

**City of Columbia**  
BOARD OF ZONING APPEALS  
*Special Called*  
March 14, 2022

**CALL TO ORDER:**

Chairman Jimmy Dugger called the March special called meeting of the Board of Zoning Appeals for the City of Columbia to order at 9:00 a.m. The meeting was held in the Council Chambers at City Hall.

**ROLL CALL:**

Quorum present and included the following:

Present were: Mr. Jimmy Campbell  
Mr. Jimmy Dugger  
Mr. George Vrailas

Absent were: Ms. Davena Hardison  
Ms. Kristi Martin

Other attendees: Mr. Austin Brass, City Planner  
Mr. Paul Keltner, Director of Development Services  
Mr. Kevin McCarthy, Planning Associate II  
Mr. Travis Neas, Chief Building Official  
Mrs. Sandra Richardson, Secretary

**AGENDA ITEM #1**

**Case #22-0047**

**Request from Firm Foundation Custom Homes, LLC for a variance from Section 8.4.9.B of the City of Columbia Zoning Ordinance which prohibits swimming pools in the street yard setback. The applicant seeks a variance after the fact to permit placement of an inground swimming pool at 659 Josef Circle.**

**Staff Review:**

Mr. McCarthy gave the details of the staff report. The Zoning Ordinance defines a street yard as a space between a public right-of-way and the set back line. Going through the criteria for a variance, item number seven calls out that the alleged difficulty or hardship has not been knowingly and intentionally created by any person having an interest in the property after the effective date of this ordinance. In this situation Mr. Whittenburg, the applicant for Firm Foundation Homes, acquired this property, applied for a permit to construct a home on the property, and chose to place the main façade of the principal construction further back than the minimum setback. The result of that is the only side yard available to place the swimming pool and other accessory use structure is of

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insufficient size to create the swimming pool that he would like to put on the property. He has already begun work on putting the swimming pool in place. Chief Building Official Mr. Neas observed it and advised him to apply for a permit. Had the swimming pool been shown on the initial application staff would have advised the applicant to make a different design choice, and place the home further up closer to the required setbacks.

**Discussion and Motion:**

Mr. Chad Whittenburg, President and General Contractor for Firm Foundation Homes, was present to answer questions. Mr. Whittenburg stated that they had two options concerning the original structure, formerly known as 617 Bear Creek Pike, and they chose to build a new structure. He also stated that it was not his intention to do anything without a permit. They did not know what pool they were putting in when he applied for the permit, because they had to tear down the house. They bought the permit early on, the contracted homeowner then decided what size pool and everything, based off of what they did. The prior existing construction faced Bear Creek Pike, that was not allowed under the plat. They were allowed to either face Josef Circle to the West or face Josef Circle to the South. They chose in the design to face West, and have the garage entrance off Josef Circle. The structure is actually only three inches further back than what is allowed. They are at 30.21 right now, and it is a 30 foot setback. The house they took back to the 30 foot setback which is required. It is 30 foot on the front and 30 foot on the sides, both of them are street sides. He also stated that they placed the house in the best spot to be able to achieve the biggest backyard possible. Further discussion included detention ponds, 10 foot setback, and a main gas line running up and down Bear Creek Pike which would prohibit them from using any backyard. Due to the limitations of that is why they decided to try to seek a variance on putting the pool in the current location. The best management practice for pools, is pool companies do not like to set a pool within eight feet of a structure because of having to have a walk around for safety. Mr. Whittenburg stated that the pool is in, they did not do anything intentional, it is his fault he was under the impression that under a building permit that the pool was already allowed, and the pool contractor moved ahead being under the same assumption. Mr. Brass stated that the pool permit was not shown in the building permit. Mr. Whittenburg stated that the pool will be fenced in, there is no problem with the HOA, the property had three front streets, and it is an inground pool. Further discussion included the seven criteria for a variance, the 20% rule, the shape of the house dictates the entire event, the pool can be on the side yard, a different house design, and location. Mr. Whittenburg inquired what the staff determination was for criteria number two and commented. He is looking at it as there was no pool attached to the original

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building permit, so he is looking at it as it is in front of him now. For them this is the least intrusive use of the property. He addressed each of the remaining criteria items and stated the lot was challenging having three street yards. Mr. Whittenburg also stated Spring Hill Zoning Appeals reviews variances one at a time. Mr. Keltner stated this decision would be citywide in its affect. Mr. Brass asked Mr. Neas about the building code regulations for separation from another structure. Mr. Neas stated the Building Code would regulate the design of the structure, such as the footing, not the separation distance. Mr. Vrailas asked about the side and front locations. Mr. McCarthy explained the Code defines yards as street, side, and rear. Mr. Dugger called for a motion. Mr. Brass asked the Board to include the reason for any approval or denial to the request. Mr. Campbell made the motion to deny with Mr. Vrailas seconding the motion. Mr. Dugger relayed an electronic message from Ms. Martin. Motion to deny was approved by a vote of three to zero. Mr. Whittenburg asked that Development Services staff should have communicated better.

**OTHER BUSINESS:**

No other business was presented.

**ADJOURNMENT:**

Ms. Hardison moved to adjourn, with Mr. Vrailas seconding. Motion to adjourn passed four to zero. The meeting adjourned at 9:50 a.m.

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Board of Zoning Appeals, Chairman  
Jimmy Dugger

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Date