



City of Franklin

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

Meeting Minutes

Board of Zoning Appeals

Thursday, June 6, 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 until 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.

CALL TO ORDER

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

Board Members Present: Jonathan Langley, Jeff Fleishour, and William Scales

Board Members Absent: Lee Reeves and Dorinda Smith

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

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 May 2, 2024 BZA Minutes.

Sponsors:

Board Member Scales motioned to approve the minutes from the May 2, 2024, BZA meeting, seconded by Board Member Fleishour.

The motion carried 3-0.

ANNOUNCEMENTS

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

APPLICATIONS

2. **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 For The Property Located At 326 Lionheart Way (F.Z.O. 13.2.4. And 4.4.6.)**

Sponsors: Amy Diaz-Barriga, Ariella Stanford

Staff Presentation: Amy Diaz-Barriga. Ms. Diaz-Barriga updated the Board about the previously approved variance requests. The application was previously approved for three variance requests with conditions. Since the approval of these Variance Requests, the applicant has had to change their plans. The new variance request would change the height and number of walls requested, requiring the applicant to request a new variance request for the updated plans. The Variance Request to allow a taller retaining wall in the front yard was requested at the April 4, 2024, BZA meeting. At this meeting, it was realized that the previous variance requests had expired, and the applicant would have to submit these requests again. For that reason, the item was deferred in April and the applicant is now additionally requesting to allow more than 3 retaining walls on the lot, and to allow development within areas of 20% slopes or greater (which are the requests that expired). Ms. Diaz-Barriga stated that she will read each criteria (1-3) for the first variance request, then she will refer to each criteria by number for the second and third variance requests.

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:

Request 1: Maximum Height of Front Yard Retaining Walls (deferred from April 4, 2024).

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 Analysis: 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 must 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 for Request #1 to be met.

Criteria #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.

Staff Analysis: 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 for Request #1 to be met.

Criteria #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 Analysis: 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 Various Request to have landscaping cover up to the top 2 feet of the wall in the front yard. Staff finds criteria #3 for Request #1 to be met.

Request 2: Maximum Number of Retaining Walls

Criteria #1

Staff Analysis: The subject property is located within the Avalon subdivision with over 20% slopes across the majority 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 4 retaining walls. The applicant has determined that this is the minimum number of retaining walls required to develop a single-family home on this lot. Due to the exceptional slope conditions across the site, Staff finds criteria #1 for Request #2 to be met.

Criteria #2

Staff analysis: 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. Staff finds criteria #2 for Request #2 to be met.

Criteria #3

Staff Analysis: 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 has determined that 4 retaining walls is the minimum number necessary for development on the lot; therefore, there would not be an excess of retaining walls dominating the site. Staff finds criteria #3 for Request #2 to be met.

Request 3: Encroachments into Areas With Slopes Of 20% Or Greater

Criteria #1

Staff Analysis: 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. Staff recognizes the exceptional slope conditions across the site and believes that encroachment into areas with a slope of 20% is necessary in this case. For these reasons, staff finds criteria #1 for Request #3 to be met.

Criteria #2

Staff Analysis: 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 criteria #2 for Request #3 to be met.

Criteria #3

Staff Analysis: 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 the Zoning Ordinance is to allow a single-family residential home on this lot, and 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 criteria #3 for Request #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, and the Variance Request To Allow More Than The Maximum Number Of Retaining Walls On A Site, and the Variance Request To Allow For Encroachments Into Areas With Slopes Of 20% Or Greater, For The Property Located At 326 Lionheart Way because the criteria for granting a variance have been met.

Public Comment: None

Board Member Fleishour motioned to close the public comment for this item, seconded by Board Member Scales. The motion carried 3-0.

Applicant: Devin Decker

Chair Langley asked staff to address conditions for the expired variance requests, from a year ago, regarding the maximum number of retaining walls requested (7) and the condition requiring the applicant to provide landscaping so that a minimum of two feet is visible for the front retaining walls.

Ms. Diaz-Barriga explained that one of the retaining walls in the rear encroached into the sewer easement. The proposed solution is to raise the site by three feet, which removed the need for a retaining wall in the back. This reduced the number of retaining walls needed but increased the height of the front retaining wall section.

Mr. Decker confirmed that three retaining walls are requested in the back and two retaining walls are requested in the front. Mr. Decker also noted that the applicant is agreeable to the front landscaping that will allow a minimum of two feet of visibility.

Motion

Board Member Scales motioned to approve 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 For The Property Located At 326 Lionheart Way with the condition that landscaping will be provided so that the front retaining wall will have two feet of visibility because the criteria for granting a variance request have been met, seconded by Board Member Fleishour.

The motion carried 3-0.

3. A Variance Request To Waive The Substantial Improvement Requirement To Floodproof Or Raise The First Floor Elevation Of A Historic Structure Above The Base Flood Elevation For The Property Located At 94-98 E Main Street (F.Z.O. 17.6.4.(B)).

Sponsors: Amy Diaz-Barriga, Ariella Stanford

Staff Presentation: Amy Diaz-Barriga. This 0.42 acre property is located at 94-98 East Main Street. It is zoned 1st Avenue District and is within the Historic Preservation Overlay, the Central Franklin Overlay, the Flood Fringe Overlay, and the Floodway Overlay. The owner has proposed substantial renovations to the existing building, which requires compliance with the Zoning Ordinance section 17.6.4. This property was on the agenda for the May 2024 Historic Zoning Commission meeting, and Planning Staff presented the following information on this property:

1. The buildings located at 94-98 East Main Street and the proposal to designate them as historic buildings has come before the Design Review Committee, to discuss their historic form and the history of a service station on the property. The application includes documentation proving that the building on this site (closest to the intersection of E. Main and 1st Avenue) has historically been a service station for vehicles since the late 1950s with the addition of the two adjoining buildings, closest to the Harpeth River, estimated to have been constructed in the 1970s. While these buildings are not a part of the National Register District, they are considered a part of the Local Historic District, and the DRC has been supportive of considering these buildings as historic resources.
2. The Zoning Ordinance requires an entire building to come into compliance with the floodplain regulations when the amount of the proposed investment into the building triggers substantial improvement value. This includes a

requirement for commercial buildings to raise the finished floor elevation to at least three feet above the Base Flood Elevation.

3. The application includes several renderings of how the building would appear with it being raised 2.2 feet to be in compliance with the Zoning Ordinance. The Guidelines do not comment on the raising/elevation of historic structures and only comment on foundation height compatibility as related to infill construction. The foundation height required without the issuance of a variance would also require a significant change to the ca. mid-1900s buildings. This change would significantly alter the character-defining features of these historic buildings and therefore compromise its historic status. The proposal to maintain the finished floor elevation as it exists currently is more sensitive to the architectural qualities of the historic structure, presents the least amount of adverse impact to the historic structure, and presents the least amount of adverse impact to the context of its overall historic district.
4. Variances may be issued for the repair and rehabilitation of historic structures upon a determination that the proposed work will not preclude its continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of the Zoning Ordinance to preserve the historic character and design of the structure. It is recommended that variance requests for historic structures in the floodplain receive a recommendation by the HZC prior to consideration by the Board of Zoning Appeals (BZA). The HZC provided a favorable recommendation to the BZA at its May 2024 meeting for the building to remain at its existing First Floor Elevation, as the proposal is the most sensitive to the architectural qualities of the contributing structure and presents the least amount of adverse impact to the contributing status of the historic structure and the context of the overall historic district.

Staff Analysis Variances shall be issued only upon the determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in Paragraph 17.6.5.A, Variances, shall only be issued upon:

1. **A showing of good and sufficient cause.** Because this property is within the local Historic District, and the HZC has been supportive of considering these buildings as historic resources, the need to take measures to maintain this status amount to good and sufficient cause for granting a variance. The proposal is the most sensitive to the architectural qualities of the contributing structure and presents the least amount of adverse impact to the historic structure and the context of the overall historic district. The HZC provided a favorable recommendation to the BZA for these reasons. Staff finds that this criteria is met.
2. **A determination that failure to grant the variance would result in exceptional hardship.** The proposal is to keep the historic house at its existing level and not floodproof the building to maintain the historic character of the buildings. The HZC determined that raising the house to meet Base Flood Elevation would affect the historic character of the buildings. As outlined in the Justification Letter exhibit, the applicant has determined that the required floodproofing methods would also affect the historic character of the buildings. Floodproofing the building would require alterations to the interior and exterior of the buildings that would detract from their historic character. Altering the historic character of the buildings would amount to exceptional hardship for the owner of the property. For these reasons, staff finds that this criteria is met.
3. **A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or Ordinances.** The HZC has recommended approval of the variance request to maintain the current elevation of the buildings to protect the historic character of the buildings, which contributes to the historic significance of Franklin. Based on the recommendation of the HZC along with analysis of exhibits provided by the applicant, staff finds that granting the variance would not result in any of the outcomes listed above. Staff finds that the third criteria is met.

Recommendation: Staff recommends the Board of Zoning Appeals move to approve the Variance Request To Waive The Substantial Improvement Requirement To Floodproof Or Raise The First Floor Elevation Of A Historic Structure Above The Base Flood Elevation For The Property Located At 94-98 East Main Street, because the criteria for granting a variance have been met.

Applicant: Mark Kozevski. Mr. Kozevski did not have any new information to add.

Citizen Comment: None

Board Member Fleishour motioned to close the public comment portion of the item, seconded by Board Member Scales. The motion carried 3-0.

Board Member Scales asked the applicant about the proposed plans for the building.

Mr. Kozevski stated that the new tenants planned to make changes to the interior and maintain the historic exterior.

Motion

Board Member Fleishour motioned to Waive The Substantial Improvement Requirement To Floodproof Or Raise The First Floor Elevation Of A Historic Structure Above The Base Flood Elevation For The Property Located At 94-98 East Main Street because the criteria for a variance have been met, seconded by Board Member Scales.

The motion carried 3-0.

4. A Variance Request To Allow For A Retaining Wall To Be Located A Minimum Of 1 Inch From The Rear Property Lines And 0 Inches From The Side Property Lines, And A Variance Request To Allow For A Taller Than Allowable Retaining Wall Within A Rear Yard For The Properties Located At 1275 Habersham Way And 1277 Habersham Way (F.Z.O. 13.2.2. And 13.2.4.)

Sponsors: Amy Diaz-Barriga, Ariella Stanford

Staff Report: Amy Diaz-Barriga. Ms. Diaz-Barriga noted that three public comment emails were received and are attached to the application documents. This application and proposal involve both 1275 Habersham Way, and 1277 Habersham Way. Both properties are 0.21 acres and are zoned PD Planned District. The property owners have been in collaboration to propose a retaining wall that extends along the rear lot lines on both properties, with a break in the middle of the wall for stairs to access the bottom of the wall. As outlined in the applicant's Justification Letter, the intent of the retaining wall is to prevent further erosion, to support an existing rock wall that is starting to fall apart on 1277 Habersham Way, and to alleviate the steep slopes in the backyards. In addition to the setback requirements for retaining walls in the Zoning Ordinance, there is a 10-foot Public Utility and Drainage Easement (PUDE) along the rear lot lines. A Variance Request cannot be requested to allow the retaining wall in the PUDE, so the homeowners have worked with our Engineering Department to create plans that would theoretically allow the retaining wall to be in the 10-foot PUDE. Staff would like to note that if the Variance is approved, the proposed plans would also need approval for the retaining wall to be built in the PUDE.

Staff Analysis

Request 1 - To allow for a retaining wall to be located a minimum of 1 inch from the rear property lines and 0 inches from the side property lines.

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 in the backyard create a unique situation across both properties. The land in the backyard slopes from the back of the house down to the rear property line. Building the retaining wall in compliance with the setback requirements would require the retaining wall to be built on the sloped portion of the yard, which would likely be impractical to build. Considering the steep slope and the limited space in the backyard, the excavation required for the backfill and slope stabilization would likely reach the decks on both homes and the foundation of 1275 Habersham Way. Additionally, the applicant has stated that the portion of the retaining wall along the side yard lot line would conflict with the existing HVAC pad at 1275 Habersham Way if it were to comply with the setback requirement. The unique topographic condition along with the limited space in the backyard to accommodate the retaining wall creates difficulty in accommodating development in accordance with the Zoning Ordinance. Staff finds criteria #1 for request #1 is met.

Criteria #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.

According to the Zoning Ordinance regulations, the 8.5 feet retaining wall is required to be at least 8.5 feet from the side and rear property lines. As stated above, placing the wall at least 8.5 feet from the rear property line would mean the wall would be built in the steep slopes, which would likely cause practical difficulties; the excavation required for the backfill and slope stabilization would likely reach the decks on both homes and the foundation of 1275 Habersham Way. Additionally, the applicant has stated that the portion of the retaining wall along the side yard lot line would conflict with the existing HVAC pad at 1275 Habersham Way if it were to comply with the setback requirement. Considering the practical difficulties that would result from complying with the Zoning Ordinance regulations, Staff finds criteria #2 for request #1 is met.

Criteria #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 this request could be a detriment to the neighboring properties and does not meet the intent of the Zoning Ordinance. Part of the intent of this Zoning Ordinance regulation is to ensure that if the wall were to crumble or fall it wouldn't have a negative impact on the neighboring property. The Zoning Ordinance regulation implements this intent by ensuring that the distance between a retaining wall and a side or rear property line is at least equal to the height of the wall. While the unique design of the retaining wall addresses stormwater runoff concerns, it is still an 8.5 feet tall retaining wall proposed to be a minimum of 1 inch from the rear property line. If the wall were to crumble or fall, it would all crumble and fall onto the neighboring properties. Additionally, the stairs at the shared property line between the properties functions primarily to access and perform any necessary maintenance on the wall, but the wall is possibly going to be 1 inch from the property line. Because of the minimal distance between the wall and the property line, they would have to be on the neighboring property to access or maintain the wall. Also, the required plantings could not be planted on the same property as the retaining wall. Staff finds criteria #3 for request #1 is not met.

Request 2 - To allow for a taller than allowable retaining wall within a rear yard.

Criteria #1

The slopes in the backyard create a unique situation across both properties. To alleviate the slopes in the backyard, the retaining wall would need to be taller than the required 6 feet. Staff finds criteria #1 for request #2 is met.

Criteria #2

If the retaining wall were a maximum of 6 feet tall, the slopes in the backyard would not alleviate the slopes as much as the applicant needs to maintain the yard. This would be a practical difficulty for the property owners, as it would not allow them to fully address the issues that the slopes present for the owners. Staff finds criteria #2 for request #2 is met.

Criteria #3

Staff finds that this request could be a detriment to the neighboring properties and does not meet the intent of the Zoning Ordinance. Part of the intent of this Zoning Ordinance regulation in relation to the Zoning Ordinance regulation for retaining wall setbacks is to ensure that if the wall were to crumble or fall it wouldn't have a negative impact on the neighboring property. The Zoning Ordinance regulation implements this intent by ensuring that the height of the wall is not greater than the distance between the retaining wall and the side or rear property lines. While the unique design of the retaining wall addresses stormwater runoff concerns, it is still an 8.5 feet tall retaining wall proposed to be a minimum of 1 inch from the rear property line. If the wall were to crumble or fall, it would all crumble and fall onto the neighboring properties. Additionally, part of the intent in this case is for aesthetic concerns to neighboring properties. Putting an 8.5 feet tall retaining wall 1 inch from the property line would likely present aesthetic concerns for the neighboring properties. Staff finds criteria #3 for request #2 is not met.

Recommendation: Staff recommends the Board of Zoning Appeals move to deny the Variance Request to allow for a retaining wall to be located a minimum of 1 inch from the rear property lines and 0 inches from the side property lines, and deny a Variance Request to allow for a taller than allowable retaining wall within a rear yard for the properties located at 1275 Habersham Way and 1277 Habersham Way, because the criteria for granting a variance have not all been met.

Applicant: Andrew Bekken. Mr. Bekken stated that when the lots were subdivided, years ago, some lots ended up being steep lots over a 20 % grade and over time erosion has occurred affecting the water flow and HVAC pad. A rock wall crosses the drainage easement causing the water to rush over and around the wall triggering deterioration of the wall. Ultimately, Mr. Bekken is concerned that eventually the erosion will affect the foundation of his home.

Chair Langley asked the applicant how the proposed changes would solve the drainage and erosion problems.

Mr. Bekken explained that the main issue is the deterioration of the rock wall as the rock and dirt are filling up the drainage area. Mr. Bekken also stated that an engineer completed a storm water study of the properties.

Citizen Comments:

Ted Martinez, 1128 Waverly Place. Mr. Martinez stated that he's mostly concerned with his home value and the unintended consequences the proposed wall may create. He would prefer not to have a retaining wall and is disappointed in the lack of storm water drainage consideration of the developer.

Board Member Fleishour stated that the yard will need to be stabilized somehow. The newer retaining walls are constructed in a way that is more aesthetically pleasing and useful in other ways.

David Overstaff, 1126 Waverly Place. Mr. Overstaff's main concern is the proposed retaining wall and if the proposed drainage system will accommodate the amount of storm water runoff.

Board Member Fleishour stated that the worst-case scenario is that erosion occurs in front and back of the retaining wall. One must rely on the engineer for their knowledge and experience.

Melissa Overstaff, 1126 Waverly Place. Ms. Overstaff is concerned about the drainage system and how it will affect her property. "How tall will the retaining wall be above the grass line?" Ms. Overstaff stated she would like to avoid a build up of mud in her backyard.

Mr. Bekken stated and referenced the drawings showing that the retaining wall would be about a foot above the grass line so that any surface water would be caught and not flow over the wall.

Board Member Fleishour asked if a drainage swale would be created to redirect the water away from the wall.

Mr. Bekken explained that there will be inlets that allow the water to drain into the main pipe and be routed away from the property.

Brenda Martinez, 1128 Waverly Place. Ms. Martinez stated concerns about water running down the proposed stairs of the retaining wall.

Mr. Bekken stated that an inlet would be installed to the right of the stairs that would catch water and route it away from the stairs.

Board Member Scales motioned to close the public comment portion of the item, seconded by Board Member Fleishour. The motion carried 3-0.

Chair Langley asked Mr. Bekken to detail how the water will be piped away from the wall and property.

Mr. Bekken stated that the reasoning behind positioning the retaining wall on the property line is to avoid any increase in water flow into the neighbor's property. Otherwise, positioning of the wall further away from the property line would allow for areas of water collection that may undermine the structure of the wall. Regarding the exiting of the water, the retaining wall would run along the existing drainage swale where the water would exit the pipe into the existing drainage swale at the corner of the property.

Mr. Martinez explained that currently the flood water runs through the open green space or gulley to a larger concreted drainage area.

Mr. Bekken added that the overall water flow, if the proposal is approved and completed, would not increase the level of water flow into the neighborhood drainage system.

Motion

Board Member Fleishour motioned to approve A Variance Request To Allow For A Retaining Wall To Be Located A Minimum

Of 1 Inch From The Rear Property Lines And 0 Inches From The Side Property Lines, And A Variance Request To Allow For A Taller Than Allowable Retaining Wall Within A Rear Yard For The Properties Located At 1275 Habersham Way And 1277 Habersham Way, seconded by Board member Scales.

Board Member Fleishour stated that, in his opinion, the criteria for granting a variance request have been met. Looking at the drawings, the engineer has addressed the water flow with appropriate piping and with the depth of gravel (8 feet deep). If water is captured upstream, these preparations would allow water to flow downstream easily.

Board Member Scales mentioned his concerns about the integrity of the water.

Board Member Fleishour stated that the engineer had addressed the water flow especially considering the length and depth of gravel recommended. It will take numerous truckloads of gravel to cover the recommended dimensions and when the water penetrates the grass and gravel, the water will flow downstream. The only concern is the retaining wall corner area where the water will exit. Knowing the engineer for this project increases "my" confidence in the proposed project. This is the best approach to deal with the drainage issue before it becomes a greater problem.

Chair Langley stated that the BZA is focused on zoning rules and regulations such as retaining wall height and placement of retaining walls on the property. Tonight, the discussion mainly focused on drainage issues which have come to light because of initial building development in this neighborhood. There appears to be no great solution, but no solution doesn't help the homeowners solve the problem before it becomes a larger issue.

Ms. Diaz-Barriga noted that because of the height of the retaining wall, BNS and engineering will be required to review the plans before the project moves forward.

Board Member Scales asked if a water study would be part of the project review process.

Ms. McCoy confirmed that a water study will be part of the engineering review.

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

The motion carried 3-0.

OTHER BUSINESS

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

ADJOURN

Board Member Scales motioned to adjourn the meeting, seconded by Board Member Fleishour. The motion carried 3-0.

There being no further business, the meeting adjourned at 7:09 PM.


Chair

7/11/24
Date

