



**FRANKLIN COUNTY
BOARD OF COMMISSIONERS
PUBLIC HEARING MINUTES
January 9, 2017
5:30 P.M.**

BOC: Commission Chairman Thomas Bridges
District 1 Commissioner Robert Franklin
District 2 Commissioner Dr. Jason Macomson
District 3 Commissioner Jeff Jacques
District 4 Commissioner Eddie Wester

Media: Shane Scoggins, Franklin County Citizen
Charles Robertson, WLHR

Staff: County Manager Beth Thomas
County Clerk Elaine Evans
County Engineer John Phillips
County Attorney Bubba Samuels

Chairman Bridges called the meeting to order and thanked everyone for taking the time to come to the public hearing. He introduced the newest member of the Commission Board, Dr. Jason Macomson and welcomed him to the Board. Chairman Bridges then said that there are two items for discussion.

Conditional use for poultry farm – 685 South Fairview Road – Chairman Bridges asked if anyone wished to speak for this item. **Daniel Litwiller** came forward to speak in favor of the poultry farm. Mr. Litwiller said that he is the farm owner at 685 South Fairview. He thanked the Commission Board for their consideration in moving forward with this request. There was no opposition to the request from Mr. Litwiller.

Variance for 279 Riverbend Road, Commerce - Chairman Bridges asked if anyone wanted to speak in favor of this variance request. **Doug Kidd**, an attorney in Lavonia spoke on behalf of the property owner Chrissie Blount. Mr. Kidd said that Ms. Blount received a building permit in December of 2015 to build a residence on Riverbend Road. He said that Ms. Blount's contractor went through the process of the building permit instead of Ms. Blount.

Mr. Kidd said that ground was broken and construction was started but the County Marshal Mr. Ayers came out and halted the work in March of 2016. He said that when the work was halted the house was 90% complete. The foundation was done,



the walls were up, the roof was up, and the outside of the house was complete although the inside was not. Mr. Kidd stated that the issue is that Ms. Blount's house was built too close to the property line. This property is zoned as agricultural intensive (AI) and requires a side setback of 35 feet. Ms. Blount's house was built with a 15 feet setback, the normal amount for a residential property. Mr. Kidd stated that Ms. Blount had her contractor stake out where she wanted the house built. In March 2016 it was measured again and found to be in violation of the Code.

An ordinance violation was filed against Ms. Blount in Magistrate Court. At this time it was determined that the County would drop the civil action against Ms. Blount if a variance request was applied for. Mr. Kidd said that in July 2016 an application for a variance request was made. There have been several hearings in front of the Planning Board with the last one in December 2016 before coming before the Commission Board this month.

In closing Mr. Kidd stressed that the house was technically built too close to the property line but that it wasn't his client's fault. It was either the contractor's fault or perhaps Mr. Ayers' fault for coming out and giving approval. Mr. Kidd stated that for whatever reason his client was not at fault. He said that there is not a house on the adjoining property, that it is just pine trees and is agricultural land. Mr. Kidd stated that if the variance is granted that Ms. Blount will not have a problem putting up trees or some kind of buffer between her property and the adjoining property.

Mr. Kidd stated to the Commission Board that information has been provided to them giving reasons why Ms. Blount built her house where she did. The reason to build the house on this particular spot is because of the way that the land slopes. Mr. Kidd said that Ms. Blount has put out close to \$200,000 on this house and she should have the benefit of living in it.

***Chairman Bridges** asked the Commission Board if anyone had questions. Commissioner Wester questioned if the County Marshal measured when he came out to inspect the setbacks. Mr. Kidd said that in the hearing transcript Mr. Ayers said that he did and the contractor said that he did not, that he spot checked it. Commissioner Wester asked who the contractor is. Mr. Kidd said the contractor is Francisco Martinez from Madison County. Commissioner Wester asked if he is licensed. Mr. Kidd said yes.*

***Commissioner Jacques** questioned Mr. Kidd about the soil testing documentation which was done in 2015. He asked why a variance request wasn't applied for at this time but they waited until after the fact of the house being built as a means of a remedy. Mr. Kidd said that when his client had applied that he is sure that everyone thought this property was zoned residential.*

***Commissioner Franklin** said that he did not understand from the perk why this property is not suitable for a septic tank but it is suitable to build a house on it. He then asked where the well will be located. Ms. Blount said that the well is already there. Mr. Kidd said that from the soil letter that everything should be in order.*



Lisa Brussat came forward to speak against the variance request for Ms. Blount and presented the Commission Board with information to deny the request. She said that she owns the property that is adjacent to Chrissie Blount. The purpose of zoning is to protect property values and create orderly development. To qualify for a variance the applicant must first show that the hardship arises from features unique to the land itself and not as a result of the actions taken by the applicant. Ms. Brussat said that the application for Ms. Blount must be denied according to the Franklin County standards. She said that Ms. Blount had already placed her home too close to the property line before she filed for the variance.

Ms. Brussat stated that on Ms. Blount's building permit application it is clearly stated that it is the owner's responsibility to identify locations and setbacks. The owner alone is responsible and ignorance is not a justification to have a variance granted. Ms. Brussat said that she should not have to suffer because of Chrissie Blount's lack of responsible ownership. She presented extensive information on why Ms. Blount should not be granted the variance. After her presentation, Ms. Brussart stated to the Commission Board that their mission is to make a decision based on the evidence and uphold the integrity of the Zoning Ordinance. She then told the Commission Board if she had to go for an appeal she has a lawyer prepared to stand behind her. The decision will have to be made very specifically as the court would consider whether there was any evidence to support the decision.

Edward Matthews stated that he lives on Riverbend Road. He said that he is suffering from cancer which is a hardship but is not imposing it on the County unlike Chrissie Blount who knowingly broke Franklin County's standard laws. Mr. Matthews said that he had a conversation with Mr. Ayers and Mr. Martinez which was about why Mr. Martinez violated the setback laws. During this conversation Mr. Matthews stated that Mr. Ayers questioned why the flags were moved 20 feet after he had given approval. Mr. Matthews asserted that Mr. Martinez said that Chrissie Blount told him to move the flags.

Mr. Matthews said that Chrissie Blount's lawyer is attempting to get her out of her responsibility as a homeowner and the problem that she created for herself. He stated that the County is pressing him to sale a portion of his property to bring Ms. Blount into compliance. Mr. Matthews concluded by stating that if the law is being changed to suit the failed responsibility of Chrissie Blount then change the law for all.

Jesse Matthews spoke next. He said that he is the son of Lisa Brussat. Mr. Matthews said that he grew up on Riverbend Road. He said that Ms. Blount should have to move her house because she violated the law. A property owner has to get the variance before building and not after. There is no evidence that Ms. Blount had to build her house so close to the adjacent property. Mr. Matthews stated that any financial hardship on Ms. Blount is due to her negligence in not following the setbacks. He said that because he and his family have not broken any laws that the County needs to be on their side. Mr. Matthews asked that he and his family not be punished due to Ms. Blount's disdain of the rules. He said that Ms. Blount should be fined for each day



that she was out of compliance.

The public hearing adjourned at 6:00 p.m.

Signed on the _____ day of _____, 2017

Chairman J. Thomas Bridges

Robert L. Franklin, District 1 Commissioner

Dr. Jason Macomson, District 2 Commissioner

Jeff Jacques, District 3 Commissioner

Eddie Wester, District 4 Commissioner

Elaine H. Evans, County Clerk