



City of Franklin

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

Meeting Minutes

Board of Zoning Appeals

Thursday, January 2, 2025

6:00 PM

Board Room

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

CALL TO ORDER

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

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

Board Members Absent: Jeff Fleishour and John Boehms

Staff 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.

Comments on agenda items may be made in person at city hall or by emailing planningintake@franklintn.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.

VOTE FOR CHAIR AND VICE-CHAIR

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

Sponsors:

Board Member Scales made a nomination to elect Jonathan Langley as Chair, seconded by Board Member Smith. The motion carried 3-0.

Board Member Smith made a nomination to elect Williams Scales as Vice Chair, seconded by Chair Langley. The motion carried 3-0.

APPROVAL OF MINUTES

2. Consideration Of Approval Of The December 5, 2024, BZA Minutes

Sponsors:

Board Member Scales motioned to approve the minutes from the December 5, 2024, BZA Meeting, seconded by Board Member Smith. The motion carried 3-0.

ANNOUNCEMENTS

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

APPLICATIONS

3. A Variance Request To Reduce The Minimum Parking Requirement From 16 Spaces To 0 Spaces For The Property Located At 117 3rd Avenue North (F.Z.O. 10.1.6.).

Sponsors: Amy Diaz-Barriga, Ariella Stanford

Staff Presentation: Ariella Stanford. The subject property is located at 117 3rd Avenue North and is zoned DD Downtown District. The property is also within the Historic Preservation Overlay and the Central Franklin Overlay. The property has an existing principal building and an existing accessory structure behind the principal building. The applicant is proposing renovations to the existing accessory structure for a beer garden with outside seating. Upon submitting an application in December 2023 for a Certificate of Appropriateness from the Historic Zoning Commission, the applicant received the following comment from Staff that parking would need to be provided for the commercial use: "Be advised that Parking must be provided for the new use. The Downtown District provides exemptions for additional parking when the use was legally established prior to the effective date of the ordinance. Staff has no record that any commercial use was previously legally established in this structure." The COA was approved with the condition that "the application must meet all the requirements of the City of Franklin prior to issuance of a building permit". The applicant then submitted a building permit application in August 2024 and received the following comment from Staff regarding parking: "Provide parking calculations for a restaurant use. Per the Zoning Ordinance, parking for restaurants (indoor & outdoor seating) is 7.5 spaces per 1,000 square feet of gross floor area of the building and any outdoor seating area, + .75 spaces per employee on the largest shift." In the building permit application, the applicant also included a "parking agreement" as a proposed alternative for the parking requirement. However, Staff determined that the parking agreement alternative does not meet the requirements of the Zoning Ordinance, per chapter 10.1.10.B. Alternative Parking Plan. This section of the Ordinance permits several alternate options for parking for sites which cannot accommodate their minimum parking requirements, such as shared parking, remote parking, and deferred parking. The applicant has not provided information that these options have been fully explored.

The applicant has stated that the accessory structure has housed commercial tenants for over 20 years, but because building permits have not been pulled for these commercial uses in the accessory structure, nor have certificates of occupancy ever been requested, commercial use for this property was never legally established with the city. This is possible because a business license can be acquired without legally establishing a use with the city but is not an exception from parking standards. In accordance with the parking regulation outlined above, this restaurant use within the CFO is required to provide a minimum of 16 parking spaces. The applicant is requesting to reduce minimum parking requirement from 16 spaces to 0 spaces.

Staff Analysis

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. To provide the required parking on the site, the parking would need to be located behind the principal building, which would require a driveway extending along the side of the existing principal building. There is not enough space between either side of the existing principal building and the side lot lines to have a driveway extending to the back of the property for parking. However, the Zoning Ordinance allows shared parking and deferred parking alternatives for properties that cannot provide the necessary parking on site, such as this one. The applicant has not provided information that these alternatives have been explored, in order to comply with the Zoning Ordinance. Staff does not find that there are conditions of the site preventing parking alternatives which could allow development as required under this Ordinance. Staff finds this requirement 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. Staff does not find that an undue hardship is caused by the strict application of the Zoning Ordinance in this case. While providing parking on site poses difficulties in this situation, the Zoning Ordinance allows alternative parking plans specifically to provide solutions for situations such as this one, so these options should be thoroughly explored to comply with the Zoning Ordinance. 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. Staff finds this may be a detriment to the public good and does impair the intent of the Zoning Ordinance. The intent of this Zoning Ordinance regulation is to ensure that there is sufficient parking per use within their site limits, or within proximity to the site utilizing alternative parking plan options, to avoid straining the larger downtown area. Without providing the amount of parking that is determined to be necessary for restaurant use, Staff cannot determine that there would be sufficient parking for this use simply relying on the empty parking spaces along streets within downtown or in paid lots. Staff finds that this criteria is not met.

Recommendation: Staff recommends the Board of Zoning Appeals move to deny the Variance Request To Reduce The Minimum Parking Requirement From 16 Spaces To 0 Spaces For The Property Located At 117 3rd Avenue North, because the criteria for granting a variance have not been met.

Applicant: Brandon Priddy, Studio Architects. Considering the many businesses that have occupied this space over the years and that no additional square footage is being proposed and in the spirit of the zoning ordinance, it was determined that the existing available parking was sufficient. Mr. Priddy stated that the parking study shows that during business hours, 50-60 % of the occupancy of the nonprivate lots are being used providing enough parking for the business at 117 3rd Avenue North.

Citizen Comments

Marla Albert, co-owner of 117 3rd Avenue North. Ms. Albert explained that the property was originally in bad shape with the city hoping someone would buy the property and open a business. Ms. Albert and her brothers purchased the property and noted that all the taxes have been paid.

Board Member Scales motioned to close the public comment, seconded by Board Member Smith. The motion carried 3-0.

Board Member Smith noted that a parking agreement was mentioned in the staff report but it does not appear to be provided in the applicant documents.

Ms. McCoy explained that the parking agreement was submitted with the building application. The zoning ordinance requirement states that the parking agreement must be in perpetuity. In summary, regarding an adjacent parking area, the parking agreement between the applicant and the parking management company, stated that either party could cancel the contract at any time which is not in perpetuity.

Chair Langley asked staff what other criteria justifications the applicant would need complete to validate the parking requirements given the parking situation in downtown.

Ms. Diaz-Barriga explained that an applicant can request a variance, as being requested, or the applicant can appear before BOMA, and request to have the property rezoned with a modification of standards for parking with a justification stating why fewer parking spaces are needed.

Board Member Scales asked why the parking issue is before the BZA if the building has been a business location for years.

Ms. McCoy explained that until recently staff was unaware of the parking situation until the recent application for renovations was received.

Board Member Scales asked the applicant about the business details and why an additional independent parking study was not completed, and what the maximum occupancy and number of employees would be for the establishment.

Mr. Priddy stated that the current parking study was completed in 2022 and recent enough to provide the necessary information. Mr. Priddy stated the maximum occupancy of the outdoor seating and small indoor space would be 75. Which is the maximum load so is higher than normally anticipated. The anticipated number of employees on shift is 5 employees.

Motion

Board Member Scales motioned to deny the Variance Request To Reduce The Minimum Parking Requirement From 16 Spaces To 0 Spaces for the property located at 117 3rd Avenue North because the criteria for granting a variance request have not been met, seconded by Board Member Smith.

Board Member Smith stated that she is very familiar with the parking lot and very rarely is the lot at capacity other than for downtown events. There may not be a parking solution if an agreement cannot be met stating parking on the lot in perpetuity. Board Member Smith also noted that she didn't think most people would agree on parking in perpetuity.

Chair Langley stated that the goal is to encourage business in downtown so to deny the parking variance request is denying a new business which doesn't solve any problems. There is a broader parking issue in downtown making variance requests for parking difficult to grant without contributing more to the parking problem.

Board Member Smith noted that the wording of the staff report sounds like staff may feel the applicant hasn't exhausted all the options and that additional information could be provided and presented to the Board.

Board Member Scales agreed with Board Member Smith and said that it would be nice to see what additional information the applicant can provide.

Chair Langley agreed with Board Member Smith's comment regarding the difficulty in finding someone who would agree to allow parking in perpetuity especially if property is valuable real estate and no one knows what the future may hold.

Vote (Motion to Deny)

The motion fails 1-2 (Chair Langley and Board Member Scales voting against).

Mr. Squires verified that the variance request may be deferred for any reason determined by the Board, but the deferral must be to a date certain.

Mr. Priddy agreed with the Board about the difficulty in finding a business that would agree to parking in perpetuity.

Chair Langley asked staff what information the applicant should provide to better explain the situation.

Ms. Diaz-Barriga stated that the zoning ordinance discusses several options for businesses that don't have parking spaces on the site. The alternatives include remote parking, shared parking, agreement in perpetuity, and valet parking. Staff would be interested to know what options the applicant has exhausted. For example, how many businesses has the applicant approached regarding shared parking and the responses from those businesses. Ms. Diaz-Barriga stated further that staff struggled with the same issues when discussing the variance request and at the BOMA level parking discussions have been ongoing. For the BZA, the task is to analyze the zoning ordinance criteria against the variance requested.

Motion (Deferral)

Board Member Scales motioned to defer the Variance Request To Reduce The Minimum Parking Requirement From 16 Spaces To 0 Spaces for the property located at 117 3rd Avenue North to the February 6, 2025, BZA Meeting, seconded by Board Member Smith.

The motion to defer carried 3-0.

4. **A Variance Request To Allow 20 Parking Spaces Within The Liberty Pike Frontage Area For A Principal Building For The Property Located At 230 Franklin Road (F.Z.O. 7.5.).**

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

Staff Presentation: Ariella Stanford. The subject property is located at 230 Franklin Road and is zoned PD Planned District. The property is also located within the Historic Preservation Overlay (HPO) and the Central Franklin Overlay (CFO). The existing buildings on the property are The Factory at Franklin, which is a historically significant site which contains various commercial uses. The Factory is proposing a hotel and additional parking on the property. The parking for the proposed hotel must comply with the Zoning Ordinance regulations, which include the frontage requirements in chapter 7.5 for Landscape Frontage. Landscape Frontage requires that parking be located behind or to the side of the principal building. The proposed parking layout places 20 parking spaces within the Liberty Pike frontage area of the hotel building. In December 2024, the Historic Zoning Commission (HZC) provided a favorable recommendation to the FMPC and the BOMA for the proposed additions and alterations to the site. The HZC provides preliminary recommendations to other City review bodies on development applications in the HPO, where certain contextually sensitive design features become entitled by BOMA prior to Certificate of Appropriateness (COA) review by the HZC. Preliminary recommendations focus on the scale, massing, and placement of buildings, to confirm for the BOMA that there has been a general observance with the Historic District Design Guidelines. The proposal was also submitted in November 2024 in a Development Plan Revision application, which will require recommendation by the FMPC and approval by the BOMA. Within the Development Plan Revision application, the applicant included a Shared Parking Study to justify the necessary and provided parking, as permitted by section 10.1.10 of the Zoning Ordinance, Alternative Parking Plans. The shared parking study shows that 912 parking spaces are necessary for the site, and they are proposing 1,066 parking spaces. Without the shared parking study, the Zoning Ordinance regulations would require 1,532 spaces on the site. While this study has been submitted with the Development Plan Revision, the information provided was not sufficient, so Staff has requested more information that has not yet been provided, and the plan has not been fully reviewed by Staff or approved by the Board. For this reason, Staff cannot say at this point if the parking information provided is accurate or sufficient. The applicant is requesting a Variance to allow 20 parking spaces within the Liberty Pike frontage area for the proposed hotel.

Staff Analysis

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 is no condition of the site that is preventing all the required parking from being to the side or behind the principal building. The location of historic buildings has not prevented the creation of additional parking spaces on site, as verified in their Preliminary Recommendation for a parking structure. The parking in the frontage area is desired for customer convenience but is not a situation that is necessary due to the conditions of the site. Staff finds this condition 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. Vehicular circulation could remain at this location without the parking in the frontage. While the applicant has stated that the desired location of parking within the frontage area would be more convenient for customers, it is not an exceptional situation for customers to walk from surface parking to the principal building for a large site such as this one. All spaces on the site seem to be within a walking distance similar to or less than the distance used for the Zoning Ordinance's alternative parking plan standards. 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. Having parking for the hotel in the frontage area prioritizes the convenience for customers over the intent of the Zoning Ordinance for pedestrian engagement between the street and the building. The other intent of the Zoning Ordinance is to park a site with sufficient but not excessive parking spaces. The applicant has explained in their justification letter that their shared parking study shows that the site only requires 912 spaces, and that their site design proposes 1,066 spaces, inclusively of these 20 noncompliant spaces. If the study were to be approved by staff, the twenty spaces requested with this variance are not required for the site to maintain their minimum parking needs. However, the parking study has not yet been approved through the Development Plan application review process. Staff finds this criteria is not met.

Recommendation: Staff recommends the Board of Zoning Appeals move to deny the Variance Request To Allow 20 Parking Spaces Within The Liberty Pike Frontage Area For A Principal Building For The Property Located At 230 Franklin Road, because the criteria for granting a variance have not been met.

Applicant Presentation: Greg Gamble. Mr. Gamble discussed the existing approved variance requests for the allowance of parking between the Factory Buildings and Liberty Pike and the Factory Buildings and Franklin Road. A revised development plan will be submitted soon that proposes a boutique hotel and a parking garage with 250 additional spaces. As part of the revised plan, realignment of the mid-block entrance off Liberty Pike with Daniels Drive will cause the loss of 46 parking spaces but will improve traffic movement, pedestrian access, ADA access areas, and create a ride share drop off area. Twenty parking spaces are proposed to the Liberty Pike frontage area including six existing spaces and 14 additional spaces. Mr. Gamble stated that parking considerations must include quantity but also distribution so that parking is available throughout the Factory campus. The distance from the railroad, at the back of the Factory Campus, to the front entrance of the Factory is 1600 linear feet which is the same distance from Starbucks, at five points, to Landmark Book sellers on Main Street making parking a critical consideration for safety and convenience. Regarding the criteria for granting a variance, Mr. Gamble explained that the Factory is a unique property because historical consideration and requirements are at the forefront of every decision made and the 20 parking spaces are critical to support the east side of the Factory. Also, financially, the entrance realignment with the loss of 46 spaces make it necessary to request the variance for the addition of 20 spaces to meet appropriate distribution of parking. Mr. Gamble noted that this variance request is very similar in nature to the previously approved variance requests. The proposed parking spaces will be appropriately landscaped and buffered with landscape hedging and street trees.

Citizen Comments:

Paul Lebowitz, 102 Winslow Road. Mr. Lebowitz stated that parking plan should be revised so that the landscaping frontage is not lost. Currently, there is an existing green cushion between the existing sidewalk and the large parking lot and previous improvements along Liberty Pike resulted in the removal of mature trees. The city established the zoning ordinances for a reason and why have the ordinance if a variance request is approved any time someone makes a request. Mr. Lebowitz suggested places for small car parking and bike racks as there doesn't seem to be allowance for these on the plan since the Factory redevelopment began.

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

Board Member Smith asked staff when the additional information needed from the applicant, referenced in the staff report, would be received and available to the BZA.

Ms. Diaz-Barriga stated that the parking study was submitted to staff earlier today and a meeting is set up for next week to discuss questions staff has about the study. Ms. Diaz-Barriga did not know exactly when the results would be available.

Chair Langley stated that considering the resubmittal of the revised development, does the applicant need a variance request from the BZA.

Ms. Diaz-Barriga explained that there are two ways the applicant could address the parking requirements of the zoning ordinance. The applicant can request the variance for parking ahead of time so that the variance is in place ahead of the resubmittal of the development plan to FMPC and BOMA or staff could include a condition of approval that parking

requirements must be met as part of the approval.

Mr. Gamble explained that parking variations in frontage areas are not allowed to be approved by a modification of standards and are required to come before the Board of Zoning Appeals. Also, landscaping will not be compromised and is consistent with the landscape buffer requirements along with the realignment of the entrance, will include more open space for the rain garden.

Motion

Board Member Smith motioned to approve A Variance Request To Allow 20 Parking Spaces Within The Liberty Pike Frontage Area For A Principal Building For The Property Located At 230 Franklin Road, seconded by Board Member Scales.

Board Member Smith stated that she believes the criteria for a variance request have been met. Looking at the graphic of the proposed parking spaces, if the proposed parking isn't granted for the space, it appears it will be a concrete area where cars may end up anyway. The Factory buildings are so large that regardless of the frontage parking, the Factory will be the focal point and not the parking lot. Parking will be secondary to the Factory buildings and 20 parking spaces will not detract from the overall significance of the Factory. From a personal perspective, Board Member Smith noted that the availability of enough ADA parking is of high importance as her as her husband has limited mobility and to think of parking over a thousand feet away and walking to the destination in the Factory makes one question whether to take the trip at all.

Chair Langley stated that historical considerations required for the property make the property unique and a similar context to the previously approved variance request and agrees the criteria for granting a variance have been met. Chair Langley thanked the applicant for providing a high level of detail of site design which helps the Board in making decisions.

Board Member Scales agreed with Board Member Smith and Chair Langley about the criteria being met for granting a variance request.

The motion carried 3-0.

OTHER BUSINESS

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

ADJOURN

Board Member Smith motioned to adjourn the January 2, 2025, Board of Zoning Appeals meeting, seconded by Board Member Scales. The motion carried 3-0.

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


Chair

2/6/25
Date

