

The Smithfield Board of Zoning Appeals held its regular meeting on Tuesday, January 16<sup>th</sup>, 2018. The meeting was called to order at 7:30 p.m. Members present were Mr. Christopher Gwaltney, Chairman; Mr. Clem Batten, Vice Chairman; Ms. Faye Seeley, Ms. Catherine Bowden and Mr. Robert Briggs. Staff members present were Mr. William G. Saunders, IV; Director of Planning, Engineering and Public Works and Mr. William H. Riddick III, Town Attorney. There were four (4) citizens present. The media was not represented.

Chairman Gwaltney – I would like to call the January 16<sup>th</sup>, 2018 Town of Smithfield Board of Zoning Appeals meeting to order. The first item on the agenda is a Special Yard Exception under Article 12 Section D of the Town of Smithfield Zoning Ordinance: 226 Moonefield Drive, Christopher and Melissa Powell, applicants. Could we have a staff report please?

Director of Planning, Engineering and Public Works – The applicants and owners are Christopher and Melissa Powell of 226 Moonefield Drive. Their property is in the Neighborhood Residential Zoning district. The setbacks for the primary structures on this lot are thirty-five feet front and rear and fifteen feet on the sides. However, whenever you are on a corner lot, both road frontages are treated as a front yard. Therefore, the thirty-five feet is on both frontages. The applicants would like to have a twenty-eight by forty foot garage addition attached to the primary structure. Once you attach a garage to a primary structure, it makes it need to meet the requirements of the primary structure as it relates to setbacks. They would like to encroach 8.6 feet into the required thirty-five foot rear yard setback. The special yard exception would allow for the construction of this attached garage addition with a 26.4 rear yard setback. However, this will create non-conformity. The property, in its current state, is conforming to the town ordinance. Further, there are opportunities for the applicants to place a garage of this size in other locations on their lot. However, the position that they have applied for tonight is their preferred location on the lot but not the only locations that are possible. Thank you.

Chairman Gwaltney – Would the applicants like to speak?

Mrs. Melissa Powell – Thank you for hearing us. I am a little nervous. I do not usually do public speaking. My family and I are here tonight applying for a special yard exception for an attached garage; specifically, the rear yard setback of thirty-five feet.

Our house is located on a corner lot so the thirty-five feet is all around our entire property. It shows on the survey how limited we are as far as putting a garage. I have spoken to our neighbor on that side. It would be closest to their yard. They were working tonight and could not be here. I do have a text from her saying that she was okay with it. I showed her the survey. They were fine with it. As stated in the letter before, we met all the requirements of Article 12F Section 4 with our proposed location. This proposed location is the only logical and most aesthetically pleasing option for us. I also have pictures to show you of our house. It would really only fit in this one spot. It is next to our current garage and our normal entrance to the house. It is also behind our current driveway. This location allows us to tie our house via the current laundry room. The breezeway would attach to our laundry room. Hopefully, my intention is to make the breezeway a mud room so the kids do not have to bring all the dirt into the house which I am very excited about. Also, it keeps our children safe by having it in this area because you can contain that area during construction but not disrupt us parking in our driveway, pulling the car up, and letting the kids out as close as possible to our house. I have some pictures if you want to look at them before I start discussing other areas. There are pictures showing the front of our house. This is the side we would like for the garage to be on. I have some pictures of the backyard with the pool. We based the location of the pool where we intended to put our garage. You will see the actual niche in our fence so that we have a walkway around the garage. It was all based on our discussions with Joseph Reish. It was never said that it was not a good spot so we just moved forward. When we put the pool in, we had to clear the lot. We also cleared some trees on the side yard. I blew up the picture of the side yard so you guys could see it. We could put the garage on the other side of our yard but that is actually really close to our neighbors. It would look very odd on that side of the house. The driveways would be right next together. It would also mean our driveway would open up to an intersection. I do not know if that is safe or if that is really the right way of doing it. I think it would decrease the value of our house because it would look odd and also our neighbor's house because we would be so close to them. It would almost be claustrophobic. There are some other pictures also.

Chairman Gwaltney – Did you say that the bump-out is there to accommodate the garage? Is that where the back of the garage will be is at the bump-out?

Mrs. Powell –Yes. I took a picture of our survey and kind of crudely drew it. If we had thought there would be an issue, we probably would have redesigned it. We went ahead, based on our discussions, and cleared that lot and back filled it. We sawed the notch in the cement and the fence. We spent quite a bit of money just to clean that up. It was covered. There were a lot of trees and one huge maple tree. Someone helped us move that out of the way. Looking at all of this, I am hoping you will look favorably on letting us put the garage there. It would really help us out in completing our home and my husband will get his dream garage and some time to himself from our three girls in our house.

Chairman Gwaltney – Will the garage doors be on the twenty-eight foot side?

Mrs. Powell – The front side facing Watson Drive is where three doors would be. We have two doors actually. One will be where the pool is and one at the breezeway. You will be able to get into the backyard easier that way.

Mr. Briggs - So, you will build an additional driveway to get to those three doors.

Mrs. Powell – Yes. We are still not sure how we are going to do that. We are going to let the garage sit and kind of figure out what we want to do. It would kind of be tied into the existing one.

Chairman Gwaltney – So, you think as far as coming off of the right of way into your property, you would still use that same part and then flare out as you get off of the main road. It would not be a forty foot wide driveway.

Mrs. Powell – No.

Ms. Bowden – I know you said that your neighbor did not mind. Do you have anything in writing from your neighbor?

Mrs. Powell – No. I have a text from her.

Mr. Briggs – Is that the neighbor that lives at 301 Watson.

Mrs. Powell - I typed up a letter but with the holidays I have not had a chance to catch up with them. I did start some text messaging with her about school being closed. I watched the kids this morning so they did not have to take off of work. The text

explained what we want to do and I sent them a picture. They asked a few questions. I can show it to you if you want me to.

Mr. Briggs – Do you have a configuration where it is only a two car garage? Did you consider that?

Mrs. Powell – We have considered that but the space upstairs will be unfinished for now. We would eventually want to finish it and have a nice playroom or a man cave type spot up there. We played with different sizes but we decided on this size because we did not think there would be an issue. When you decide on something, you kind of have your heart set on it.

Chairman Gwaltney – Have your next door neighbors been there for a while or are they relatively new?

Mrs. Powell – I think it has been about two summers or so.

Mr. Briggs – How long have you lived here?

Mrs. Powell – We moved here in 2008. We both work at the shipyard.

Chairman Gwaltney – Thank you. Is there any discussion?

Ms. Bowden – I think she said that Mr. Reish said that this would not work. Did you talk directly to him?

Chairman Gwaltney – Yes. I think what he meant was that it would require this special exception. Is there any other discussion or opinions?

Mr. Powell – Our corner lot is kind of hampered with the extreme amount of setbacks. It could be interpreted, based off the zoning ordinance, that both of the side yards could be considered. There are two front yards with the rear as a thirty-five foot setback but you could also consider the other side a rear which would have another additional thirty-five foot setback. Depending on how you interpret that side yard, it is 60% - 65% setbacks on the property. If you look into the ordinance, it says that anything over 50% of the width is considered too much setback. I am not here to argue the ordinance; but it is an extreme amount of setbacks and it limits where you put the garage. Going into it, we thought we had the same setback on that side with the fifteen feet. That changed as we went along. The reason we did the pool separately was because they determined that it was a washout issue and you would have to have additional measures in order to have such a big permit for that area. The location is at

the edge of the driveway which causes you to have that additional eight and a half feet.

The other option was to take away the driveway and reduce the size of the existing garage which means additional cost. We would have to knock down that wall and make that sixteen foot garage door into a twelve foot. We are talking about \$5,000.00 to \$10,000.00 extra on our side to accomplish that.

Mr. Briggs – Could you explain something to me again? If you were to take it back to where the edge of your garage hit the thirty-five foot setback line, it would reduce the width of the garage to where it is maybe only a two car garage. Can you talk me through again the thought process of not wanting to try to do this without a variance?

Mr. Powell – Yes. The garage, currently designed, has the three bays for three cars which we have right now. That is kind of where we are at with our thoughts on that. If you reduced it anymore, we would not have that extra bay. It would mean cars would be in the driveway which would potentially be an impediment to the stop sign that is right there.

Chairman Gwaltney – Mr. Saunders, I do not know if this is something we need to deliberate or should deliberate. I think one of our concerns is the proposal will effectively have four garage doors facing Watson; the one existing and three new ones. Is there any zoning or other regulations that control the number of garage doors we can have facing the street or anything like that?

Director of Planning, Engineering and Public Works – No sir, not as it relates to this neighborhood for this particular subject property.

Mr. Powell – The other issue is that we are not allowed to have a driveway facing Moonefield Drive or Moone Drive. We cannot put a driveway or culvert there facing the road on the other side of the home which is what we were told because it would cause some issues.

Mr. Briggs – So you did consider putting it on the other side of the house.

Mr. Powell – We looked into what that would entail and how we could go about that when we first started planning before the pool was built. We did consider it originally.

Ms. Seeley – I have a question? Would this lot be an undue hardship compared to the other lots in that area?

Town Attorney – The ordinance, as Mr. Saunders pointed out, provides that both sides are deemed to be a front yard. As Mr. Powell said, it imposes greater setbacks which affect the building area of the property. Is it a hardship? I do not know about that but that is not the standard. We talk about variances and exceptions. A variance is completely different than what they are asking for. This is an exception. The standards that apply to exceptions are not as strict as the standards that apply to variances. Mr. Powell did a pretty fair job of his analysis in the handout he gave you with references to the town ordinances. You kind of have to follow that mechanism right there. It says that you have to make a finding that if you were to grant this then it does not “adversely affect the health, safety, or welfare of persons residing or working on the premises or in the neighborhood and will not unreasonably impair an adequate supply of life and air to the adjacent property nor increase congestion in the streets or increase public danger from fire or otherwise, unreasonably affect public safety nor impair the character of the district or adjacent districts nor be incompatible with the general plans or objectives of the Comprehensive Plan nor be likely to reduce or impair the values of buildings or property in surrounding areas; but that the establishment or use will be in substantial accordance with the general purposes and objectives of this ordinance.” That is the analysis you have to go through. You have the power to grant this. The question is if what he is proposing do any of those things in your opinion as members of the Board of Zoning Appeals. Does it have these negative implications on the adjacent property owners? If it does then you probably will not grant it. If you do not think it does then it would be something you could grant. We have had this discussion over the years. You do not meet that often and you do not have that many things that come up. A standard for a variance is pretty much that the ordinance pretty much deprives you of the right to use your property. That is not what we are talking about tonight. This is a special exception and the standards are not the same. If this was a variance, he could not very well say that he is being deprived the use of his property. It is not what he applied for. He applied for a special exception. It says that “the purpose is to provide for adjustments in the relative locations and use of the buildings to promote the usefulness

of these regulations and to supply the necessary elasticity to efficiently administer these regulations.” It gives you a little more flexibility in your judgement.

Chairman Gwaltney – I feel satisfied with the application provided and that others lean favorably to the request. Is there any further discussion? Do we have a motion?

Vice Chairman Batten – I would like to make a motion to approve the application as presented.

Mr. Briggs – Second.

Chairman Gwaltney – A motion has been made and properly seconded. All in favor signify by saying aye, opposed say nay.

On call for the vote, five members were present. Chairman Gwaltney voted aye, Vice Chairman Batten voted aye, Ms. Seeley voted aye, Ms. Bowden voted aye, and Mr. Briggs voted aye. There were no votes against the motion. The motion passed.

Chairman Gwaltney – The motion passed. Our next item is Approval of the November 21<sup>st</sup>, 2017 Meeting Minutes.

Town Attorney – Mr. Chairman, I recommend the minutes be approved as presented.

Ms. Bowden – So moved.

Vice Chairman Batten – Second.

Chairman Gwaltney – A motion has been made and properly seconded. All in favor signify by saying aye, opposed say nay.

On call for the vote, five members were present. Chairman Gwaltney voted aye, Vice Chairman Batten voted aye, Ms. Seeley voted aye, Ms. Bowden voted aye, and Mr. Briggs voted aye. There were no votes against the motion. The motion passed.

Chairman Gwaltney – With that being all the business of the Board this evening, this meeting is adjourned.

The meeting adjourned at 7:58 p.m.

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Mr. Christopher Gwaltney  
Chairman

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Mr. William G. Saunders, IV  
Director of Planning, Engineering  
and Public Works