



City of Franklin

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

Meeting Minutes

Board of Zoning Appeals

Thursday, April 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.

Applicants are encouraged to attend the meeting, even if they agree with staff recommendation. The Board of Zoning Appeals may defer or disapprove an application/request unless someone is present to represent it.

Comments on agenda items may be made in person at city hall or by emailing planningintake@franklinton.gov before noon on the day before 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.

CALL TO ORDER

Chair Jonathan Langley called the meeting to order at 6:01 PM

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

Board Members Absent: None

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

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.

APPROVAL OF MINUTES

1. Consideration Of Approval Of The February 1, 2024 BZA Minutes.

Sponsors:

Board Member Reeves motioned to approve the minutes from the February 1, 2024, BZA meeting, seconded by Board member Smith. The motion carried 4-0 (Board Member Scales arrived after vote).

ANNOUNCEMENTS

Ms. Diaz-Barriga stated that anyone who may have missed the training session should contact Mr. Squires to watch the recorded version.

APPLICATIONS

2. **A Variance Request To Allow For A Taller Than Allowable Retaining Wall Within A Front Yard For The Property Located At 326 Lionheart Way. (FZO §13.2.4).**

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

Staff Presentation: Ariella Stanford. This 1.28-acre lot is located at 326 Lionheart Way within the Avalon Subdivision and is zoned PD for 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 Hillside/Hillcrest Overlay District and the 500-foot Buffer of the Hillside Overlay. This property now lies within the HHO district and the 500-foot Buffer of the Hillside Overlay. As shown in the 'Slopes Greater Than 20% Exhibit', much 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.

This property previously received approval for the following Variance Requests:

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 encroachments into areas with a slope of 20% or greater.

The property was also given the following conditions of approval:

1. The maximum number of retaining walls is 7.
2. The front yard retaining wall maximum is 6 feet, and the homeowner must provide landscaping so that a maximum of 2 feet of the front yard retaining wall is visible.

Since the approval of these Variance Requests, the applicant has had to change their plans. It was discovered that the previously proposed retaining walls encroached into a sanitary sewer easement. To prevent the retaining wall from encroaching into the sanitary sewer easement, the applicant worked with Lance Fittro in our Engineering Department, and Ben McNeil in Water Management to design a solution. The solution, which is reflected in the submitted plans, is to raise the elevation of the house by 3 feet. This reduces the grade difference in the backyard, which then reduces the height and number of retaining walls needed in the backyard and eliminates the retaining wall that was encroaching into the sanitary sewer easement. While this reduces the height of the retaining walls in the backyard and reduces the overall number of required retaining walls on the site, it causes a portion of the front yard retaining wall to reach a maximum of 8 feet. Because the front yard retaining wall is now taller than the previously approved Variance Request, the applicant is requesting a new Variance Request for the updated plans for the front yard retaining wall. All other aspects of the plans are still in compliance with the previous Variance Requests that were approved.

Staff Analysis (Variance Criteria)

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. There are exceptional topographic conditions on this site which require the use of retaining walls to provide effective drainage, access, and support for development. Since the previously approved Variance Request for a 6-foot maximum front yard retaining wall, conditions of the site have caused the plans to change. To prevent a retaining wall from encroaching into the sanitary sewer easement on the property, the proposed house has to be raised by 3 feet from their previous plans, which also increases the necessary height of the retaining wall in the front yard. 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 is requesting retaining wall heights up to 8-feet in the front yard of the property. Due to the exceptional slopes on this property and the location of the sanitary sewer easement, Staff finds criteria 1 to be 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. 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 and the location of the sanitary sewer easement, retaining walls higher than 2-feet in the front yard are necessary to support the house and prevent the retaining walls in the backyard from encroaching into the easement. Therefore, staff finds criteria 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. The applicant has determined that the front yard retaining walls up to 8 feet are necessary to support the proposed house. The applicant also intends to abide by the condition of approval that was put on the previous Variance Request to have landscaping cover up to the top 2 feet of the wall in the front yard. Staff finds criteria 3 to be met.

Recommendation: Staff recommends the Board of Zoning Appeals move to approve the Variance Request To Allow For A Taller Than Allowable Retaining Wall Within A Front Yard For The Property Located At 326 Lionheart Way, because the criteria for granting a variance have been met.

Applicant: Hamid Arab. Mr. Arab stated that the designer overlooked the sanitary sewer easement resulting in a redesign that required elevating the house by three feet.

Public Comment: There being no public comments for this item, Chair Langley asked for a motion from the Board to close the public hearing. Board Member Smith motioned to close the public hearing, seconded by Board Member Reeves. The vote carried 4-0 (Board member scales arrived after vote).

Board Member Smith asked Mr. Arab if the Avalon HOA had approved the changes to the property and if he feels confident that raising the elevation three feet will correct the problem.

Mr. Arab stated that the HOA is aware and has approved the redesign. Elevating the home three feet is the most practical way to remedy the issue without creating other encroachments. The redesign was a lengthy process resulting in the expiration of the previously approved variance requests.

Ms. Stanford stated that she didn't realize the previously approved variances had expired.

Chair Langley stated that a redesign may require the application to come before the BZA for approval. Originally, the application was approved to have no more than seven retaining walls, the front yard retaining wall could not be taller than six feet and the homeowner would be responsible for landscaping along the front retaining wall so that no more than two feet of wall would be visible.

Ms. Diaz-Barriga stated that the applicant received approval for three variance requests on November 3, 2022, which have now expired. The Board can address the single variance request before you currently or defer the application so that all needed variances can be addressed at one time.

Motion

Board Member Fleishour motioned to approve a variance request to allow for a taller than allowable retaining wall within a front yard for the property located at 326 Lionheart Way because the criteria for a variance have been met, seconded by Board Member Smith.

Discussion

Board Member Fleishour stated that because of the additional height of the front retaining wall, extra landscaping should be

required so that no less than two feet of the retaining wall is visible.

Board Member Reeves stated his concerns about how the Board should address the expired variance requests along with the request before the Board.

Mr. Squires explained that the Board can address the expired variance requests by amending the motion to include the previously approved variance requests, in theory. The request before you is a consideration of a single variance request and, Mr. Squires noted, the applicant has not asked the BZA to approve the expired variance requests.

Board Member Smith stated that deferral of the current variance request may be the best option so that all variance requests can be considered at one time. This would be a cleaner and more organized application and would allow the applicant time to consolidate the variance requests into one request for approval.

Board Members Smith and Reeves stated they support the variance request before the Board tonight but it's unclear if the expired variance requests fit into the application.

Mr. Squires stated that if the Board chooses to defer the application to a date certain, the deferral motion would override the motion on the floor, to approve the variance request.

Ms. Diaz-Barriga stated that the deadline to be added to the May BZA meeting agenda is April 8, 2024. The June 6, 2024, BZA meeting may give the applicant more time to prepare the application.

Motion to Defer

Board Member Fleishour motioned to defer the variance request to allow for a taller than allowable retaining wall within a front yard for the property located at 326 Lionheart Way to the June 6, 2024, BZA Meeting, seconded by Board Member Reeves. The motion to defer carried 4-0 (Board Member Scales arrived after vote).

3. A Variance Request To Allow An Accessory Structure To Be Located To The Side Of The Principal Building For The Property Located At 120 Aldersgate Way (FZO §3.12.5.).

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

Staff Presentation: Ariella Stanford. This 104.07-acre property is located at 120 Aldersgate Way and is zoned CI Civic and Institutional District. It is within the Flood Fringe Overlay, the Historic Preservation Overlay, and the Central Franklin Overlay. The site is currently owned and occupied by the Franklin First United Methodist Church. The Franklin Farmer's Market is looking to relocate, and they are working alongside the church to propose a pavilion on this property for the market. There is a significant portion of this property that is within the Flood Fringe Overlay, which has restricted their options for the location of the pavilion. The "Floodplain Border" exhibit shows the existing floodplain border (in red) as it exists today in relation to the location of the proposed pavilion. The proposed pavilion is located to the side of the principal building. Staff has determined that the pavilion is classified as an Accessory Structure, and for the CI district the Zoning Ordinance specifies that Accessory Structures must be located at least 5 feet behind the principal building. For this reason, the applicant is requesting a Variance for the accessory structure to be located to the side of the principal building. Because this property is within the Historic Preservation Overlay, it is also required to get approval from the Historic Zoning Commission. This proposal was first discussed at DRC in February 2024 and the board discussed the architectural style of the accessory structure as well as its location. The Board noted that the accessory structure should not be visible from Franklin Road, to not detract from the Franklin Road Historic District. The current proposed location aligns with this note from the HZC.

Then the applicant submitted for a Certificate of Appropriateness and went to the HZC Meeting on March 11, 2024. The HZC approved the application with the following conditions:

1. The structure may be moved forward of the principal structure if necessary to not be located in the floodplain.
2. The arch design fronting Mack Hatcher Pkwy is to be removed and simplified to the design of the square entrances on the sides.
3. The application must receive a variance from the Board of Zoning appeals, as the location of the structure is not permitted per the Zoning Ordinance.

4. The application must meet all the requirements of the City of Franklin prior to the issuance of a building permit.
5. Any additional changes to the approved plans must be returned to the Preservation Planner or the Historic Zoning Commission for review and approval.

Staff Analysis (Variance 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. Roughly half of this property is within the FFO and most of the property behind the church building that is not in the FFO is where the parking is currently located for the church. The HZC also noted at DRC that they prefer for the accessory structure to be farther from Franklin Road, so it's not visible from Franklin Road, to ensure that it does not detract from the Franklin Road Historic District. Given the location of the existing church building and parking layout in relation to the floodplain on the property, along with the recommendation from HZC for the accessory structure not to be visible from Franklin Road, the options for the location of the accessory structure are limited. For this reason, Staff finds this criteria 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. The strict application of a provision enacted under the Zoning Ordinance would prevent the accessory structure from being both located outside of the floodplain and in compliance with the HZC's recommendation to not be visible from Franklin Road. The regulation that an accessory structure must be located at least 5 feet behind the principal building would restrict the location of the accessory structure to either be in the floodplain or visible from Franklin Road and thus, against recommendation from HZC. Considering this practical difficulty, Staff finds this criteria 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. The proposed location of this accessory structure would not be a detriment to the public good, nor would it impair the intent of the Zoning Ordinance. The intent of the Zoning Ordinance in this case is for the accessory structure to be secondary to the principal building. The height of the accessory structure is significantly shorter than the church building, and it is located no closer to the street than the church building. These conditions contribute to the accessory structure appearing secondary to the primary building. Staff finds this criteria is met.

Recommendation: Staff recommends the Board of Zoning Appeals move to approve the Variance Request To Allow An Accessory Structure To Be Located To The Side Of The Principal Building For The Property Located At 120 Aldersgate Way, because the criteria for granting a variance have been met.

Applicant Presentation: Amy Tavalin. Ms. Tavalin did not have any additional information to add.

Public Comment: There being no public comments for this item, Chair Langley asked for a motion from the Board to close the public hearing. Board Member Reeves motioned to close the public hearing, seconded by Board Member Smith. The motion carried 4-0 (Board Member Scales arrived after vote).

Motion

Board Member Smith motioned to approve a variance request to allow an accessory structure to be located to the side of the principal building for the property located at 120 Aldersgate Way because the criteria for a variance have been met, seconded by Board Member Reeves. The motion carried 4-0 (Board Member Scales arrived after vote).

4. **A Variance Request To Allow Parking Within The Murfreesboro Road Frontage Area For A Principal Building For The Property Located At 1450 Murfreesboro Road (FZO §7.5).**

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

Staff Presentation: Ariella Stanford. This 5.64 acre property is located at 1450 Murfreesboro Road and is zoned RC6 Regional Commerce 6 District. The existing building is occupied by Darrell Waltrip Subaru which is a car dealership, and they are proposing an expansion to the existing building. Because the square footage of the proposed expansion is greater than 50%

of the existing building square footage, the site must come into compliance with the current Zoning Ordinance requirements. The RC6 Zoning District allows either Landscape Frontage or Urban Frontage, neither of which allow parking to be located in front of the principal building. There are 32 parking spaces that are currently located in front of the existing building, and applicant is proposing to leave these parking spaces in their current locations with the expansion of the building. For this reason, the applicant is requesting a Variance to allow parking within the frontage area of the principal building.

Staff Analysis (Variance 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. Staff did not find a condition of the property that prevents the required parking from being located to the side or rear of the principal building. While it appears the lot is fully developed, the existing parking provides an excess of inventory parking behind the principal building which could be reallocated as customer parking. Staff finds this criteria is not 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. The strict application of the Zoning Ordinance does not restrict or prevent the required parking from being located to the side or rear of the principal building. Staff finds this criteria is not 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. The design of this site would not be a detriment to the public good, but it would impair the intent of the Zoning Ordinance. The Zoning Ordinance introduced the requirements for Frontage starting with the 2019 Zoning Ordinance update, as a direct response to the adoption of Envision Franklin in 2017. Two of the core Guiding Principles are Exceptional Design and Vibrant Neighborhoods. One characteristic of Exceptional Design as outlined in Envision Franklin is that parking should be secondary to the building and its relationship to the street, and that views from the street should not be of parking lots. One characteristic of Vibrant Neighborhoods as outlined in Envision Franklin includes pedestrian-friendly neighborhoods that make walking and biking more enjoyable along streets. The intent of the Zoning Ordinance is to reinforce the principles of Envision Franklin, and in this case it's by keeping parking to the side or behind principal buildings for specified districts. It was intentional that RC6 district only permits the Landscape or Urban Frontage Types, as other Frontage Types that permit parking in front of buildings were not included in the RC6 zoning district and instead only permitted in more industrial or civic based zoning districts. The Zoning Ordinance is also intentional in specifying when this regulation must be enforced, which is significant in this case. As stated in the Applicability section of the chapter, Frontage shall comply with Chapter 7 of the Zoning Ordinance when a building expansion exceeds 50% of the building's existing square footage, which is the case with this proposed expansion. When the Zoning Ordinance update was approved, it was established that exceeding 50% is the threshold for remaining in noncompliance with the Zoning Ordinance. For these reasons, this site is not designed in a way that meets the intent of the ordinance. Staff finds this criteria is not met.

Recommendation: Staff recommends the Board of Zoning Appeals move to deny the Variance Request To Allow Parking Within The Murfreesboro Road Frontage Area For A Principal Building For The Property Located At 1450 Murfreesboro Road, because the criteria for granting a variance have not been met.

Applicant Presentation: Greg Hartly. Mr. Hartly explained that the manufacturer requirements for a Subaru franchise include specifications for building size and parking requirements, among others. Mr. Hartly provided an updated proposal for the Darrell Waltrip Subaru dealership to the Board members. The minor changes include updates to the stormwater requirements. Due to the manufacturer requirements for service bays, finance desks, and storage areas, the total square footage is over 50 percent of the existing square footage, triggering the need for a variance request. Parking space requirements for new car inventory is 171 spaces, preowned inventory 65 spaces and 60 spaces for service vehicles. Employee parking is estimated at 65 spaces and is not accounted for on site due to the limitations of the zoning ordinance. The narrowness of the site along with site elevation changes make the parcel unique and difficult to create additional parking areas. Practical difficulties from the strict application of the zoning ordinance apply in this case since loss of the dealership franchise is a possibility if specific requirements are not met. Lastly, Mr. Hartly stated that the narrowness of the site requires a lift gate to separate the customer area from the service area for safety concerns and ADA requirements.

Public Comment:

Greg Clark. Mr. Clark stated that the proposed expansion is to the rear of the parcel due to the lot limitations and includes an enclosure of an existing canopy which can be considered part of the current footprint. Also, Mr. Clark further discussed safety concerns if the most of parking is in the rear of the parcel. Trash pickups along with service deliveries add to the amount of traffic entering and exiting the rear of the property.

There being no additional public comments for this item, Chair Langley asked for a motion from the Board to close the public hearing. Board Member Reeves motioned to close the public hearing, seconded by Board Member Fleishour. The motion carried 4-0 (Board Member Scales arrived after vote).

Board Member Reeves stated that he is sympathetic to the situation and asked what percentage overage is the expansion and is it possible to appeal to the manufacturer regarding their requirements, given the age of existing building. There must be similar cases around the country where exceptions have been made.

Mr. Hartly stated that the percentage over is about seven percent and most of the manufacturer exceptions made have been related to signage shape or size. It isn't common for parking in front of the building to be limited by the zoning ordinance as most dealerships are not in areas requiring most parking at the rear.

Board Member Smith suggested landscape planning as an option to screen the parking.

Mr. Hartly stated that because of the existing retaining wall and how its constructed, digging around the wall could disrupt the foundation. We would be happy to plant shrubs with shallower root systems, if possible.

Board Member Fleishour asked what the overage is in terms of square footage.

Mr. Hartly stated that the overage is around 2200 square feet which would mean the removal of four service bays.

Motion

Board Member Reeves motioned to disapprove a variance request to allow parking within the Murfreesboro Road frontage area for a principal building for the property located at 1450 Murfreesboro Road because the (3) criteria required for a variance request have not been met, seconded by Board Member Smith.

Board Member Reeves stated that he agrees that criteria one is met due to the slope and narrowness of the lot. Criteria two, however, is not met because there are no practical difficulties or undue hardships for the owner as the property exists today. The practical difficulties and undue hardships are created because of the proposed building expansion by the requirements of the manufacturer. The proposed expansion does hamper the purpose and intent of the zoning ordinance (criteria 3). The City of Franklin has specific long-term goals with the zoning ordinances in place to support those goals and for this reason criteria number three is not met.

Board Member Smith stated that the city of Franklin welcomes and embraces businesses but not at the expense of the zoning ordinance. The idea that this proposal could prompt a refresh of the Murfreesboro corridor is desirable, but some compromise would need to be made, possibly through landscaping.

Board Member Fleishour stated that he agrees with Board Member Smith but would consider deviating given the location of the parcel.

Chair Langley stated that he agrees with much of what Board Member Reeves said especially about the lot uniqueness, like much of the landscape of Franklin. As a former land planner, Chair Langley recognizes the property transformation required to create the street view environment described in Envision Franklin. Improvement of the corridor is needed while practically considering what currently exists. These are difficult considerations and, at what point, does the zoning ordinance impair the overall goals of Envision Franklin. Strictly considering the zoning ordinance in a black and white view, variance criteria number two is not met. Regarding criteria three, considering the scale, extent, and use of the site, this criterion could be met.

Board Member Reeves added that if the question before the BZA was to consider the property as is currently exists with parking in the front, the answer would be yes. Once the expansion of the building becomes a point of consideration, Envision

Franklin and the zoning ordinances become points of deliberation.

There being no further discussion, Chair Langley asked the Board to vote on the current motion to disapprove the item. The motion failed 2-2 (Chair Langley and Board Member Fleishour voting against the motion. Board Member Scales arrived after vote).

Chair Langley recognized Board Member Scales arrival for most of item four's discussion and asked if he would like to vote on the item.

Board Member Scales stated that he did not hear the applicant's full presentation and it would be best for him to abstain from voting.

Mr. Squires stated that the motion failed and that another action is necessary.

Board Member Reeves asked the applicant how quickly the proposal could be updated so that the application could be deferred to a future BZA meeting.

Mr. Hartly stated that it would take a couple of months to get an updated design by the manufacturer.

Motion To Defer

Board Member Reeves motioned to defer the variance request to allow parking within the Murfreesboro Road frontage area for a principal building for the property located at 1450 Murfreesboro Road to the June 6, 2024, BZA Meeting, seconded by Board Member Scales. The motion carried 5-0.

OTHER BUSINESS

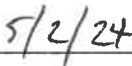
Chair Langley asked if there was any further business. There was none.

ADJOURN

Board Member Fleishour motioned to adjourn the April 4, 2024, BZA meeting, seconded by Board Member Reeves. The motion carried 5-0.

There being no further business, the meeting adjourned at 7:04 PM.


Chair


Date