



DRAFT Meeting Minutes

Board of Zoning Appeals

Thursday, November 2, 2023

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.franklinton.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@franklinton.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 Jonathon Langley called the meeting to order at 06:01 PM with a toll call of the Commissioners present.

Board Members Present: Jonathon Langley, Lee Reeves, William Scales, Jeff Fleishour, and Greg Caesar

Staff Present: Bill Squires, Shanna McCoy, Amy Diaz-Barriga, and Ariella Stanford

CITIZEN COMMENTS (Open for citizens to be heard on any issue or concern, including those related to items on the agenda. Please submit a Speaker Card at the beginning of the meeting if you would like to address the Commission. If you would like to speak on an agenda item, the Chair will hold your comment until the public comment period associated with the item. As provided by law, the Commission shall make no decisions or consideration of action of citizen comments for items not on the agenda, except to refer the matter to the Planning Director/Staff for administrative consideration, or to a schedule the matter for consideration at a later date. Those addressing the Commission are requested to come to the microphone and identify themselves by name and address for the official record. The Chair may restrict the period for public comment, including the length of the public comment period, the number of individuals who can speak and the length of time each individual may speak. When time allows, the standard individual public comment time is two minutes.)

Chair Jonathon Langley asked for citizen comments. There were none.

Comments on agenda items may be made in person at city hall or by emailing planningintake@franklinton.gov by noon on the day prior to the meeting. Emailed comments will be provided to the Commission and included in the minutes, but not read aloud in their entirety during the meeting.

APPROVAL OF MINUTES

1. Consideration Of Approval Of The September 7, 2023 BZA Minutes.

Sponsors:

A motion was made by Commissioner William Scales, seconded by Commissioner Lee Reeves, to Approve the Minutes from the September 7, 2023 BZA meeting. The motion carried 4-0.

ANNOUNCEMENTS

Chair Jonhathon Langley asked if Staff had any announcements. There were none.

BZA ANNUAL CALENDAR

2. Consideration Of Approval Of the 2024 BZA Deadlines and Schedules Calendar.

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

Staff: Ariella Stanford. Ms. Stanford presented a draft calendar of the BZA deadlines and schedules calendar. Because July 4, 2024, is the first Thursday of July, staff are proposing to move the July BZA meeting to July 11, 2024, to avoid conflict with the holiday.

Motion:

A motion was made by Commissioner Greg Caesar, seconded by Commissioner William Scales to Approve the 2024 BZA Deadlines and Schedules Calendar. The motion carried 4-0.

BZA BYLAWS AMENDMENT

3. Consideration Of Approval Of Updated Board Of Zoning Appeals Bylaws.

Sponsors:

Staff: Amy Diaz-Barriga. Ms. Barriga gave an overview of the three areas of change made to the BZA Bylaws. First, the language was cleaned up to coincide with the Bylaws of the FMPC and BOMA. A technology update to include website communication instead of radio communication. Also, recent state legislature requires that any voting meeting provides the opportunity for citizen comments. Although the BZA has provided the opportunity for citizens to speak during meetings, the citizen comment section will be documented officially in the bylaws. This change would also allow the Chair to place time limits on citizen comments if necessary. Lastly, following the same state legislature, the agenda for each meeting will now be published 48 hours prior to the meeting. The section for "Items Not on the Agenda" will be removed from the agenda.

Commissioner Lee Reeves presented concerns about changes to the bylaws regarding the mayor's ability to remove a Board member. If a Board appointment is made by the mayor, with the approval of BOMA, should the mayor have the opportunity to remove a Board member from the BZA? "Does the BZA have the power to delegate the power to the mayor?" And, if the mayor has the power to remove a member of any Board, could the mayor remove all the members at his or her preference or inclination? Commissioner Lee Reeves posed the question, "What is being solved, by adding some of the changes?" Commissioner Lee Reeves also requested a copy of the BZA Bylaws with changes highlighted in red.

Ms. Diaz-Barriga stated that changes were made to coincide with other Board bylaws. Currently, the bylaws read, this Board can remove a member with a 2/3 vote.

Mr. Squires stated that the questions posed are theoretical in nature and are situations that the body of ordinances or rules doesn't address completely. Members who serve on the Boards are in cooperative situations and removal of a member is not a common occurrence.

Commissioner Greg Caesar suggested a possible deferral until the next meeting to allow staff to research and answer these questions.

Ms. Diaz-Barriga requested a timely list of questions from the Board so staff have time to research and answer the questions in the form of a staff report.

Motion:

A motion was made by Commissioner Greg Caesar, seconded by Commissioner Lee Reeves, to defer consideration of the updated Board of Zoning Appeals Bylaws to the December 7, 2023, BZA Meeting. The motion to defer carried 5-0.

APPLICATIONS

4. A Variance Request To Allow An Accessory Structure To Be Located 45 Feet In Front Of The Principal Building'S Rear Façade, For The Property Located At 131 And 135 Guinevere Retreat (F.Z.O. 3.10.7).

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

Staff: Ariella Stanford. Ms. Stanford said the subject properties are at 131 and 135 Guinevere's Retreat and zoned PD, Planned District. The properties are in the Hillside/Hillcrest Overlay and the 500-foot Buffer of Hillside Overlay. There are existing houses at both 131 Guinevere's Retreat and 135 Guinevere's Retreat. The owner of both properties is proposing to demolish the house at 131 Guinevere's Retreat to build an accessory structure for the existing home at 135 Guinevere's Retreat. Due to the slopes on both lots, and an existing retaining wall on 131 Guinevere's Retreat, the proposed location of the accessory structure does not comply with the Zoning Ordinance. The Zoning Ordinance requires accessory structures at least 5 feet behind the principal building. The proposed accessory structure is about 45 feet in front of the principal building's rear façade. The owner has already obtained a demolition permit for the house on 131 Guinevere's Retreat and will be required to re-plot the properties to consolidate them into one lot. To have the plat approved, they would need approval of this Variance Request, so they have not yet replatted to consolidate the lots.

The BZA may authorize a variance only when the request has met all three criteria in accordance with F.Z.O §20.10.6 and State law. The staff has completed an analysis of the request in light of these criteria:

1. Whereby reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of 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 this Ordinance. The steep slopes in both lots and the existing retaining wall in the rear yard of 131 Guinevere's Retreat make this property unique in nature. The Franklin Zoning Ordinance does not allow for encroachment into areas with 20% or greater slopes, so the proposed structure must be located closer to the lot line than the Zoning Ordinance allows. As shown in the supporting document, slopes over 20% cover nearly the entire backyard, from the rear facade of the principal house to the rear lot line at 131 Guinevere's Retreat. The topographic conditions would not allow the accessory structure to be at least five feet behind the principal house's rear facade at 135 Guinevere's Retreat. Staff finds this criterion is met.
2. The strict application of any provision enacted under the Zoning Ordinance would result in peculiar and exceptional practical difficulties for or exceptional or undue hardship for the owner of the property. Due to the unique factors outlined above, the location of the accessory structure would not be able to comply with the Zoning Ordinance. With the steep slopes and the existing retaining wall, it would not be possible for the proposed accessory structure to be located at least 5 feet behind the principal building. If the existing retaining wall were to be moved further towards the back of the property, the retaining wall would have to be significantly taller than it is now, and it would likely not comply with the height requirements as outlined in the Zoning Ordinance. The existing retaining wall also continues onto the neighboring property, so any work done to the retaining wall could negatively affect the structure of the retaining wall on the neighbor's property. Staff finds this criterion is met.
3. 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 finds that the proposed accessory structure would not be a detriment to the public good, nor would it impair the purpose and intent of the Zoning Ordinance. The intent of the Zoning Ordinance in this case is for accessory structures to be secondary to the primary house. The accessory structure is not closer to the street than the existing house at 131 Guinevere's Retreat and given the slopes in the backyard and the existing retaining wall, it is as far back as it can be. Staff finds this criterion is met.

RECOMMENDED MOTION:

Staff recommends the Board of Zoning Appeals move to approve with conditions the Variance Request To Allow An Accessory Structure To Be Located 45 Feet In Front Of The Principal Building'S Rear Façade, For The Property Located At 131 And 135 Guinevere Retreat, because the criteria for granting a variance have been met. Staff recommends a condition that 131 and 135 Guinevere's Retreat must be consolidated into one lot, for the Variance to be applicable.

Applicant: Michelle Barnett, representing the owners of both lots and the architect for the accessory structure (Pool House). For the lots to be combined into one, it must be approved by the HOA of Avalon if the Board votes favorable for the variance request. Mr. Barnett shared photos of the properties with staff and the members of the Board. On one side of the property, the owners are contending with a 20% slope and in another part the large retaining boulders constructed years

ago. This leaves little buildable space left to construct a pool house. The proposed pool house is around 1300 square feet with storage underneath. The owners of 135 Guinevere's Retreat purchased 131 Guinevere's Retreat to allow space for the proposed pool house. The proposed location of the pool house (131 Guinevere's Retreat) is further away from the road than the existing home. The existing home at 131 Guinevere's Retreat will be demolished.

Citizen Comments:

Debra Read, 421 Beauchamp Circle, Villages of Avalon. Ms. Read stated that she lives behind 135 Guinevere's Retreat and has enjoyed complete privacy for 10 years. According to Ms. Read, the owners of 135 Guinevere's Retreat, two years ago, began clearing trees, extending their property, resulting in her loss of privacy. Ms. Read expressed her concern for her loss of privacy and the decrease in the value of her home's property.

There being no further citizen comments, Chair Langley asked for a motion to close the public comment portion.

A motion was made by Commissioner Lee Reeves, seconded by Commissioner Greg Caesar to close the public comment. The motion carried 5-0.

Ms. Diaz-Barriga clarified that the Board is reviewing the zoning ordinance to determine if the proposal meets all the criteria for granting a variance request. The Board is not considering the accessory structure design. One reason the applicant would like to combine the lots at 131 & 135 Guinevere's Retreat is that you cannot have an accessory structure without a primary structure.

Commissioner Lee Reeves and Greg Caesar asked questions about the neighboring property line and location of the accessory building, if approved.

Ms. Stanford confirmed that, if approved, the accessory building would not be closer to the road than the current home (to be demolished) at 131 Guinevere's Retreat. Also, Ms. Stanford confirmed that the accessory building is within the requirements of the side setback outlined in the zoning ordinance.

Motion:

A motion was made by Commissioner William Scales, seconded by Commissioner Lee Reeves, to Disapprove the Variance Request. The motion fails 1-4 (Chair Jonathon Langley voting in favor of motion).

Commissioner William Scales noted his concerns about demolition of a home to accommodate the accessory building, although the criteria required for approval of a variance seems to be met.

Commissioner Lee Reeves stated that if the variance request is granted, the homeowners would still be required to receive approval from the HOA of Avalon.

Mr. Barnett explained that he has been the architectural consultant for Avalon for 15 years. There have been two other situations in which a property owner in Avalon purchased the adjacent property. In one instance, the lot was purchased to ensure privacy and, in the other, an elaborate water feature was built.

Commissioner Lee Reeves stated that all the criteria for approval of a variance have been met and can be granted without substantial detriment to the public.

Chair Jonathon Langley stated that the request for demolition of a home is uncommon and unique, especially demolition of such a large home.

Motion:

Commissioner Lee Reeves, Seconded by Commissioner Jeff Fleishour, motioned to Approve the Variance Request with the Condition that 131 and 135 Guinevere's Retreat must be consolidated into one lot and receive all necessary approvals from Avalon HOA prior to moving forward with the project. The motion carried 4-1 (Chair Jonathon Langley voted against the motion).

OTHER BUSINESS

ADJOURN

A motion was made by Commissioner Jeff Fleishour, seconded by Commissioner Greg Caesar, to adjourn the November 2, 2023 BZA meeting. The motion carried 5-0.

There being no further business, the meeting adjourned at 06:52 PM p.m.


Chair

12/7/23
Date

