



DRAFT Meeting Minutes

Board of Zoning Appeals

Thursday, November 3, 2022

6:00 PM

Board Room

Notice is hereby given that a meeting of the Board of Zoning Appeals will be held on the date, time, and location listed above. Additional information can be found at www.franklintn.gov/planning. For accommodations due to disabilities or other special arrangements, please contact the Human Resources Department at (615) 791-3216, at least 24 hours prior to the meeting. Accommodations have been made to ensure that the public is able to participate in the meeting. The public may participate in the following ways: • Watch the meeting on FranklinTV or the City of Franklin website. • Watch the live stream through the City of Franklin Facebook and YouTube accounts. • Email comments to planningintake@franklintn.gov to be provided in full to the Commission and included in the minutes, but not read aloud in their entirety during the meeting. Emailed comments are accepted until 12:00 PM (noon) on the day before the meeting. • Comment in-person in the Board Room. Speakers will be asked to fill out a speaker card prior to the meeting starting. Speakers may sit in the Boardroom or wait in the lobby.

CALL TO ORDER

Chair Langley called the meeting to order at 6:01 p.m.

APPROVAL OF MINUTES

1. Consideration Of Approval Of The October 6, 2022 BZA Minutes.

Sponsors:

Commissioner Greg Caesar moved to approve the minutes with corrections to the members present at the October 6, 2022, BZA meeting. Commissioner Fleishour seconded the motion.

VOTE Tally: 3-0

BZA ANNUAL CALENDAR

2. Consideration Of Approval Of the 2023 BZA Calendar.

Sponsors:

Commissioner Caesar moved to approve the 2023 BZA calendar. Commissioner Fleishour seconded the motion.

VOTE Tally: 3-0

ANNOUNCEMENTS

Ms. Diaz-Barriga announced that they were having technical issues and would not be able to provide visuals of the maps or other documents on the overhead screen. The live feed will show the map for each item.

APPLICATIONS

3. **Variance Request** To Allow More Than The Maximum Number Of Retaining Walls On A Site, And **Variance Request** To Allow For A Taller Than Allowable Retaining Wall Within A Front Yard, And **Variance Request** To Allow For A Taller Than Allowable Retaining Wall Within A Side/Rear Yard, And

Variance Request To Allow For Encroachments Into Areas With Slopes Of 20% Or Greater, For The Property Located At 391 Lady of the Lake Lane. (FZO §13.2.4 and §4.4.6.B).

Sponsors: Emily Wright, Amy Diaz-Barriga, Ariella Stanford

Staff Presentation: Ariella Stanford. The 1.34 acre single-family parcel is located in Avalon Subdivision and is zoned PD. The applicant would like to develop the parcel as shown in the submitted documents. The Avalon Subdivision was developed prior to the HHO district and the 500-foot buffer of the Hillside/Hillcrest Overlay. The subject property now lies in the 500-foot buffer of the Hillside Overlay. Most of the subject parcels have grades of over 20 percent leaving a small buildable area for development on the site. The small buildable area along with the City of Franklin Ordinance make it difficult for development. The ordinance does not allow for development on slopes greater than 20 percent to protect the natural surroundings. In addition, the Avalon Subdivision architectural requirements state that the home must be a minimum of 5,000 square feet. Staff has determined four variances that are necessary to approve the submitted application.

- 1) Variance Request To Allow More Than The Maximum Number Of Retaining Walls On A Site,
- 2) Variance Request To Allow For A Taller Than Allowable Retaining Wall Within A Front Yard
- 3) Variance Request To Allow For A Taller Than Allowable Retaining Wall Within A Side/Rear Yard
- 4) Variance Request To Allow For Encroachments Into Areas With Slopes Of 20% Or Greater.

Ms. Stanford stated that she would explain the three criteria needed for approval of a variance request for the first variance, then move through the remaining three variances. A variance request may be approved if the following conditions are present.

Criteria 1

Criteria one states that by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time on the enactment of the Zoning Ordinance, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition, such a piece of property is not able to accommodate development as required under the Zoning Ordinance.

Criteria 2

The second criteria states that the strict application of the Zoning Ordinance would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of the property.

Criteria 3

The third criteria states that such relief may be granted without substantial detriment to the public good and without substantially impairing the purpose and intent of the Zoning Ordinance.

- 1) Variance Request To Allow More Than The Maximum Number Of Retaining Walls On A Site.

Ms. Stanford stated that most of the home sites in the Avalon Subdivision make use of retaining walls for drainage, access and support of the development. The city ordinance states that a maximum of three retaining walls be used on one residential property. The applicant proposes that five retaining walls would be required to support and develop the property. Because of the exceptional slope conditions dominating most of the subject property, staff has determined that criteria one has been met.

Ms. Stanford stated that practical difficulties would create a hardship on the property owners due to the exceptional topographic conditions of the site. More than three retaining walls are required for development of the site due to the 20 percent degree of slope of the property. Staff analysis determined that criteria two have been met.

Ms. Stanford stated that the city ordinance seeks to limit the number of retaining walls to protect the property value aesthetically so that the property does not have the appearance of being dominated by walls. Ms. Stanford stated that the use of five retaining walls for support of the property would not be a detriment to the public as many of the homes in Avalon have received a variance for similar retaining walls due to the consistent 20 percent slope throughout the community. Staff finds that criteria three to be met as the subject property would not have an excess of retaining walls compared to other sites in the neighborhood.

- 2) Variance Request To Allow For A Taller Than Allowable Retaining Wall Within A Front Yard

Ms. Stanford stated that the city ordinance requires retaining walls in the front yards to be no higher than two feet. The applicant has requested that the front yard retaining walls be up to five feet in height to support the driveway at the recommended grade below 14 percent. Because of the exceptional topographic conditions of the site, staff find criteria one to be met.

Ms. Stanford explained that practical difficulties would be incurred by the owner due to the exceptional topographic conditions of the site. Retaining walls higher than two feet, in the front yard, would be necessary to meet regulations for site development due to the degree of slope of the property. Staff finds criteria two to be met because of these conditions.

Allowing for higher than two foot retaining walls in the front yard would not be a detriment to the community and would not impair the intent of the zoning ordinance. Several other home-sites in Avalon have implemented taller and unique retaining walls to meet development regulations. The ordinance limits the height of retaining walls for aesthetic reasons so that the property does not appear to be dominated by walls. As a result, the subject site would not contradict the intent of the ordinance. The applicant determined that the minimum height of the retaining wall needed support the proposed driveway would be five feet. Because of these reasons, staff finds criteria number three to be met.

3) Variance Request To Allow For A Taller Than Allowable Retaining Wall Within A Side/Rear Yard

Ms. Stanford stated that due to exceptional topographic conditions, the subject property requests retaining walls on the side and rear of the site to be up to ten feet in height to allow for proper drainage and structural integrity of the site. The city ordinance requires retaining walls on the side and rear of residential properties to be the maximum of six feet in height. Due to the 20 percent slope on much of the property, staff finds that criteria one has been met.

Ms. Stanford stated that the applicant would experience practical difficulties, due to the exceptional slope of the site, if strict application of the ordinance was required. Retaining walls greater than the six-foot requirement of the ordinance are needed to support development of a single-family home, therefore, staff finds that criteria two has been met.

Taller retaining walls on the side and rear yard would not result in the detriment of the public good and would not impair the purpose and intent of the guidelines. The Zoning Ordinance seeks to limit the height of retaining walls so that the property does not have the appearance of being dominated by walls, resulting in the aesthetic concerns of those in the community. Similar retaining walls of increased height on the side and rear yards have been implemented throughout the Avalon neighborhood. The use of taller retaining walls on the subject property would not create aesthetic concerns of neighbors or the community. The applicant determined that the side and rear retaining walls would require a minimum height of ten feet to support and maintain the structural integrity of the single-family home. Staff finds that criteria three to be met.

4) Variance Request To Allow For Encroachments Into Areas With Slopes Of 20% Or Greater.

Encroachments into the areas with 20 percent slope will be necessary to provide access and support to the development. The Franklin City Ordinance does not allow for encroachment into areas with 20 percent or greater slopes. The applicant has requested development be allowed to encroach the 20 percent slope to build the proposed residential structure. Staff recognizes the exceptional topographic conditions of the slope of the property and believes that encroachment into the 20 percent slope is necessary in this case. For these reasons, staff finds that criteria one has been met.

Strict application of the Zoning Ordinance along with the Avalon architectural guidelines would create practical difficulties in the development of the site. The Avalon Subdivision was approved prior to the establishment of the Hillside/Hillcrest Overlay, the updated Zoning Ordinance and today's applicable slope development standards. Development on the steep hillside was anticipated when the Avalon development was approved. Current zoning requirements create practical difficulties for the Avalon development as the subdivision was approved prior to the updated zoning standards. Therefore, strict application of the Zoning Ordinance would prevent development on the site. Staff analysis finds that criteria two have been met.

Allowing encroachment into the 20 percent slope is not a detriment to the public good nor does it impair the purpose or intent of the Zoning Ordinance. Development of adjacent home-sites have utilized similar grading techniques. The

intent of the zoning ordinance is to allow for the development of a single-family home. The variance is the minimum deviation from the requirements of the Zoning Ordinance that would allow development of a single-family home. Therefore, staff believes this criterion has been met.

Staff recommends approval of the variance requests 1-4 , being a Variance Request To Allow More Than The Maximum Number Of Retaining Walls On A Site, a Variance Request To Allow For A Taller Than Allowable Retaining Wall Within A Front Yard, a Variance Request To Allow For A Taller Than Allowable Retaining Wall Within A Side/Rear Yard, and a Variance Request To Allow For Encroachments Into Areas With Slopes Of 20% Or Greater, because the criteria for a variance have been met.

Applicant Presentation: Brian Holcomb. Mr. Holcomb stated that 85 percent of the lot sits on a 20 percent slope. Several drafts were designed before settling on the current design. Mr. Holcomb noted that the wall heights of five feet and ten feet would taper down from the 5 feet in the front and the 10 feet on the side and rear. Mr. Holcomb also stated that landscaping would help soften the impact of the walls.

Chair Langley asked Mr. Holcomb if the site plan was at a stage where there would not be major changes in the wall height.

Mr. Holcomb answered yes. Mr. Holcomb stated that plus or minus six inches would be the only minor changes.

Chair Langley asked if anyone from the public would like to speak, there were none.

Motion to close public comment: Jeff Fleishour moved to close public comment, Greg Caesar seconded the motion.

Vote Tally: 3-0

Chair Langley recommended beginning with the Variance Request To Allow For Encroachments Into Areas With Slopes Of 20% Or Greater.

Commissioner Caesar stated that two notices were received from citizens regarding the variance request. Mr. Caesar asked if there were any additional emails or comments from the public.

Ms. Stanford stated that there were no additional emails or comments from the public.

Commissioner Caesar motioned to disapprove the request to allow for encroachments into areas with slopes of 20 percent or greater, seconded by Chair Langley.

Chair Langley stated his concerns about limiting development on the slopes in areas/subdivisions that were approved prior to the HHO.

Ms. Diaz-Barriga stated that the Avalon development was approved prior to the enactment of the HHO and the updated Zoning Ordinance. At the time, when this development was approved, the city viewed development in this area as acceptable.

Chair Langley asked if building on the site was not approved, would the Zoning Ordinance be an acceptable legal argument.

Commissioner Caesar stated that if approval is given based on what other sites have developed, we end up not protecting or preserving the hillsides.

Commissioner Fleishour pointed out that the BZA approved a very similar variance request involving the height of retaining walls a month ago. Avalon needs to be allowed to complete the development, otherwise the neighborhood is left unfinished.

Chair Langley and Commissioner Fleishour both agreed with the points Commissioner Caesar discussed.

Chair Langley asked for the Board to vote on the motion to disapprove the variance allowing the encroachment into the areas with a slope of 20 percent or greater.

Vote Tally: 1-2, Commissioner Caesar in favor of the motion, Chair Langley and Commissioner Fleishour voted against the motion.

The motion failed.

Commissioner Fleishour motioned to approve the variance request for encroachment into the areas of 20 percent or greater slope, because the criteria for granting a variance have been met.

Vote Tally: 2-1, Chair Langley and Commissioner Fleishour for in favor of the motion, Commissioner Caesar voted against the motion.

Chair Langley stated that the next motion will relate to the Variance Request To Allow More Than The Maximum Number Of Retaining Walls On A Site.

Commissioner Caesar motioned to approve the variance request to allow the maximum number of 5 retaining walls on a site as the criteria for this variance have been met, seconded by Commissioner Fleishour.

Vote Tally: 3-0

Chair Langley stated that the next motion will relate to the Variance Request To Allow For A Taller Than Allowable Retaining Wall Within A Front Yard.

Commissioner Caesar motioned to approve the variance request to allow a maximum of five-foot retaining walls in the front yard as the criteria for this variance have been met, seconded by Commissioner Fleishour.

Commissioner Caesar asked the applicant if the front yard retaining walls would be a solid five-foot wall or if the wall would variations in height.

Mr. Holcomb stated that at one point one of the walls would begin at zero and taper up to five feet. The walls along the southwest corner would make up the foundation of the garage. The walls will taper to match the grade of the land, as well.

Commissioner Caesar stated that a street view of the site was not provided in the applicant documents.

Commissioner Fleishour stated that the Board should be as consistent as possible in situations regarding retaining walls. Previous requests have mentioned landscaping to balance and screen the appearance of the walls within the site.

Commissioner Caesar stated that Mr. Holcomb mentioned landscaping as part of the site plan.

Mr. Holcomb explained to the Board that the builder had informed him that a landscape architect had been engaged as part of the project.

Ms. Diaz-Barriga stated that adding conditions to the motion (for example landscaping) is an acceptable request from the Board.

Chair Langley stated his concern about applying conditions and how those conditions would be interpreted by the applicant. Another concern is the enforcement of the conditions.

Commissioner Caesar stated that he would like to see a condition that would address the transition from the ground to the walls, such as landscaping.

Chair Langley asked for more details about the conditions around the walls. "Would there be room for landscaping?"

Mr. Holcomb answered by stating there would be space available for landscaping between the driveway and the walls and the street and the walls.

Chair Langley asked Mr. Caesar to amend his motion.

With assistance from Mr. Squires, Commissioner Caesar discussed an amendment to the motion to include a condition in which the homeowner would provide landscaping so that a maximum of two feet of the retaining wall would be visible.

Commissioner Caesar motioned to amend the original motion to include a condition that landscaping shall be provided by the homeowner so that a maximum of two feet of the retaining wall is visible, Commissioner Fleishour seconded the motion.

The motion to amend is approved.

Vote Tally: 3-0

The amended motion was voted on and approved with conditions.

Vote Tally: 3-0

Chair Langley stated that the last motion would be for the Variance Request To Allow For A Taller Than Allowable Retaining Wall Within A Side/Rear Yard.

Commissioner Caesar requested more information from the applicant about the location of the ten-foot wall height.

Mr. Holcomb stated that the wall tapers as the wall goes downhill toward the front of the house.

Commissioner Caesar motioned to approve the variance request to allow for two ten-foot walls for the side/rear yard as the criteria for this variance have been met, seconded by Commissioner Fleishour.

There being no further discussion, Chair Langley asked the Board members to vote.

Vote Tally: 3-0

4. **Variance Request To Allow More Than The Maximum Number Of Retaining Walls On A Site, And Variance Request To Allow For A Taller Than Allowable Retaining Wall Within A Front Yard, And Variance Request To Allow For Encroachments Into Areas With Slopes Of 20% Or Greater, For The Property Located At 326 Lionheart Way. (FZO §13.2.4 and §4.4.6.B).**

Sponsors: Emily Wright, Amy Diaz-Barriga, Ariella Stanford

Staff Presentation: Ariella Stanford. Ms. Stanford stated that the parcel is 1.2 acres and within the Avalon Subdivision. The applicant would like to build a single-family home which the design is noted in the applicant materials. The Avalon Subdivision was developed prior to the HHO district and the 500-foot buffer of the Hillside/Hillcrest Overlay. The subject property now lies in the 500-foot buffer of the Hillside Overlay. Most of the subject parcels have grades of over 20 percent leaving a small buildable area for development on the site. The small buildable area along with the City of Franklin Ordinance make it difficult for development. The ordinance does not allow for development on slopes greater than 20 percent to protect the natural surroundings. In addition, the Avalon Subdivision architectural requirements state that the home should be a minimum of 5,000 square feet. Staff has determined that three variances would need to be approved for the provided design.

- 1) Variance Request To Allow More Than The Maximum Number Of Retaining Walls On A Site
- 2) Variance Request To Allow For A Taller Than Allowable Retaining Wall Within A Front Yard
- 3) Variance Request To Allow For Encroachments Into Areas With Slopes Of 20% Or Greater

Ms. Stanford stated that she will give details of the three criteria needed for approval of a variance.

Criteria 1

A variance request may be considered if the following conditions are present. Criteria one states that by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time on the enactment of the Zoning Ordinance, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition, such a piece of property is not able to accommodate development as required under the Zoning Ordinance.

Criteria 2

The second criteria states that the strict application of the Zoning Ordinance would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of the property.

Criteria 3

The third criteria states that such relief may be granted without substantial detriment to the public good and without substantially impairing the purpose and intent of the Zoning Ordinance.

1) Variance Request To Allow More Than The Maximum Number Of Retaining Walls On A Site

Ms. Stanford stated that the subject property is in the Avalon Subdivision in which most of the parcels are dominated by a 20 percent slope. The exceptional topography of the parcel requires retaining walls for access, support, and development of the site. The city ordinance states that a maximum of three retaining walls be used on one residential property. The applicant is requesting a total of seven retaining walls for the site. The applicant has determined that this is the minimum number of retaining walls to support development of the site. Because of the exceptional slope of the subject parcel, staff have determined that criteria one has been met.

The strict application of the Zoning Ordinance would result in peculiar and exceptional practical difficulties for the owner due to the exceptional topography that exists on the site. Due to the exceptional slope conditions of the site, more than three retaining walls would be required for development to occur. Staff finds that criteria two has been met.

Allowing for additional retaining walls would not be a detriment to the public good nor would it impair the intent and purpose of the Zoning Ordinance. Ms. Stanford stated that the city ordinance seeks to limit the number of retaining walls to protect the property's aesthetic value so that the property does not have the appearance of being dominated by walls. Ms. Stanford stated that the use of seven retaining walls for support of the property would not be a detriment to the public as many of the homes in Avalon have received a variance for similar retaining walls due to the consistent 20 percent slope throughout the community. Staff finds these criteria to be met as the subject property would not have an excess of retaining walls compared to other sites in the neighborhood.

2) Variance Request To Allow For A Taller Than Allowable Retaining Wall Within A Front Yard

Ms. Stanford stated that the city ordinance requires retaining walls in the front yards to be no higher than two feet. The applicant has requested that the front yard retaining walls be up to six feet in the front yard. Because of the exceptional topographic conditions of the site, staff find criteria one to be met.

Strict application of the zoning ordinance would create practical difficulties for the development of the site due to the topographic conditions that exist. In order to support development of the site, walls higher than two feet are necessary in the front yard. Staff finds that criteria two has been met.

Allowing for retaining walls higher than two feet would not be a detriment to the public good nor would it impair the intent of the zoning ordinance. Ms. Stanford stated that the city ordinance seeks to limit the number of retaining walls to protect the property's aesthetic value so that the property does not have the appearance of being dominated by walls. Many of the Avalon parcels have made use of unique retaining walls to support lot development. The subject parcel would not contradict the architectural qualities of the neighborhood. The applicant has determined that six foot retaining walls would be the minimum requirement to support the driveway. Staff finds that criteria three has been met.

3) Variance Request To Allow For Encroachments Into Areas With Slopes Of 20% Or Greater

Encroachments into the areas with 20 percent slope will be necessary to provide access and support to the development. The Franklin City Ordinance does not allow for encroachment into areas with 20 percent or greater slopes. The applicant has requested development be allowed to encroach the 20 percent slope to build the proposed residential structure. Staff recognizes the exceptional topographic conditions of the slope of the property and believes that encroachment into the 20 percent slope is necessary for support and development to the site. For these reasons, staff finds that criteria one has been met.

Strict application of the Zoning Ordinance along with the Avalon Architectural Guidelines would create practical difficulties in the development of the site. The Avalon Subdivision was approved prior to the establishment of the Hillside/Hillcrest Overlay, the updated zoning ordinance and today's applicable slope development standards. Development on the steep hillside was anticipated when the Avalon development was approved. Current

zoning requirements create practical difficulties for the Avalon development as the subdivision was approved prior to the updated zoning standards. Therefore, strict application of the Zoning Ordinance would prevent development on the site. Staff analysis finds that criteria two has been met.

Allowing encroachment into the 20 percent slope is not a detriment to the public good nor does it impair the purpose or intent of the zoning ordinance. Development of adjacent home-sites have utilized similar grading techniques. The intent of the zoning ordinance is to allow for the development of a single-family home. The variance is the minimum deviation from the requirements of the zoning ordinance that would allow development of a single-family home. Therefore, staff believes this criterion has been met.

Staff recommends approval of the variance requests 1-3, being a Variance Request To Allow More Than The Maximum Number Of Retaining Walls On A Site, a Variance Request To Allow For A Taller Than Allowable Retaining Wall Within A Front Yard, and a Variance Request To Allow For Encroachments Into Areas With Slopes Of 20% Or Greater, because the criteria for approval of a variance has been met.

Applicant Presentation: Hamid Arab, owner of the property. Mr. Arab stated that the goal is to develop the site so that building, and driveway can be accommodated using retaining walls.

Chair Langley noted that the applicant documents show a total of five retaining walls.

Mr. Arab stated that there are four retaining walls proposed at the rear of the building and three retaining walls proposed in front. One retaining wall in the rear is a short wall.

Chair Langley asked if anyone from the public would like to speak, there was none.

Motion to close public comment: Jeff Fleishour motioned to close public comment, Greg Caesar seconded the motion.
Vote Tally: 3-0

Chair Langley stated that the first motion would be the Variance Request To Allow For Encroachments Into Areas With Slopes Of 20% Or Greater.

Commissioner Caesar stated that he does not agree with allowing encroachments into the 20 percent slope. Mr. Caesar stated that the slopes and hillsides need to be preserved.

Commissioner Caesar motioned to disapprove the variance to allow for encroachments into areas with slopes of 20 percent or greater, no second.
The motion failed.

Commissioner Fleishour motioned to approve the variance request to allow for encroachments into areas with slopes 20 percent or greater because the criteria for granting a variance have been met, seconded by Chair Langley.
There being no further discussion, Chair Langley asked the Board members to vote.
Vote Tally: 2-1 (Commissioners Langley and Fleishour voting for and Commissioner Caesar voting against.)

Chair Langley stated that the next motion would relate to the Variance Request To Allow More Than The Maximum Number Of Retaining Walls On A Site.
Commissioner Caesar motioned to approve the variance request to allow seven retaining walls to be built on the site as the criteria for granting a variance have been met, seconded by Commissioner Fleishour.

Commissioner Caesar stated that although he agrees with the number of retaining walls necessary for development of the site, he also stated that at what point will the walls be limited. Mr. Caesar asked the applicant to provide more details about each of the seven walls.

Mr. Arab discussed the specifics and function of the retaining walls.

There being no further discussion, Chair Langley asked the Board members to vote.
Vote Tally: 3-0

Chair Langley stated that the next motion would relate to the Variance Request To Allow For A Taller Than Allowable Retaining Wall Within A Front Yard.

Commissioner Caesar motioned to approve the variance request allowing a maximum of six feet retaining walls in the front yard with the condition that landscaping shall be provided by the homeowner so that a maximum of two feet of the retaining wall is visible because the criteria for granting a variance have been met, seconded by Commissioner Fleishour. There being no further discussion, Chair Langley asked the Board members to vote.

Vote Tally: 3-0

5. **Variance Request For A 43-Foot Encroachment Into the Required 75-Foot Front Yard Setback To Relocate The Historic Rosenwald School, For The Property Located At 423 S Margin Street (FZO §3.12.5).**

Sponsors: Emily Wright, Amy Diaz-Barriga, Ariella Stanford

Staff Presentation: Ariella Stanford. Ms. Stanford stated that the subject property is zoned Civic Institutional (CI) and is part of the Historic Preservation Overlay in the Central Franklin District. The Heritage Foundation proposes relocating the historic Lee Buckner Rosenwald School from southern Williamson County to the subject property. The subject property is located on the corner of South Margin Street and Lewisburg Avenue. The Zoning Ordinance requires a seventy-five-foot setback as the property is considered to have two fronts. The applicant requests a variance for the school to be setback 32 feet. Variance requests that are within the HPO are required to be reviewed by the HZC prior to being considered by the BZA. The HZC provided a favorable recommendation at the October 2022 meeting. The proposal is the most sensitive to the architectural qualities of the contributing structure and allows for the least amount of adverse impact on the contributing status of the historical structure in the context of the historical district.

Criteria 1

A variance request may be considered if the following conditions are present. Criteria one states that by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time on the enactment of the zoning ordinance, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition, such a piece of property is not able to accommodate development as required under the Zoning Ordinance.

Staff has determined that subject property is exceptional due to the historic condition. The historic Lee Buckner Rosenwald school is not recommended to be placed elsewhere on the property, according to the recommendations by the HZC and the Tennessee Historic Commission. The Historic Preservation Guidelines require preservation of historically significant stone walls, landscaping and property surrounding the historic building, as well as specific orientation of the building on the site. These factors apply to the site and the historical context of the schoolhouse; therefore, staff find that criteria one has been met.

Criteria 2

The second criteria states that the strict application of the zoning ordinance would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of the property.

Placement of the schoolhouse at the recommended 75-foot setback to comply with the zoning ordinance would require demolition of a historic stone wall and would block the view of the historic Haynes Berry house. This would result in undue hardship of the applicant. Staff finds that the requirements of criteria two has been met.

Criteria 3

The third criteria states that such relief may be granted without substantial detriment to the public good and without substantially impairing the purpose and intent of the Zoning Ordinance. Staff has determined that allowing the historic schoolhouse to encroach 43 feet would not be a detriment to the public good. The intent of the ordinance is to provide a buffer between buildings and the street that is consistent along the given street for aesthetic purposes. Because the applicant positioned the historic schoolhouse fronting Margin Street and is as far away from Lewisburg Avenue as it can be, the staff finds that criteria three has been met. In addition, there are existing buildings along the street that are set back from 40-100 feet from the property line which is consistent with the subject property.

Ms. Stanford stated that the recommended motion to the BZA is approval of the 43-foot encroachment into the required 75-foot front yard setback because the three criteria required for approval of a variance have been met.

Applicant Presentation: Cyril Stewart, Architect, and representative of the Heritage Foundation.

Mr. Stewart expressed his appreciation for staff guidance during the process. Mr. Stewart stated that the property is a truly unique site that includes three historic structures. Mr. Stewart briefly mentioned the constraints of the project including engineering, storm water, street standards and the historical aspects of the property. Typically, a Civil Institutional district requires a 25-foot side setback, but because the site is considered to have two fronts, the ordinance requires a 75-foot setback. Historically, the variance request is very similar to the property setbacks in the past. Ms. Stewart stated that for 192 years the property has been associated with or provided a home for schools. In the 1830's the property was home to a female seminary called Franklin Grove. (The female seminary provided the inspiration for the new name of the property, Franklin Grove.) A Freedman School and the Buena Vista Boys School were housed on the property around 1866. More recently, from 1979-2018, the property was home for the O'Moore College of Design. The Heritage Foundation purchased the Lee Buckner Rosenwald school, one of a few such schools left in the country, in 2018. After much community input and agreement, it was decided that the school be relocated to the former O'Moore College of Design property, now known as Franklin Grove.

Chair Langley asked if there were any citizens who would like to comment on the item, there were none.

Chair Langley stated that James Redford sent an email in opposition of the approval of the variance.

Commissioner Fleishour motioned to close public comment, Commissioner Caesar seconded the motion.

Vote Tally: 3-0

Mr. Stewart noted that the buffering between the street and building would include a sidewalk, grass, and a stone wall. Beyond the buffers about 30 feet would be the schoolhouse. Mr. Stewart added that a cedar glade was present originally on the property. Mr. Stewart stated that the plans include recreating the cedar glade that would also serve as a buffer.

Commissioner Caesar motioned to approve the variance to allow for a 43-foot encroachment into the required 75-foot yard setback to relocate the historic Rosenwald School because the criteria had been met, seconded by Commissioner Fleishour.

Vote Tally: 3-0

6. **Variance Request** For A 5-Foot Encroachment Into the Required 15-Foot Side Yard Setback To Construct A Two-Car Attached Garage And A Single-Family Home, For The Property Located At 127 Lancaster Drive. (FZO §3.4.5)

Sponsors: Emily Wright, Amy Diaz-Barriga, Ariella Stanford

Staff Presentation: Ariella Stanford. Ms. Stanford stated that the subject property is located in the Residential 1 (R1) zoning district and is located in the Central Franklin Overlay. As explained in chapter three of the Zoning Ordinance for lots and recorded subdivisions, if different dimensional standards are listed on the final plat, then the final plat shall govern. The subject property is located within a recorded subdivision with 15-foot setbacks. The variance request is to allow a five-foot encroachment into the 15-foot setback for an attached two car garage.

Criteria 1

A variance request may be considered if the following conditions are present. Criteria one states that by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time on the enactment of the Zoning Ordinance, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition, such a piece of property is not able to accommodate development as required under the zoning ordinance.

The shape of the plated lot is uniquely shaped along with the unique shape of Virginia Court that adjoins the property. Because of the uniqueness and the location of the lot, staff find that criteria one has been met.

Criteria 2

The second criteria states that the strict application of the Zoning Ordinance would result in peculiar and exceptional practical difficulties to or exceptional undue hardship upon the owner of the property.

The applicant has indicated that the owner's intent is to build a 2-bay attached garage. Due to the unique shape of the property the garage would be out of compliance with the zoning ordinance regarding the 15-foot setback requirement. The owner would experience unique practical difficulties because the garage could not be constructed without being out of compliance with the Zoning Ordinance. Staff analysis finds that criteria two has been met.

Criteria 3

The third criteria states that such relief may be granted without substantial detriment to the public good and without substantially impairing the purpose and intent of the Zoning Ordinance. This request meets all other required setbacks for the property. The subdivision was platted so that the corner lots have a unique condition different from the other lots within the subdivision and were platted with shallower setbacks. Considering that the variance as a minimal 5-foot setback, staff find that approval of the variance would not be a detriment to the public good. Staff find that criteria number three has been met.

Ms. Stanford stated that the recommended motion is for the BZA to approve the variance for a five-foot encroachment into the required 15-foot setback to construct a 2-car garage because the criteria for approval of a variance have been met.

Applicant Presentation: Andrew King with AK Designs. Mr. King stated that the buildable footprint is small for the R1 district platted lot. The unique shape of the lot along with the property being located on the corner meant a variance would be needed for the encroachment into the required 15-foot setback.

Chair Langley asked if there were any citizens that would like to comment on the item, there were none.

Commissioner Fleishour motioned to close the public comment portion, seconded by Commissioner Caesar.

Vote Tally: 3-0

Commissioner Caesar motioned to approve the variance for a 5-foot encroachment into the required 15-foot side yard setback to construct a two-car attached garage and a single-family home because the criteria have been met, seconded by Commissioner Fleishour.

Vote Tally: 3-0

OTHER BUSINESS**ADJOURN**

Commissioner Fleishour motioned to adjourn the November 3, 2022, meeting, seconded by Commissioner Caesar.

Vote Tally: 3-0

There being no further business, the meeting adjourned at 7:22 p.m.

Chair

Date