



## City of Franklin

109 3<sup>rd</sup> Ave S  
Franklin, TN 37064  
(615) 791-3217

### Meeting Minutes

### Board of Zoning Appeals

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Thursday, June 5, 2025

6:00 PM

Eastern Flank Event Facility

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

#### CALL TO ORDER

Chair Langley called the meeting to order at 06:00 PM

Board Members Present: Jonathan Langley (Chair), John Boehms, William Scales, Dorinda Smith, Jeff Fleishour

Board Members Absent: none

**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 if there were any citizens who would like to speak to the Board members. There were none.

Comments on agenda items may be made in person at the meeting or by emailing [planningintake@franklinton.gov](mailto:planningintake@franklinton.gov) before noon on the day before the meeting. Emailed comments will be provided to the Board and included in the minutes, but not read aloud in their entirety during the meeting.

#### APPROVAL OF MINUTES

##### 1. Consideration Of Approval Of The May 1, 2025, BZA Minutes

Sponsors:

A motion was made by Board Member Smith, seconded by Board Member Boehms to approve the Minutes from the May 1, 2025, meeting. The motion carried 5-0.

#### ANNOUNCEMENTS

Ms. Stanford stated that the applicant, for item #5 (406 Forest Street), has requested a deferral and staff is recommending deferral. Staff also recommended voting on this item first rather than at the end of the meeting. Chair Langley then went to Item #5 for a vote of deferral.

## APPLICATIONS

### 2. **A Variance Request To Allow A Retaining Wall To Be Located A Minimum Of 0 Inches From The Rear Lot Line For The Property Located At 131 Stream Valley Boulevard (F.Z.O. 13.2.2.A.).**

Sponsors: Amy Diaz-Barriga, Ariella Stanford

Staff Presentation: Ariella Stanford. The subject property is located at 131 Stream Valley Boulevard, and is zoned PD Planned District. There is an existing single-family home on the property and the homeowners had plans for backyard improvements, including a swimming pool. The homeowners hired a contractor to construct a multi-phased backyard improvement. The first step was to construct the retaining wall to level the backyard space, followed by outdoor space improvements, including a pool. After the retaining wall was built and prior to the start of the second phase of the backyard improvements, the contractor went out of business. Because of this, the homeowners hired another contractor for the remainder of the project, including a pool installation. When the new contractor submitted a permit for the pool, it was discovered that the original contractor had not obtained the appropriate permit from the City of Franklin to install the retaining wall, and the wall was installed closer to the property line than allowed by the Zoning Ordinance. The retaining wall is located right up to the rear property line at its closest point, but is not parallel with the rear property line, so the distance from the rear property line varies. The retaining wall reaches 6 feet in height at its tallest point, so the Zoning Ordinance requires that the retaining wall be located at least 6 feet from any property line. For this reason, the applicant is requesting a variance to allow a retaining wall to be located a minimum of 0 inches from the rear property line.

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.

Staff does not find any extraordinary conditions of this property that would prevent a retaining wall from being located the required 6 feet from the rear property line on this property. 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.

Staff does not find that 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 hardship of needing to remedy the existing wall that was built out of compliance and without a permit is self-imposed. 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 that this request is not a detriment to the public good, nor would it impair the intent of the Zoning Ordinance. The property abutting the rear property line is currently open space, but there is an approved Development Plan for a mixed-use development on that property. The approved development plan shows open space and landscaping abutting the applicant's rear property line, so the retaining wall should not negatively impact that development by being up against the property line. The intent of this ordinance is to ensure that if a retaining wall were to collapse, it would not collapse onto the neighbor's property. The retaining wall holds background that slopes up from this property to the neighbor's property behind, so if the wall were to collapse it would collapse in on the owner's property, and it isn't visible from the property behind. Staff finds this criteria is met.

## RECOMMENDATION

Staff recommends the Board of Zoning Appeals move to deny the Variance Request To Allow A Retaining Wall To Be Located A Minimum Of 0 Inches From The Rear Lot Line For The Property Located At 131 Stream Valley Boulevard, because the criteria for granting a variance have not all been met.

Applicant Presentation: Peter and Brooke Reginelli. Mr. Reginelli explained that they were completely blindsided when the new contractor explained that the retaining wall was constructed too close to the property line. Mr. Reginelli stated that he thought he hired a reputable contractor and assumed Franklin Stone knew to follow the procedures required by the city. Ms. Reginelli stated that the property directly behind them has a steep slope and it would be difficult to build a house directly behind their property.

Public Comment:

Board Member Fleishour motioned to close the public comment, seconded by Board Member Scales. The motion carried 5-0.

Questions:

Board Member Smith asked if the retaining wall was removed and re-positioned in the correct location, would there be enough space for a pool.

Mr. Reginelli stated that there would be space for a narrow lap pool.

Board Member Fleishour stated that the water line cannot be in the setback of the property line.

Chair Langley asked if anyone has explored the opportunity for re-grading of the area or is the retaining wall required given the site conditions.

Mr. Reginelli explained that the retaining wall was well-built with drainage considerations. The wall height extends from 2 feet to just over 6 feet in height. The wall stairsteps as the height increases and nicely transitions to the neighboring property.

Board Member Smith noted that the photos can be misleading as the slope is higher than it appears in the photos.

Board Member Scales asked if Franklin Stone had been paid in full and if Franklin Stone was hired for the pool installation.

Ms. Reginelli answered yes, Franklin Stone has been paid and stated that the retaining wall was constructed 3 or 4 years ago shortly after they moved into the home. Recently, when the new contractor attempted to obtain the appropriate permits for pool construction, the issue with the retaining wall location was discovered.

Mr. Reginelli explained that the retaining wall was the first phase of the backyard plan with the pool being the second phase.

#### **MOTION**

Board Member Scales motioned to approve a Variance Request To Allow A Retaining Wall To Be Located A Minimum Of 0 Inches From The Rear Lot Line For The Property Located At 131 Stream Valley Boulevard because the criteria for granting a variance request have been met, seconded by Board Member Fleishour.

Board Member Scales stated that the BZA evaluates variance requests on a case-by-case basis. Regarding criteria #3, the situation does not appear to be a detriment to the public good. The applicant did not create the situation and was unaware until recently that the retaining wall was constructed within the 6-foot setback of the property line, creating a practical difficulty. Given the situation, the family with six children cannot use the backyard space as intended, creating an exception. For these reasons, Board Member Scales stated that he believes the criteria for granting a variance request have been met.

Board Member Fleishour agreed with Mr. Scales.

Chair Langley stated that the topography of the lot is unique, and it doesn't appear that regrading of the slope would have been possible. There is an existing tree line where the retaining wall height is 6 feet and the city would probably recommend preservation of the tree line, adding to the uniqueness of the lot.

Board Member Smith stated that in rationalizing criteria number one, she considered whether she would vote to approve the

variance request if the application was presented, three years ago, as a variance request to allow construction of a retaining wall on the property line. Ms. Smith stated that she would vote for approval given the uniqueness and topography of the lot.

The motion carried 5-0

3. **A Variance Request To Allow A Principal Building To Be Located 155 Feet From The Front Lot Line For The Property Located At 1268 Lewisburg Pike (F.Z.O. 3.13.5.).**

**Sponsors:** Amy Diaz-Barriga, Ariella Stanford

Staff Presentation: Ariella Stanford. This 5.79-acre lot is located at 1268 Lewisburg Pike, and is zoned Neighborhood Commercial District. There is an existing preschool building with associated parking on the property, located at the corner of Lewisburg Pike and Henpeck Lane. There is also a creek (Fivemile Creek) that runs through the property, and wetland buffers associated with the creek that take up a large portion of the property. The applicant is proposing a badminton facility on the property, in addition to the existing preschool. To locate the building outside of the wetland buffers, the applicant is proposing to locate the badminton facility farther north, and farther from the front lot line than the Zoning Ordinance allows. The Zoning Ordinance allows principal buildings in this zoning district to be located a maximum of 45 feet from the front lot line. The applicant is requesting a variance to locate the badminton facility building 155 feet from the front lot line. Staff would also like to note that the wetland buffer zones shown on the submitted concept plan do not match the buffer zones on the plat. The applicant has been working with the City of Franklin Stormwater Management Staff to come up with a design that Staff is satisfied with. With that being said, this proposal will also need to get a Stormwater Variance to go forward with this project.

**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:

**Criteria #1. Staff Justification**

Due to the shape of the lot, along with the wetland area and associated buffer zones on the property, any additional building on the property cannot comply with the maximum front setback requirement in the Zoning Ordinance. The existing preschool building, parking and roadway access, and wetland area together occupy the front setback areas along both Lewisburg Pike and Henpeck Lane. This property is also unique in shape, contributing to a large portion of the buildable area of the lot being behind the wetland area which is farther from the front lot line than the Zoning Ordinance allows. Staff finds this criteria is met.

**Criteria #2. Staff Justification**

Compliance with the 45-foot maximum setback regulation in the Zoning Ordinance in this case would result in a large area of this lot being unbuildable, given the wetland and buffer areas, along with the shape of the lot. Staff finds this criteria is met.

**Criteria #3. Staff Justification**

This request would not be a detriment to the public good or substantially impair the intent of the Zoning Ordinance. The concept plan is designed to preserve the existing wetland area, maintain efficient stormwater management of the site, and limit disturbance of the site. These efforts ensure coherence with the surrounding properties. The intent of this Zoning Ordinance regulation is that buildings should activate the street by creating an inviting pedestrian experience, and views from the street should not be of parking lots. The concept plan was designed with the building as close to the front lot line as possible, with parking located behind the building. This shows effort to meet the intent of the Zoning Ordinance, and that this design is the minimum necessary deviation from the regulations of the Zoning Ordinance. Staff finds this criteria is met.

**RECOMMENDATION**

Staff recommends the Board of Zoning Appeals move to approve the Variance Request To Allow A Principal Building To Be Located 155 Feet From The Front Lot Line For The Property Located At 1268 Lewisburg Pike, because the criteria for granting a variance have been met.

Applicant Presentation: Drake Reeder, Gamble Design Collaborative. Mr. Reeder thanked staff for the report and reiterated

that the only deviation from the zoning ordinance is the inability to meet the 45 ft. setback required and preserve as much of the wetland area as possible.

Public Comment:

Katherine Dobie, 1251 Lewisburg Pike. Ms. Dobie asked what was the intended use of the proposed facility.

Board Member Smith motioned to close the public comment, seconded by Board Member Boehms.  
The motion carried 5-0.

Questions:

Board Member Smith asked why the zoning ordinance states that the property cannot have a setback further than 45 ft. This area is not pedestrian-friendly and is without a sidewalk. Why is the setback at a maximum of 45 feet?

Ms. Diaz-Barriga explained that the goal of Neighborhood Commercial (NC) zoning is to encourage walkability in the NC nodes around the city. The idea is that when buildings are closer to the street, small retail and neighborhoods, this environment fosters a sense of community. In this situation, although the area is more rural, the Board of Mayor and Aldermen deemed the appropriate designation as Neighbor Commercial. In the future, sidewalks may be built depending on development around the area. The intent of the ordinance is to encourage buildings to be constructed closer to the street rather than further back than the maximum of 45 feet.

#### **MOTION**

Board Member Smith motioned to approve a Variance Request To Allow A Principal Building To Be Located 155 Feet From The Front Lot Line For The Property Located At 1268 Lewisburg Pike because the criteria for granting a variance request have been met, seconded Board Member Scales.

The motion carried 5-0.

#### **4. A Variance Request To Allow For Taller Than Allowable Retaining Walls Within A Side/Rear Yard, And A Variance Request To Allow For Encroachments Into Areas With Slopes Of 20% Or Greater For The Property Located At 415 Canterbury Rise (F.Z.O. 13.2.4., 17.1.2.).**

**Sponsors:** Amy Diaz-Barriga, Ariella Stanford

Staff Presentation: Ariella Stanford. This 1.29-acre lot is located at 415 Canterbury Rise 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 HHO district and the 500-foot Buffer of the Hillside Overlay. This property now lies within the 500-foot Buffer of the Hillside Overlay. As shown in the 'Slopes Greater Than 20% Exhibit', a large portion of the lot is covered in slopes with grades over 20%. This limits the buildable area to a specific portion of the site, seeing as the Franklin Zoning Ordinance does not allow for development on slopes greater than 20% to protect natural features. The steep slopes on the property also create a need for taller retaining walls than the Zoning Ordinance allows. The Zoning Ordinance allows retaining walls up to 6 feet in height, and the proposed development has retaining walls up to approximately 8 feet. Staff would like to note that the applicant anticipated the need for a third variance request for more than 3 retaining walls on the site, but it was determined that the additional walls (highlighted in yellow in the "Retaining Walls" exhibit) are not retaining and do not require an additional variance. The 3 retaining walls, in compliance with the number of retaining walls allowed in the Zoning Ordinance regulations, are highlighted in blue, green, and pink in the "Retaining Walls" exhibit.

Staff has determined that two Variances would be needed to approve the provided designs. These variances are:  
To allow for retaining walls to be higher than the maximum 6 feet when in a rear/side yard.  
To allow encroachments into areas with a slope of 20% or greater.

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:

Request 1: To allow for retaining walls to be higher than the maximum 6 feet when in a rear/side yard.

**Criteria #1. Staff Justification**

There are exceptional topographic conditions which require the use of retaining walls to support development. The Franklin Zoning Ordinance allows for retaining walls located in the rear/side yard of a residence to be a maximum of 6 feet in height. The applicant has requested retaining wall heights up to 8-feet in the rear and side yard of the property to ensure structural integrity of the proposed development. Due to the exceptional slope conditions across the site, staff finds the criteria for Request 1 to be met.

**Criteria #2. Staff Justification**

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 exceptionally steep slope conditions, retaining walls taller than 6-feet are necessary to support a single-family home on this site. Therefore, staff finds the criteria for Request 1 to be met.

**Criteria #3. Staff Justification**

Allowing for taller retaining walls in the rear yard of this site would not be a detriment to the public good, nor would it impair the purpose and intent of the Zoning Ordinance. The Zoning Ordinance limits the height of retaining walls on a residential site to prevent a site from being dominated by retaining walls which may result in aesthetic concerns for neighboring property owners and the community. Because several neighboring lots within the Avalon Subdivision have also had to implement unique retaining walls, this development would not contradict the aesthetic qualities of the neighborhood. In addition, the applicant has determined that retaining walls up to 8-feet are the minimum height necessary to support the proposed development, and they have designed the retaining walls to be tiered to reduce their height. Staff finds the criteria for Request 1 to be met.

Request 2: To allow encroachments into areas with a slope of 20% or greater.

**Criteria #1. Staff Justification**

While there is a large portion of the lot that has slopes greater than 20%, there is also a large portion of the lot that does not have slopes greater than 20%. Based on the submitted materials, Staff was not able to determine that it would not be possible to build a single-family home on the area with slopes less than 20%. The area of the lot with slopes less than 20% has access to the street, and appears to be approximately half the square footage of the lot. Without more information proving that the area of the lot with slopes less than 20% cannot be developed with a single-family home, Staff cannot determine that this criteria for Request 2 is met.

**Criteria #2. Staff Justification**

Staff was not provided sufficient justification that the strict application of the Zoning Ordinance in this case would necessarily result in exceptional hardship. Based on the submitted documents, Staff does not have sufficient evidence to determine that the area with slopes less than 20% could not be developed with a single-family home. Staff cannot determine that this criteria for Request 2 is met.

**Criteria #3. Staff Justification**

Allowing encroachment into areas with slopes of 20% or greater on the site would not be a detriment to the public good, but it may impair the intent of the Zoning Ordinance. The lot is currently neighbored by lots with similar topography that have utilized similar site grading techniques, so this development would not contradict the aesthetic qualities of the neighborhood. The intent of the Zoning Ordinance for this lot is to allow a single-family residential home to be built, and to protect the natural hillsides on lots with steep slopes. Without more information proving that the area of the lot with slopes less than 20% cannot be developed with a single-family home, Staff cannot determine that this criteria for Request 2 is met.

**RECOMMENDATION**

Staff recommends the Board of Zoning Appeals move to approve the Variance Request To Allow For Taller Than Allowable Retaining Walls Within A Side/Rear Yard, And disapprove A Variance Request To Allow For Encroachments Into Areas With Slopes Of 20% Or Greater For The Property Located At 415 Canterbury Rise, because the criteria for granting a variance have been met for Request 1, and have not been met for Request 2.

Applicant Presentation: Ed Tessier, Landscape Architect. Mr. Tessier provided additional documentation to show the context

of the buildable area given the zoning ordinance requirements.

Public Comment: An email was received from Kelly Gammer.

Board Member Smith motioned to close the public comment, seconded by Board Member Boehms. The motion carried 5-0.

#### QUESTIONS:

Board Member Fleishour asked a question, but his microphone was off, so it was not heard by the general public.

Chair Langley stated that looking at the exhibit provided by the applicant, asked if the buildable area per the exhibits is indicated by the white area.

Mr. Tessier stated, yes.

Ms. Stanford noted that the applicant is hoping to have the front setback set similarly to the other homes along the street which is 55 feet from the front lot line. The platted setback is listed as 25 ft. and officially the applicant does not need to adhere to the 55-foot setback requirements.

Board Member Fleishour noted that because the lot is a corner lot there would be two setbacks.

Chair Langley asked if the new document shows the 25-foot setback.

Mr. Tessier stated yes but also a contextual view is shown (55-foot setback) to keep with the harmony of the street.

#### MOTION

Board Member Scales motioned to approve a Variance Request To Allow For Taller Than Allowable Retaining Walls Within A Side/Rear Yard, And A Variance Request To Allow For Encroachments Into Areas With Slopes Of 20% Or Greater For The Property Located At 415 Canterbury Rise because the criteria for granting a variance request for request 1 and 2 have been met, seconded by Board Member Fleishour.

Board Member Scales stated that staff comments, regarding request #2, were addressed by the applicant's additional document. The document demonstrates the need to encroach into the 20% slope.

Chair Langley agreed with Board Member Scales and stated that given the corner lot and seeing the context of the neighborhood and the small buildable area helps to understand the situation the applicant is faced with.

The motion carried 5-0.

#### 5. **A Variance Request To Allow A 15-Foot Encroachment Into The Required 20-Foot Rear Yard Setback For An Addition To An Existing Principal Building For The Property Located At 406 Forrest Street (F.Z.O. 3.14.5.).**

**Sponsors:** Amy Diaz-Barriga, Ariella Stanford

Applicant: Phillippe Vander Elst. Mr. Vander Elst was present and confirmed that he would like the item to be deferred to the next meeting.

#### MOTION

Commissioner Smith motioned to defer, Item #5, A Variance Request To Allow A 15-Foot Encroachment Into The Required 20-Foot Rear Yard Setback For An Addition To An Existing Principal Building For The Property Located At 406 Forrest Street to the July 3, 2025, 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 Smith motioned to adjourn the June 5, 2025, BZA meeting, seconded by Board Member Scales.

The motion carried 5-0.

There being no further business, the meeting adjourned at 06:47 PM.

  
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Chair

7/3/25  
Date