



City of Franklin

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

Meeting Minutes Board of Zoning Appeals

Thursday, November 7, 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.franklin.tn.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@franklin.tn.gov until 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, Dorinda Smith, and Jeff Fleishour

Board Members Absent: Lee Reeves and William Scales

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 October 3, 2024, BZA Minutes

Sponsors:

Board Member Smith motioned to approve the minutes from the October 3, 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

compliance with the Zoning Ordinance regulations. Seeing as the property is a corner lot and the driveway extends to a side street, the fence is required to be either setback 15 feet from the street, or a maximum of 3 feet in height. The fence reaches a maximum of 4 feet in height. For this reason, the applicant is requesting a variance to allow the fence to remain at 4 feet in height. 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. The shape of this lot and the fact that it is a corner lot make this situation unique. In addition to the unique shape of the lot, the lot slopes down towards the northern side of the lot. While there are multiple unique conditions with this lot, Staff does not find that these conditions prevent the fence from being a maximum of 3 feet in height. Staff finds that this criteria is not met.
2. The strict application of any provision enacted under the Zoning Ordinance would result in peculiar and exceptional practical difficulties for or exceptional or undue hardship for the owner of the property. The fence height is 3 feet where the fence is closest to the front door of the house, and then it gradually reaches 4 feet in height as the property slopes downward, with the top of the fence varying between the columns. Seeing as the height of the fence varies and is not consistent between the columns as it was built, the fence could just as easily have been built with more variation in height between the columns as the yard slopes downward, to maintain a maximum height of 3 feet. 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 the fence height is not a detriment to the public good and meets the intent of the Zoning Ordinance. Part of the intent of this Zoning Ordinance in this case is to ensure that fences in front yard areas and facing streets are consistent in height. Given the slopes on the lot, the strange shape of the lot, and the existing trees directly in front of the fence, the difference in height between the portion of the fence that is 3 feet and the portion that is 4 feet is barely distinguishable. Additionally, part of the intent of this regulation for corner lots is to ensure the fence doesn't block visibility around the corner from the street. Given the slopes on the lot and the minimal additional height, the fence does not have a significant impact on the visibility around the corner from the street. For these reasons, Staff also finds that the fence height would not be a detriment to the public good. Staff finds this criteria is met.

Recommendation: Staff recommends the Board of Zoning Appeals move to deny the Variance Request To Allow A Fence In The Front Yard Area With A Maximum Height Of 4 Feet For The Property Located At 601 West End Circle, because the criteria for granting a variance have not been met.

Applicant: Jennifer Bush, 601 Westgate Circle. Ms. Bush stated that she believes criteria one and two have been met for the following reasons. The unique and exceptional shape of the lot make it difficult to differentiate between the front, back and side yards due to the semicircle shape of the lot. The significant slope of the lot along with the curved corner also make it difficult to determine the front, side and backyards of the lot. Reduction of the fence height would create exceptional difficulties for the family related to privacy. North Petway adjacent to the home is a high traffic road with school and city bus stops that further restricts the family's privacy. There have been no fence complaints by anyone since the home and fence were built in 2019. Ms. Bush noted that the current fence exceeds the aesthetics of a 4.5 foot four board horse fence that is allowed by the zoning ordinance.

Citizen Comments: None

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

Board Member Smith asked staff if there were height restrictions on landscaping.

Ms. McCoy stated that there is not a restriction on landscaping height other than landscaping that obstructs street visibility.

Board Member Fleishour stated that the home is beautifully built on a sloped curved lot, making it difficult to determine the front yard versus the backyard. As staff noted, the fence height is not a detriment to the public good and meets the intent of

retaining walls located in the front yard of a residence to be a maximum of 2 feet in height. Due to the exceptional slopes and the heavily wooded area on this property, Staff finds this criteria for Request 1 is met.

2. **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 and the location of the heavily wooded area, retaining walls higher than 2-feet in the front yard are necessary to support the house and driveway. Therefore, Staff finds this criteria for Request 1 is met.
3. **Criteria 3 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. Due to the location of the proposed house and driveway in relation to the street, and the large number of trees blocking visibility of the property and the proposed house, the retaining walls will likely not be visible from the street. This meets the intent of the Zoning Ordinance and should not be a detriment to the public good. Staff finds this criteria for Request 1 is met.

Request 2: To Allow More Than The Maximum Number Of Retaining Walls On A Site

1. **Criteria 1 Staff Analysis:** The majority of the lot is within the 500-foot Buffer of the Hillside Overlay and is covered in 14-20% or greater slopes, which is unique from most residential sites. In addition, the property is heavily wooded, which is restricting the location of the house and driveway, because the owner's intention is to minimize tree removal to preserve the natural landscape of the property. These exceptional topographic conditions require the use of retaining walls to provide support for development. The Franklin Zoning Ordinance allows a maximum of three retaining walls for a residential lot. The applicant is requesting a total of seven 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 and the trees restricting the location of the house, Staff finds this criteria for Request 2 is met.
2. **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 three retaining walls are needed to support development of this site. Staff finds this criteria for Request 2 is met.
3. **Criteria 3 Staff Analysis:** Allowing seven 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 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. Due to the location of the proposed house and driveway in relation to the street, and the large number of trees blocking visibility of the property and the proposed house, the retaining walls will likely not be visible from the street. This meets the intent of the Zoning Ordinance and should not be a detriment to the public good. Staff finds this criteria for Request 2 is met.

Request 3: To Reduce The Minimum Garage Setback For A Front Facing Garage From 20-Feet To 0-Feet Behind The Front Facade And Front Door Of The Principal Building

1. **Criteria 1 Staff Analysis:** The majority of the lot is within the 500-foot Buffer of the Hillside Overlay and is covered in 14-20% or greater slopes, which is unique from most residential sites. In addition, the property is heavily wooded, which is restricting the location of the house and driveway, because the owner's intention is to minimize tree removal to preserve the natural landscape of the property. Due to the extreme slopes and restricted location of the house, if the garage were to be located at least 20 feet behind the front façade of the house, even more retaining walls would be necessary and there is already more than the permissible amount of retaining walls proposed on the site. This situation makes it difficult to comply with the Zoning Ordinance regulations in this case. Staff finds this criteria for Request 3 is met.
2. **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 extreme slopes and restricted location of the house, if the garage were to be located at least 20 feet behind the front façade of the house, even more retaining walls would be necessary and there is already more than the permissible amount of retaining walls proposed on the site. Staff finds this criteria for Request 3 is met.

use shall be reflected on the plans, and the provided parking shall be calculated at 4 spaces per 1,000 sf for the "office" square footage." The applicant has not requested a zoning determination letter, to allow staff to consider the unique nature of their specific business and whether it qualifies as an "office" use. With the addition being proposed, the total square footage of the building is 22,248 square feet, which would require 88 parking spaces to comply with the office use regulations. The proposed parking shown on the plans does not meet the minimum standards for the Zoning Ordinance regulations. The applicant is requesting a variance to provide less than the minimum required parking for the property, to provide 50 spaces.

Ms. Stanford provided a staff analysis of the criteria required to grant a variance request.

1. **Criteria 1 Staff Analysis:** Staff finds that the condition preventing development as required under this Ordinance is self-imposed, not a unique condition of the lot itself. There is no room on the site for the required parking because of the existing building and the proposed addition as well. Staff finds this criteria is not met.
2. **Criteria 2 Staff Analysis:** Staff does not find that this regulation presents a peculiar practical difficulty or undue hardship for the owner of the property. The hardship in this case is self-imposed, because the lack of parking space is due to the size of the existing building and the proposed addition in relation to the size of the lot. Staff finds this criteria is not met.
3. **Criteria 3 Staff Analysis:** Staff finds that this request would not be a detriment to the public good and it would not impair the purpose of the Zoning Ordinance. The concern for both the public good and the intent of the Zoning Ordinance is that there is enough provided parking for the use of the building. If there is a lack of parking spaces, it may negatively affect those needing to park for this building, and the parking demand may be put on the surrounding available parking and neighborhood parking situations. The applicant provided a parking memo that demonstrates that the provided parking is sufficient for the use. The calculated parking required is based on the current use and parking demand of the building, as well as predicted occupancy of the building. The predicted occupancy and associated necessary parking numbers are calculated assuming that all 7 studios are booked at maximum capacity at a single time, which is a higher parking demand than anticipated. Even with higher capacity estimates than anticipated, the parking need is shown to be 45 parking spaces, and they are providing 50 spaces. Seeing as the provided parking should be sufficient for the specific use of the building, it should not be a detriment to the public good or impair the intent of the Zoning Ordinance. Staff finds this criteria is met.

Recommendation: Staff recommends the Board of Zoning Appeals move to deny the Variance Request To Provide Less Than The Minimum Required Parking Spaces For The Property Located At 112 Seaboard Lane, because the criteria for granting a variance have not all been met.

Applicant: Deaton Hildabrand, with Kimberly Horn, 2127 Melody Drive, Franklin. Mr. Hildabrand stated that the proposed plan for the location is renovation of the existing building and an addition of 3,000 square feet. The zoning ordinance does not define a recording studio or a similar designation as a building use. To accurately represent the intended use of the building and to determine the number of parking spaces, the building was broken down into office use and warehouse use. Staff indicated that the building would need to be classified as all office space or all warehouse space. The team believes that the existing parking spaces are adequate for the needs of a recording studio with minimal office space. It is rare that all parking spaces would ever be occupied and because the zoning ordinance does not accurately address parking for a recording studio, the existing parking with a few additional parking spaces will meet the parking requirements of the building.

Citizen Comments: None

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

Chair Langley asked staff if the current variance request, if passed, would require parking for office use.

Board Member Smith stated that she struggles with understanding how a recording studio is classified as office use.

Ms. McCoy explained that there isn't a defined use on the use chart for a recording studio. In the past, the city has designated a recording studio as office space. The applicant can request a determination letter to be considered in front of

Seaboard Lane area.

Board Member Smith noted that for this area of Seaboard Lane, there isn't convenient overflow parking or sidewalks available for people to park and walk to the recording studio. If there was an option to have the recording studio designated under warehouse use, the variance request would be easier to consider.

Board Member Fleishour stated that, in his opinion, the recording studio should not be held to the same parking requirements as a building designated as office use. The recording studio will not require as many parking spaces as a regular office use space.

Chair Langley asked for clarification on the applicant's ability to request a variance if the current request is denied by the Board.

Mr. Squires explained that the applicant would be required to provide additional information to the Board for reconsideration of the variance request.

Mr. Hildabrand asked what information is needed to be presented to the Board for favorable consideration.

Board Member Fleishour explained that more information should be provided to staff on the exact use of the building so that a decision can be made.

Mr. Squires explained that the applicant would appeal the administrative decision because the zoning ordinance does not address a recording studio as a building use.

Mr. Hildabrand noted that the letter of determination process had been started in case a favorable decision wasn't made by the BZA.

Mr. Cole asked what information could be provided to staff that could better explain why fewer parking spaces are needed.

Chair Langley stated that staff's determination was based on office use as the use for the building.

The motion was denied 3-0.

OTHER BUSINESS

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

ADJOURN

Board Member Smith motioned to close the November 7, 2024, BZA meeting, seconded by Board Member Fleishour. The motion carried 3-0.

There being no further business, the meeting adjourned at 7:13 PM.


Chair

12/5/24
Date