



City of Franklin

109 3rd Ave S
Franklin, TN 37064
(615) 791-3217

Meeting Minutes Board of Zoning Appeals

Thursday, January 4, 2024

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.

CALL TO ORDER

Chair Langley called the meeting to order at 06:01 PM

Board Members Present: Jonathan Langley, Lee Reeves, William Scales, and Dorinda Smith

Board Members Absent: Jeff Fleishour

Staff Members Present: Bill Squires, Lori Jarosz, 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 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 before noon on the day of 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 December 7, 2023 BZA Minutes.

Sponsors:

Board Member Scales motioned to approve the minutes from the December 7, 2023, BZA meeting, seconded by Board Member Reeves. The motion carried 4-0.

ANNOUNCEMENTS

Ms. Diaz-Barriga introduced and welcomed Dorinda Smith as the newest member of the Board of Zoning Appeals. Ms. Smith was nominated by Mayor Moore and approved by BOMA at the December BOMA meeting.

Ms. Diaz-Barriga announced that training for the BZA will be available in April, and she will let everyone know once a time and date has been set.

VOTE FOR CHAIR AND VICE-CHAIR

2. Consideration Of Election Of Chair And Vice Chair Pursuant To Section 4.1.2 Of The Bylaws.

Sponsors:

Chair

Board Member Reeves nominated Jonathan Langley as Chair for the 2024 BZA, seconded by Board Member Scales. The motion carried 4-0. Jonathan Langley was unanimously elected as Chair.

Vice Chair

Board Member Scales nominated Lee Reeves as Vice Chair for the 2024 BZA, seconded by Board Member Smith. The motion carried 4-0. Lee Reeves was unanimously elected as Vice Chair.

APPLICATIONS

3. A Variance Request To Allow More Than The Maximum Number Of Retaining Walls On A Site, And A Variance Request To Allow For A Taller Than Allowable Retaining Wall Within A Front Yard, And 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 For The Property Located At 609 Countess Nicole Court (F.Z.O. 13.2.4. and 17.1.2).

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

Staff: Ariella Stanford. This 2.03-acre lot is located at 609 Countess Nicole Court within the Avalon Subdivision and is zoned PD, Planned District. The applicant wishes to develop the parcel with a single-family home, the designs of which can be seen in the applicant's submitted materials. The Avalon PUD Subdivision was approved and platted prior to the establishment of the HHO district and the 500-foot Buffer of the Hillside Overlay. This property now lies within the 500-foot Buffer of the Hillside Overlay. As shown in the 'Slopes Greater Than 20% Exhibit', the majority of the lot is covered in slopes with grades over 20%, limiting the buildable area for the property to a specific portion of the site. This topography also creates difficulties for site design and development as the Franklin Zoning Ordinance does not allow for development on slopes greater than 20% to protect natural features. The slopes over 20% also present difficulties in complying with Zoning Ordinance requirements for retaining wall heights, and the number of retaining walls allowed on a residential lot.

Staff has determined that four Variances would be needed to approve the provided designs. These variances are:

1. To allow more than the maximum allowed 3 retaining walls on a residential site.
2. To allow for retaining walls to be higher than the maximum 2 feet when in a front yard.
3. To allow for retaining walls to be higher than the maximum 6 feet when in a rear/side yard.
4. To allow encroachments into areas with a slope of 20% or greater

Staff Analysis - Request 1: Maximum Number of Retaining Walls

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. Where, by 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 subject property is located within the Avalon subdivision with over a 20% slope across most of the property. These exceptional topographic conditions require the use of retaining walls to provide effective drainage, access, and support for development. The Franklin Zoning Ordinance allows a maximum of 3

retaining walls for a residential lot. The applicant is requesting a total of 13 retaining walls to support the development of the lot, given the slope conditions. Due to the exceptional slope conditions across the site, staff finds this criteria for Request 1 to be met.

2. The strict application of any provision enacted under the Zoning Ordinance would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of the property. Strict application of the Zoning Ordinance would create practical difficulties in the development of this site due to exceptional topographic conditions that exist. Due to the exceptional slope conditions across the site, more than 3 retaining walls are needed to support development of this site. Compliance with the Zoning Ordinance in this case would prevent the development of a single-family home on this lot. Staff finds this criteria for Request 1 to be 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. Allowing for additional retaining walls on this site would not be a detriment to the public good, nor would it impair the purpose and intent of the Zoning Ordinance. The Zoning Ordinance limits the number of retaining walls on a residential site to prevent a site from being dominated by retaining walls, which may result in aesthetic concerns for neighboring property owners and the community. Because several neighboring lots within the Avalon Subdivision have also had to implement unique retaining walls, this development would not contradict the aesthetic qualities of the neighborhood. In addition, the applicant is proposing 13 retaining walls to reduce the height of each retaining wall to a maximum of 5.5 feet in the front yard and 8 feet in the backyard. If there were fewer retaining walls proposed, each retaining wall would need to be even taller to support development, which would be more visible from the street and further from the intent of the Zoning Ordinance in this case. Staff finds this criteria for Request 1 to be met.

Recommendation - Request 1

Staff recommends approval of Variance Request 1, to allow more than the maximum number of retaining walls on a residential site, because the criteria have been met.

Staff Analysis - Request 2: Maximum Height of Front Yard Retaining Walls

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. Where, by 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. As stated above, there are exceptional topographic conditions which require the use of retaining walls to provide effective drainage, access, and support for development. The Franklin Zoning Ordinance allows for retaining walls located in the front yard of a residence to be a maximum of 2 feet in height. The applicant has requested retaining wall heights up to 5.5-feet in the front yard of the property, to support the driveway and the primary building. Due to these exceptional conditions across the site, staff finds this criteria for Request 2 to be met.
2. The strict application of any provision enacted under the Zoning Ordinance would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of the property. Strict application of the Zoning Ordinance would create practical difficulties in the development of this site due to exceptional topographic conditions that exist. Due to the exceptional slope conditions across the site, retaining walls higher than 2-feet are necessary to support the driveway according to regulation, as well as development of the primary building. Therefore, staff finds this criteria for Request 2 to be 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. Allowing for taller retaining walls in the front yard of this site would not be a detriment to the public good, nor would it impair the purpose and intent of the Zoning Ordinance. The Zoning Ordinance limits the number and height of retaining walls on a residential site to prevent a site from being dominated by retaining walls which may result in aesthetic concerns for neighboring property owners and the community. Because several neighboring lots within the Avalon Subdivision have also had to implement unique retaining walls, this development would not contradict the aesthetic qualities of the neighborhood. In addition, the applicant has determined that retaining walls up to 5.5 feet are the minimum height necessary to support the proposed driveway, and the proposed retaining walls vary in height as each wall has been calculated to be as short as possible to safely support development on the site. The proposed retaining walls will also be partially hidden by

landscaping as required under the Zoning Ordinance and as shown in the submitted documents. Staff finds this criteria for Request 2 to be met.

Recommendation - Request 2

Staff recommends approval of the Variance Request 2, to allow for a taller than allowable retaining wall within a front yard, because the criteria have been met.

Staff Analysis - Request 3: Maximum Height of Side/Rear Yard Retaining Walls

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. Where, by 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. As stated above, there are exceptional topographic conditions which require the use of retaining walls to provide effective drainage, access, and support for development. The Franklin Zoning Ordinance allows for retaining walls located in the rear/side yard of a residence to be a maximum of 6 feet in height. The applicant has requested retaining wall heights up to 8-feet in the rear yard of the property to ensure proper drainage and structural integrity of the proposed development. Due to the exceptional slope conditions across the site, staff finds the criteria for Request 3 to be met.
2. The strict application of any provision enacted under the Zoning Ordinance would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of the property. Strict application of the Zoning Ordinance would create practical difficulties in the development of this site due to exceptional topographic conditions that exist. Due to the exceptional slope conditions, retaining walls taller than 6-feet are necessary to support a single-family home on this site. Therefore, staff finds the criteria for Request 3 to be 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. Allowing for taller retaining walls in the rear yard of this site would not be a detriment to the public good, nor would it impair the purpose and intent of the Zoning Ordinance. The Zoning Ordinance limits the number and height of retaining walls on a residential site to prevent a site from being dominated by retaining walls, which may result in aesthetic concerns for neighboring property owners and the community. Because several neighboring lots within the Avalon Subdivision have also had to implement unique retaining walls, this development would not contradict the aesthetic qualities of the neighborhood. In addition, the applicant has determined that retaining walls up to 8-feet are the minimum height necessary to support the proposed development, and the retaining walls in the side yard only reach up to 6-feet tall, which is in compliance with the Zoning Ordinance. Staff finds the criterion for Request 3 to be met.

Recommendation - Request 3

Staff recommends approval of the Variance Request 3, To Allow For A Taller Than Allowable Retaining Wall Within A rear Yard, because the criteria have been met.

Staff Analysis - Request 4: Encroachments into Areas With Slopes Of 20% Or Greater

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. Where, by 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 slopes existing on this lot present an exceptional situation for development of this property. Given the topography of the site, encroachment into 20% slopes is necessary for development; however, the Franklin Zoning Ordinance does not allow for encroachment into areas with slopes of 20% or greater. When the Avalon PUD Subdivision was approved and platted, this Zoning Ordinance regulation was not yet in place and development on the steep slopes was anticipated for this lot. Staff recognizes the exceptional situation of this site and believes that encroachment into areas with a slope of 20% is necessary in this case. For these reasons, staff finds this criteria for Request 4 to be met.

2. The strict application of any provision enacted under the Zoning Ordinance would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of the property. Due to exceptional topographic conditions, the strict application of the Zoning Ordinance would create practical difficulties in the development of this site. As shown in the attached exhibit, slopes greater than 20% cover most of the lot. It would not be feasible to build a house on the portion of the lot that does not have slopes greater than 20%. Given the unique topography of the site, the strict application of the Zoning Ordinance would prevent development on this site. For these reasons, staff finds this criteria for Request 4 to be 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. Allowing for encroachment into areas with slopes of 20% or greater on the site would not be a detriment to the public good, nor would it impair the purpose and intent of the Zoning Ordinance. The lot is currently neighbored by lots with similar topography that have utilized similar site grading techniques. The intent of this lot is to allow a single-family residential home to be built. This variance is the minimum necessary deviation from the requirements of the Zoning Ordinance to develop a single-family home on the lot, given the current conditions of the site. Staff finds this criteria for Request 4 to be met.

Recommendation - Request 4

Staff recommends approval of the Variance Request 4, to allow for encroachment into areas with slopes of 20% or greater, because the criteria have been met.

Recommendation:

Recommended Motion: Staff recommends the Board of Zoning Appeals move to approve the Variance Request To Allow More Than The Maximum Number Of Retaining Walls On A Site, And A Variance Request To Allow For A Taller Than Allowable Retaining Wall Within A Front Yard, And 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 For The Property Located At 609 Countess Nicole Court, because the criteria for granting a variance have been met.

Applicant: The applicant stated that it would be challenging to build a home on this lot without retaining walls.

There being no public comments for this item, Chair Langley asked for a motion from the Board to close the public hearing.

Board Member Scales motioned to close the public hearing, seconded by Board Member Reeves. The motion carried 4-0.

Chair Langley stated that each variance request would be addressed one at a time to concentrate on each one specifically.

Chair Langley asked if it is to be assumed that each variance request is specific to the site plan for the property.

Mr. Squires confirmed that variance requests are specific to the site plan according to what is before the Board to approve.

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

Board Member Scales motioned to approve a variance request to allow more than the maximum number of retaining walls on a site because the criteria for a variance have been met, seconded by Board Member Reeves.

Board Member Scales stated that given the drastic sloping of the property, retaining walls would be the best and most secure option for building. Landscaping will buffer the retaining walls so that the appearance of the walls is minimized.

Board Member Reeves asked if the documents speak to the use of landscaping.

Ms. Diaz-Barriga stated that the zoning ordinance requires the use of landscaping when retaining walls are constructed on a property.

Ms. Smith expressed her concerns about the number of retaining walls requested, even though the development existed prior to the zoning updates, and the precedent that will be set if approval of 13 retaining walls is granted. Previously, the maximum number of retaining walls approved was 7. Also, Ms. Smith asked the applicant if the homeowners association had approved the project.

The applicant explained that approval from the homeowner's association had been received.

Chair Langley agreed with Board Member Smith's comments regarding the number of retaining walls requested. Chair Langley stated that considering the uniqueness of Avalon and the subject property and previous approvals of three or four projects with retaining walls, in the last few years, obviously presents an exceptional situation.

Ms. Smith stated that she has concerns about drainage with the additional hardscapes (patio and pickle ball court) associated with the project.

There being no further discussion, Chair Langley asked the Board to vote by roll call. The motion carried 4-0.

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

Board Member Smith motioned to approve a variance request to allow for a taller than allowable retaining wall within a front yard, seconded by Board Member Reeves.

There being no discussion, Chair Langley asked the Board to vote by roll call. The motion carried 4-0.

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

Board Member Scales motioned to approve a variance request to allow for a taller than allowable retaining wall within a side/rear yard because the criteria for a variance has been met, seconded by Board Member Reeves.

There being no discussion, Chair Langley asked the Board to vote by roll call. The motion carried 4-0.

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

Board Member Scales motioned to approve a variance request to allow for encroachments into areas with slopes of 20% or greater because the criteria for a variance have been met, seconded by Board Member Reeves.

There being no discussion, Chair Langley asked the Board to vote by roll call. The motion carried 4-0.

OTHER BUSINESS

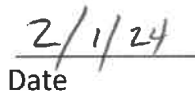
Chair Langley asked if there was any further business. There was none.

ADJOURN

Board Member Reeves motioned to adjourn the January 9, 2024, BZA Meeting, seconded by Board Member Smith. The motion carried 4-0.

There being no further business, the meeting adjourned at 6:30 PM.


Chair


Date