of time and on the Town website.*

*The Town of Fort Mill is committed to assuring accessibility with reasonable accommodation, of Town services and facilities for all individuals, in compliance with federal law. Please contact the Town Manager's Office at 803-547-2116 if you need assistance.*

**MINUTES  
TOWN OF FORT MILL  
BOARD OF ZONING APPEALS  
July 20, 2020  
6:00 PM**

Present: Amber Bryant, Ryan Helms, Chairman Jim Thomas, Terri Murray, Carolyn Blair, Jody Stegall, Planner Alex Moore, Planner Nick Cauthen, Planning Director Penelope Karagounis

Absent: Becky Campbell

Guests: Mike Short (Applicant)

Acting-Chairman Thomas called the meeting to order at 6:00 p.m. and welcomed everyone in attendance. He noted alternate viewing and public hearing options for the meeting. Live Viewing Online: **Please visit** [www.fortmillsc.gov](http://www.fortmillsc.gov) Public Access by Phone: Dial (toll free) 1-877-309-2073 and use access code 406-966-501

**ELECTION OF CHAIR & VICE-CHAIR FOR 2020**

Acting-Chairman Thomas called for nominations for the position of Chair. Mr. Thomas was nominated. There being no further nominations, Acting-Chairman Thomas called for a vote. Mr. Stegall made a motion to elect Mr. Thomas. Ms. Blair seconded the motion. The motion was approved by a vote of 5-0.

Chairman Thomas called for nominations for the position of Vice-Chair. Mr. Stegall was nominated. There being no further nominations, Acting-Chairman Thomas called for a vote. Mr. Thomas made a motion to elect Mr. Stegall. Ms. Murray seconded the motion. The motion was approved by a vote of 5-0.

**APPROVAL OF MINUTES**

Chairman Thomas called for a motion to approve the minutes of the November 25, 2019 meeting. Mr. Stegall made a motion to approve the minutes of the meeting as submitted by staff. Mr. Helms seconded the motion. The motion was approved by a vote of 6-0.

**PUBLIC HEARING ITEMS**

**A) Variance request from Mike Short– 118 Hallett Street – Case # 2020-0116:**

Mr. Cauthen provided a brief overview of the variance request, the purpose of which was to allow a carport in front of the principal structure on a corner lot. Staff added that the case was originally going to be heard in March but had been pushed back due to COVID-19, and in the meantime the carport has already been installed. The applicant communicated in his application that due to the orientation of his corner lot and the location of his driveway the carport could not feasibly be located anywhere else on the property.

Mr. Thomas established the street names as Hallett “front” and Hallett “side” for purposes of discussion during the hearing. Mr. Thomas opened the public hearing.

Mr. Short said he did not anticipate any issues when he first spoke with the Town. He did not realize he had 2 “front” yards. The carport is intended to protect his vehicles and would have cost hundreds of more dollars to cancel installation.

Mr. Stegall asked if the carport in the staff report pictures was the requested carport. Mr. Short replied yes.

Mr. Thomas clarified that it was installed after the applicant found out he could not get a building permit. Mr. Short replied yes and that he tried to come before the Board in March but was unable to be heard due to the virus and lack of a quorum.

Mr. Thomas closed the public hearing. No emails were received, nor did anyone come to speak at the chambers besides the applicant.

Mr. Thomas asked Mr. Short if he realized a garage was installed directly behind his property that meets the zoning ordinance. Mr. Short stated he did not know when that garage was installed.

Mr. Stegall stated that he could see how someone could be unaware they have 2 front yards as defined by the zoning ordinance. Mr. Stegall asked if the applicant was asking for a variance from the setbacks of “side” Hallett Street. Staff explained that accessory uses must not be located closer to the street than the home at any point, regardless of the distance from the street. It was explained that the applicant was asking for a variance to allow the carport to remain over his driveway which is closer to Hallett Street than his house.

Ms. Murray asked if there was anywhere else on the property that the carport could be placed. Mr. Thomas stated the carport could be turned 90 degrees and placed in the applicant’s backyard. Mr. Short stated the driveway had been there since 1987 and placing a carport in the backyard would render it completely useless.

Mr. Thomas stated that about 8 or 9 others over the past few years have been denied by the BOZA asking for accessory structure variances regarding front yard encroachments.

Chairman Thomas asked what the extraordinary conditions were pertaining to the subject property. Mr. Short replied the carport would not negatively affect anyone in Town.

Ms. Murray asked why the zoning ordinance restricted accessory structures from being in front yards. Staff responded they could diminish property values and become eye sores particularly regarding corner lots if for example a shed was placed right next to the street. Per staff, every case can be slightly different but in general accessory uses should not be more visible than the homes themselves. Ms. Murray asked how often cases such as these arise. Staff noted a couple per year typically, most do not proceed to the BOZA.

Staff also noted that other jurisdictions have similar requirements as related to accessory structure placement such as Lancaster County.

Mr. Thomas added he has not generally liked the idea of 2 front streets. However, Council and the Planning Board does not want to change it. The reason for it, is so the corner house does not stick out in front of houses on the adjacent side street. The courts have said the 2 front yard concept is a legal requirement, per the Chairman.

Mr. Short said he wanted to point out that across the street from the side “front” yard is woods, and no houses will ever be located there. The carport would not hinder or diminish anyone’s property value.

Ms. Murray asked how this was an extraordinary circumstance and Mr. Short replied the driveway has been in the same location for 35 years.

Chairman Thomas asked if there were any further questions or comments. Being none, Chairman Thomas called for voting on the four criteria required in granting a variance, specific to the applicant’s request. Mr. Thomas called for a motion on whether or not there were extraordinary and exceptional conditions pertaining to the particular piece of property. Mr. Stegall made a motion that there were extraordinary and exceptional conditions pertaining to the particular piece of property. Mr. Helms seconded the motion. The motion passed by a vote of 4-2 (Thomas and Murray opposed).

Mr. Thomas called for a motion on whether the conditions apply to other property in the vicinity. Mr. Helms made a motion that the conditions do not generally apply to other property in the vicinity. Mr. Stegall seconded the motion. The motion passed by a vote of 6-0.

Mr. Thomas called for a motion on whether the application of the ordinance effectively prohibits or unreasonably restricts the utilization of the property. Mr. Helms made a motion that the application of the ordinance would effectively prohibit or unreasonably restrict the utilization of the property. Ms. Murray seconded the motion. The motion passed by a vote of 5-1 (Thomas opposed).

Mr. Thomas called for a motion on whether the authorization of a variance would be of substantial detriment to adjacent property or to the public good, and whether the character of the district would be harmed by the granting of the variance. Mr. Stegall made a motion that the authorization of a variance would not be of substantial detriment to adjacent property or to the public good, and that the character of the district would not be harmed by the granting of the variance. Ms. Bryant seconded the motion. The motion passed by a vote of 5-1 (Murray opposed).

Mr. Thomas called for a motion on whether or not to grant the variance. The Board voted to approve the variance by a vote of 4-2 (Thomas and Murray opposed). The granting of the variance allowed the carport (accessory structure) to remain over the existing driveway and closer to Hallett Street than the home.

There being no further business, the meeting was adjourned at 7:00 p.m.

Respectfully submitted,

Nick Cauthen  
Planning Department  
August 4, 2020

**BOARD OF ZONING APPEALS MEETING**  
**JULY 20, 2020**  
**SIGN-IN SHEET**

Name	Affiliation
Miss Short	

**Town of Fort Mill**  
**Board of Zoning Appeals**  
**Item for Action**

**Item #1**     **CASE # 2020-0683**  
**Dan Ryan Builders**  
**2850 Wateran Way**  
**Tax Map # 020-30-01-247**  
**Zoning District: MXU**

Applicant is requesting a variance from the zoning ordinance to allow a reduction in the 5' side yard setback requirement for principal structures. [Pages 6-15]

**Background / Discussion**

The Town has received a variance request from Dan Ryan Builders for a non-conformity related to the construction of a single-family house (a “principal use”) at 2850 Wateran Way, located in the Masons Bend subdivision.

The purpose of the request is to permit a reduction in the side yard setback requirement from 5' to 4.2' for the principal structure. Due to surveyor error the house was built less than 5' from the side property line causing the applicant to request a variance. The error was discovered during final measurements shortly before the property was scheduled to be sold. Per the applicant, the separation to the next home is 16.3' and no emergency access will be restricted between homes with the granting of the variance.

The Masons Bend MXU Development Conditions of the Town’s Zoning Ordinance outlines the following setback requirements:

***15(C). Single Family Detached Development, minimum side yard setback is 5 feet.***

Pursuant to Section 6-29-800(A)(2) of the SC Code of Laws, the Board of Zoning Appeals has the power to:

Hear and decide appeals for variance from the requirements of the zoning ordinance when strict application of the provisions of the ordinance would result in unnecessary hardship. A variance may be granted in an individual case of unnecessary hardship if the board makes and explains in writing the following findings:

- (a) there are extraordinary and exceptional conditions pertaining to the particular piece of property;
- (b) these conditions do not generally apply to other property in the vicinity;

- (c) because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and
- (d) the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

- (i) The board may not grant a variance, the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a nonconforming use of land or to change the zoning district boundaries shown on the official zoning map. The fact that property may be utilized more profitably, if a variance is granted, may not be considered grounds for a variance. Other requirements may be prescribed by the zoning ordinance.

A local governing body by ordinance may permit or preclude the granting of a variance for a use of land, a building, or a structure that is prohibited in a given district, and if it does permit a variance, the governing body may require the affirmative vote of two-thirds of the local adjustment board members present and voting. Notwithstanding any other provision of this section, the local governing body may overrule the decision of the local board of adjustment concerning a use variance.

- (ii) In granting a variance, the board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare.

**Submitted by:**

Nick Cauthen  
Planner II  
September 10, 2020

**York County Tax Map # 020-30-01-247  
Zoning Map**



**York County Tax Map # 020-30-01-247  
Aerial Map**



**Views from Wateran Way of subject property (right side)**







# Variance Appeal Application

Town of Fort Mill, South Carolina

Owner / Applicant Information:

Applicant Name: Dan Ryan Builders  
Mailing Address: 227 West Trade St., Ste 16 10  
Charlotte, NC 28202  
Telephone Number: 704-634-1703

Property Information:

Address: 2850 Wateran Way  
Current Zoning: MXU  
Current Use of Property: Residential

## Submission Checklist

- Completed application\*
- Drawings and specifications of proposed improvements
- Site plan showing location of proposed improvements
- Application fee (\$125 residential / \$250 non-residential)\*

Additional materials may be required  
\*Required with submission

The Board of Zoning Appeals may grant a variance from the requirements of the Zoning Ordinance when strict application of the provisions of the Ordinance would result in unnecessary hardship.

The findings required by the Board for variances are identified in Sec. 6-29-800 (attached) of the South Carolina Code of Laws. Responses to each of the following questions will assist the Board in making a determination.

1. Describe the variance request: We requesting a variance of  
0.80' to the side yard setback on the left  
hand side of this property. This will create  
a side yard setback of 4.2'.

2. Describe any extraordinary and exceptional conditions pertaining to the particular piece of property (size, shape, topography, etc.):  
The extraordinary and exceptional condition  
of this home is that it is 4.2' to the side  
property line.

APPLICATION CONTINUED ON NEXT PAGE

P.O. BOX 159 • 200 TOM HALL STREET • FORT MILL, SC 29715  
TELEPHONE (803) 547-2034 • FAX (803) 547-2126

3. Describe how the conditions listed above are unique to the property for which the variance is sought:

This is the only home located closer than  
the required 5.0' to the side property line.

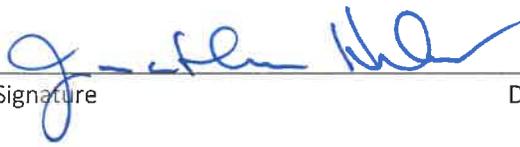
4. Describe how the current zoning regulations prohibit or unreasonably restrict utilization of the property:

The current zoning regulation restricts the  
utilization of the property because the  
side yard setback is 5.0'.

5. Describe why the granting of the requested variance will not be injurious to adjacent properties, the neighborhood, or the general public:

The granting of the variance will not restrict  
emergency response access. Also, the side yard setback  
that is required is 5.0'. The separation to the next  
closest house is 16.3', or 3 times the required separation.

Acknowledgement of Requirements: Notices of appeal shall be posted on affected property so as to be clearly visible from a traveled street. The owner or appellant is instructed to maintain posting and to be responsible for notifying the town promptly if the sign is damaged or removed. Failure to do so may delay Board action. Additional permitting after Board approval may be required prior to beginning work, including zoning review, stormwater/engineering review, building permitting, and business licensing. Please note, incomplete submissions will not be accepted.

 8.31.2020  
Signature Date

APPLICATION CONTINUED ON NEXT PAGE

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- (ii) In granting a variance, the board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare.

I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS A SURVEY AS SPECIFIED THEREIN; ALSO THERE ARE NO VISIBLE ENCROACHMENTS OR PROJECTIONS OTHER THAN SHOWN.

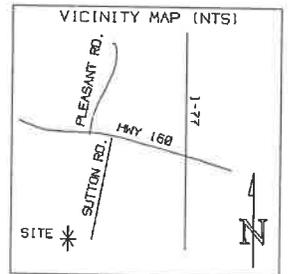
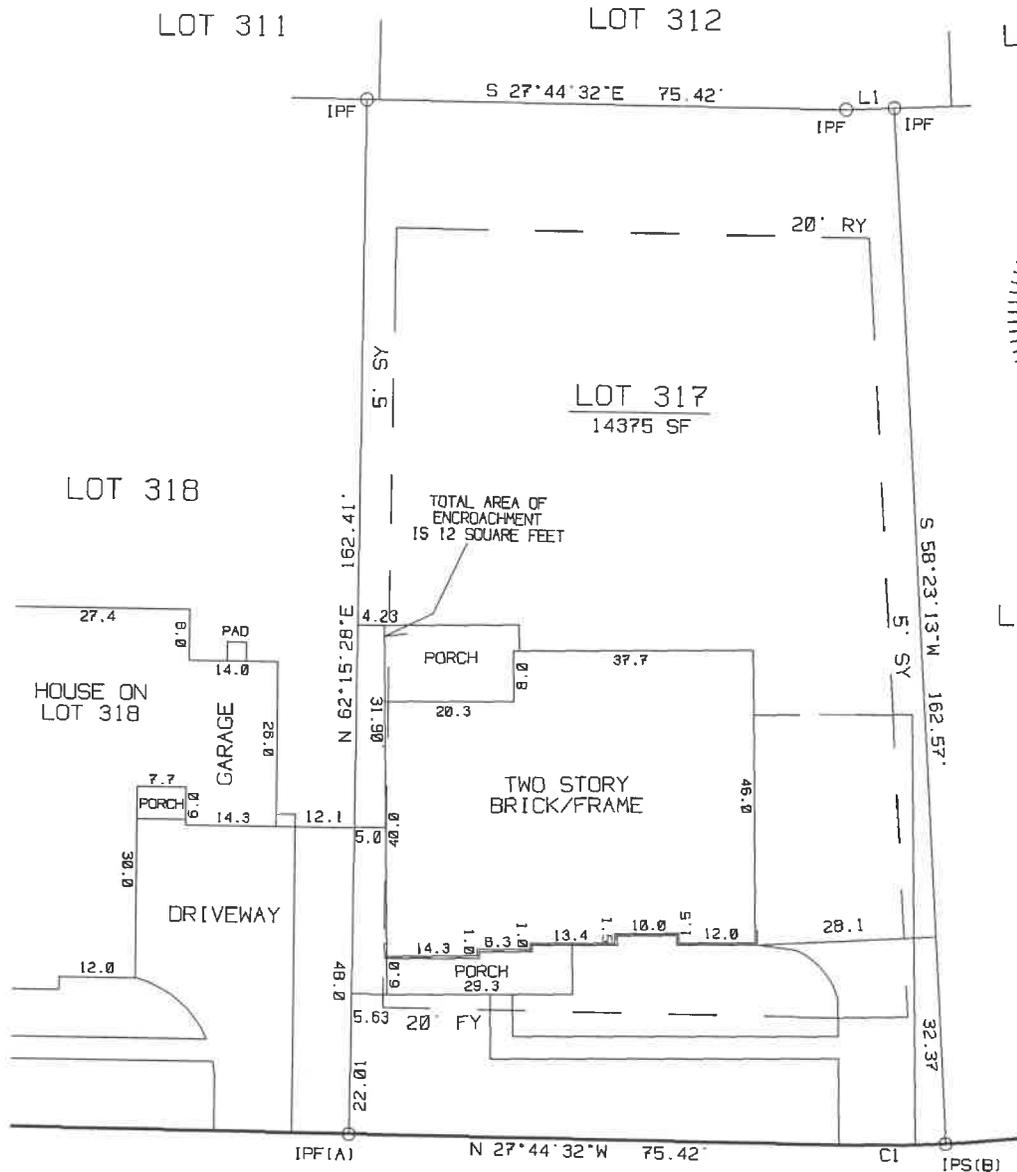
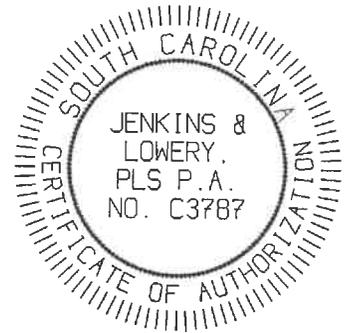
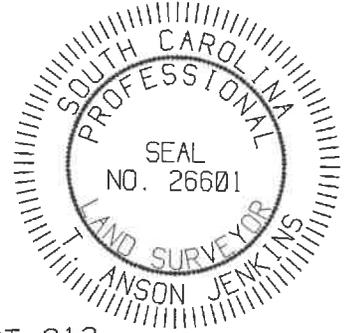
P:MSB317

SIGNED

T. ANSON JENKINS SCPLS NO.26601

NOTE: TO CLERK OF COURT THIS SURVEY CREATES NO NEW LOTS OR PROPERTY LINES.

DATED: AUGUST 31ST, 2020



TIES:

IPF(A) S 06°14'26"E 31.09'  
TO A NAIL IN B/C

IPS(B) S 31°02'32"E 100.84'  
TO A NAIL IN B/C

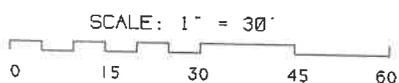
LINE	BEARING	DISTANCE				
L 1	S 30°55'33"E	7.60'				
CURVE	DELTA ANGLE	RADIUS	ARC	TANGENT	CHORD	CHORD BEARING
C 1	3°52'19"	275.00'	18.58'	9.30'	18.58'	N 29°40'39"W

NOTE: U.G. UTILITIES IN AREA SERVING OTHER PROPERTIES THIS PROPERTY MAY BE SUBJECT TO ANY EASEMENTS AND/OR RIGHT-OF-WAYS OF RECORD. SEE RECORD MAP FOR FURTHER NOTES.

- IPF - IRON PIN FOUND
- IPS - IRON PIN SET
- BC - BACK OF CURB
- CM - CONCRETE MONUMENT
- PSDE - PUBLIC STORM DRAIN
- EASEMENT
- S.T. - SIGHT TRIANGLE
- FY - FRONT YARD
- SY - SIDE YARD
- RY - REAR YARD
- FPE - FLOOD PROTECTION ELEVATION

### PHYSICAL SURVEY

OF  
2850 WATERAN WAY  
LOT 317 OF MASONS BEND PHASE 2 MAP 1  
TOWN OF FORT MILL, YORK COUNTY, S.C.  
PROPERTY OF FIELDING HOMES



MAP RECORDED IN BOOK 153  
AT PAGES 229-232

JENKINS & LOWERY PLS. P.A.  
3409 OLD CHARLOTTE HIGHWAY  
MONROE, NC 28110  
PHONE: (704) 821-3350