

Fredericksburg Board of Zoning Appeals

Record of Decision

Variance 2022-01 – 1405 Franklin Street

The Fredericksburg Board of Zoning Appeals heard Jackie Payne’s application for a variance from the requirement of City Code § 72-13.3.B and § 72-82.4B(2) of the Unified Development Ordinance to reduce the front setback from 22 feet to 8 feet, to reduce the rear yard setback from 24 feet to 2 feet, and permit a covered stoop 6 feet from the front property line, at its meeting on March 20, 2023. Upon consideration of the record as a whole, the Board of Zoning Appeals adopts this Record of Decision.

Findings of Fact

- A. Jackie Payne is the owner of property identified as GPIN 7779-75-7651 in the Letter of Concurrence dated March 3, 2022. The property address is 1405 Franklin Street.
- B. The lot area and dimensions are shown on a plat entitled, “Boundary Survey 1403 Franklin Street,” by Hamilton Palmer, dated September 1, 2015.
- C. The subject parcel is a lot of approximately 2,112 square feet in area, zoned Residential-4 (R-4). The parcel is rectangular in shape, 46 feet wide by 44 feet long, with 46 feet frontage on Franklin Street.
- D. The parcel is developed with parking for 1403 Franklin Street (GPIN 7779-75-7568).
- E. The applicant proposes to build a single-family detached dwelling on 1405 Franklin Street and create a shared driveway between 1405 and 1403 Franklin Street. However, the proposed dwelling is to encroach in the front and rear yard of the lot. In order to permit this dwelling the applicant therefore seeks a variance to reduce the yard setbacks to 8 feet in the front, 2 feet on the rear, and 6 feet for a covered stoop in the front.
- F. The applicant’s proposals are shown on the illustrated plat submitted with the application.

Conclusions of Law

1. The applicant has carried his burden of proof to prove, by a preponderance of the evidence, that his application meets the standards in Code of Virginia §15.2-2201 and the criteria in §15.2-2309.
2. 1405 Franklin Street is too shallow accommodate a single-family detached dwelling within the required front and rear yard setbacks.
3. The variances sought are all reasonable deviations from the UDO regulations on the location of a building or structure when the strict application of the ordinance would unreasonably restrict the use of the property, and such need for a variance is not shared generally by other properties. The variance is not contrary to the purpose of the zoning ordinance.
4. The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance,
5. The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the Ordinance.
6. The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property.
7. The relief or remedy sought by the variance application is not available through a Special Exception or Special Permit process that is authorized in the Ordinance or the process for a modification from a provision of the Zoning Ordinance at the time of the filing of the variance application.

Therefore, the Fredericksburg Board of Zoning Appeals grants the requested variances to reduce the front setback from 22 feet to 8 feet, to reduce the rear yard setback from 24 feet to 2 feet, and permit a covered stoop 6 feet from the front property line, subject to the following conditions:

1. The location of the house for 1405 Franklin Street shall be in substantial accordance with the Final Site Design submitted on January 24, 2023, by Robert Kelsey.
2. The non-conforming use at 1403 Franklin Street shall be converted to a legal conforming use prior to the issuance of a building permit on 1405 Franklin Street.
3. A property survey showing the two separate lots at 1403 and 1405 Franklin shall be recorded prior to issuance of a grading plan or building permit on 1405 Franklin Street.

4. The curb cut in front of 1405 and 1407 Franklin Street will be reduced in general accordance with the Final Site Design submitted on January 24, 2023, by Robert Kelsey as modified if necessary to meet Public Works standards.

Fredericksburg Board of Zoning Appeals

By: _____
_____, Chair

Date: _____