



City of Franklin

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

Meeting Minutes Board of Zoning Appeals

Thursday, September 5, 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 6:00 PM.

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

Board Members Absent: Jeff Fleishour

Staff Present: Bill Squires, Ariella Stanford, and Nathan Hollingsworth

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 August 1, 2024 BZA Minutes

Sponsors:

Board Member Smith motioned to approve the minutes from the August 1, 2024, BZA meeting, seconded by Board Member Scales. The motion carried 4-0.

ANNOUNCEMENTS

Ms. Stanford stated that the pace of the meeting may be slower as she will be running Civic Clerk, and presenting each item, as Ms. Diaz-Barriga was not present.

BZA ANNUAL CALENDAR

2. Consideration Of Approval Of The 2025 BZA Deadlines And Schedules Calendar

Sponsors:

Board Member Scales motioned to approve the 2025 BZA Deadlines and Schedules Calendar, seconded by Board Member Smith. The motion carried 4-0.

APPLICATIONS

3. A Variance Request To Allow An Accessory Structure To Be Located 2 Feet From The Side Lot Line For The Property Located At 206 Lewisburg Avenue (F.Z.O. 3.7.5.).

Sponsors: Amy Diaz-Barriga, Ariella Stanford

Staff Presentation: Ariella Stanford. The subject property is located at 206 Lewisburg Avenue. It is zoned R-4 Residential District and is within the Historic Preservation Overlay and Central Franklin Overlay. The applicant is proposing a 2-car carport aligned with the existing driveway, located in the backyard area. The existing driveway is approximately 20 feet wide, and the proposed 2-car carport is approximately 22 feet wide, which is consistent with a typical 2-car carport. The existing driveway runs along the northern property line, abutting the property line. To align with the existing driveway, the proposed carport is located 2 feet from the northern property line. Carports are classified as accessory structures, and the Zoning Ordinance requires accessory structures to be located at least 5 feet from any property line. For this reason, the applicant is requesting a Variance for an accessory structure to be located 2 feet from the side lot line. Because this property is in the Historic Preservation Overlay, an accessory structure is required to be approved by the Historic Zoning Commission (HZA). This proposed accessory structure was approved by the Historic Zoning Commission on July 8, 2024, with the following conditions:

1. If a variance for the location is not granted, the structure must be setback 5' from the property line.

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. 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 existing driveway is located between the existing home and the northern property line, abutting both. Since the existing driveway is located right up against both the home and the property line, it could not be moved farther from the property line than its existing location. So in order to construct a 2-car carport to align with the driveway, it would need to be closer to the property line than 5 feet. In addition, the backyard space is limited and there is a shed located roughly in the middle of the backyard area, which is preventing the applicant from moving the carport and re-orienting it. Staff finds this criteria is met.
2. 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. To comply with the setback requirements, the carport would have to be misaligned with the existing driveway. This would make it inaccessible for 2 cars as a front-loading carport. If the carport were to be moved to the backyard area and be side facing, it would take up the majority of the backyard space and the existing shed would need to be relocated or removed. Staff finds this criteria is met.
3. 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 proposed carport would not be a detriment to the public good and would not impair the intent of the Zoning Ordinance. The existing driveway is already located against the property line, so the structure would not be any closer to the neighbor's property than the location where cars are currently able to be parked in the existing driveway. In addition to proximity to neighbors, aesthetic consistency contributes to the intent of the Ordinance. Since the proposed carport aligns with

the existing driveway, it is more aesthetically consistent with the common design of carports than for it to be misaligned with the driveway to comply with the setbacks. Staff finds this criteria is met.

Recommended Motion: Staff recommends the Board of Zoning Appeals move to approve the Variance Request To Allow An Accessory Structure To Be Located 2 Feet From The Side Lot Line For The Property Located At 206 Lewisburg Avenue, because the criteria for granting a variance have been met.

Applicant: Mike Hendren. Mr. Hendren explained that in addition to the alignment issue to comply with the five-foot setback requirement, additional driveway configuration and demolition of a raised patio would be required to park in the southern bay of the proposed accessory structure. Mr. Hendren also added that parking, once construction is completed, would be further from the property line than the current parking arrangement. Lastly, Mr. Hendren stated that the rear property, although grandfathered in under different zoning requirements, has a setback of two feet. Granting the proposed variance request would be consistent with the existing setback of the rear property.

Citizen Comments: None

Board Member Scales motioned to close the public comment portion, seconded by Commissioner Reeves. The motion carried 4-0.

Motion

Board Member Smith motioned to approve a variance request to allow an accessory structure to be located 2 feet from the side lot line for the property located at 206 Lewisburg Avenue because the criteria for granting a variance have been met, seconded by Board Member Reeves.

The motion carried 4-0.

Mr. Hendren noted that as a real estate financier in the area for many years, the process for granting a variance request has been very straightforward and staff had been cooperative and accommodating throughout the process. Mr. Hendren thanked staff and the Board for their efforts.

4. A Variance Request To Allow A Retaining Wall To Be Located A Minimum Of 0 Inches From The Lot Lines And A Variance Request To Allow A Front Yard Retaining Wall To Be A Maximum Of 4 Feet Tall For The Property Located At 128 Barlow Drive (F.Z.O. 13.2.2. and 13.2.4).

Sponsors: Amy Diaz-Barriga, Ariella Stanford

Staff Presentation: Ariella Stanford. The subject property is located at 128 Barlow Drive. It is zoned PD Planned District and is within the Highlands at Ladd Park PUD Subdivision. A single-family residential home has been built on the property, and the applicant is proposing a retaining wall in the front yard to support the sloped yard. There is a 15' Middle Tennessee Electric (MTE) Easement occupying most of the front yard, which requires approval from the easement holder to build a retaining wall within the easement area. The owner has already obtained approval from MTE for the proposed retaining wall and the approval documentation is attached to the applicant's submittal. In addition to the slopes and a 15' MTE Easement across most of the front yard space, there is an electrical pull box which is restricting the location of the proposed retaining wall. The location of the proposed retaining wall is abutting the sidewalk at the front of the property and extends all the way to the side property line to the west. For this reason, the applicant is requesting a Variance to allow the retaining wall to be a minimum of 0 inches from the lot lines. In addition, the proposed retaining wall is a maximum of 4 feet tall to support the front yard, which has slopes up to 60 percent. The Zoning Ordinance allows front yard retaining walls to have a maximum height of 2 feet. For this reason, the applicant is also requesting a Variance for a front yard retaining wall up to 4 feet in height. There is additional background information that Staff feels is relevant to acknowledge in this situation. Under today's development review process, lots within subdivisions are required to provide grading information at the Site Plan stage to demonstrate how storm water runoff will be handled as well as how the lots may be developed without the need for additional variances from the Zoning Ordinance. When the Site Plan was approved for this subdivision section, the city's review process did not require grading for the lot to be shown on the site plan, just for the streets in the subdivision. The existing steep slopes on this lot are a result of this. Under today's review process, grading for the lot would likely have been

required prior to being sold, rather than the homeowner having to solve the challenge of the existing slope with the lot construction later.

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 considering these criteria:

Ms. Stanford stated that she would not reread each criterion unless requested but would explain the staff analysis for each criterion.

Request 1: To Allow A Retaining Wall To Be Located A Minimum Of 0 Inches From The Lot Lines.

1. The drastic slope of the front yard requires a retaining wall to prevent spill-over onto the sidewalk along the front lot line. There is a 15' MTE Easement occupying much of the front yard area and an electrical pull box at the west corner of the front of the property, abutting the west property line. To properly retain grade to stabilize the electrical pull box, the retaining wall would need to be in front of the pull box, between the pull box and the sidewalk, and all the way to the west property line. These conditions necessitate the need for a retaining wall in the front yard and are preventing the location of the retaining wall from being in compliance with the setback requirements. Staff finds this criteria is met.
2. The strict application of any provision enacted under the Zoning Ordinance would result in peculiar and exceptional practical difficulties for or exceptional or undue hardship for the owner of the property. If the retaining wall were in compliance with the setback requirements, it would not be able to retain grade to stabilize the electrical pull box properly. The slope in the front yard requires a retaining wall to support it, and the electrical pull box restricts the location to be within the setback requirements. Staff finds this criteria is met.
3. Such relief may be granted without substantial detriment to the public good and without substantially impairing the purpose and intent of the Zoning Ordinance. Staff finds that this would not be a detriment to the public good and it would not impair the intent of the Zoning Ordinance. The intent of the Ordinance in this case is safety and aesthetic concern. The retaining wall is required to support the slopes and the location is restricted by the location of the pull box. The retaining wall is necessary to support the sloped yard to protect the integrity of the sidewalk and the neighboring property. So, the location of the retaining wall addresses the safety concern by properly supporting the sloped yard and pull box. In addition, the applicant has tried to minimize the height of the retaining wall to only the height necessary to support the slope and allow a maintainable front yard. This is an effort to address the aesthetic concern for having the retaining wall closer to the lot lines than 5 feet. Staff finds this criteria is met.

Request 2. To Allow A Front Yard Retaining Wall To Be A Maximum Of 4 Feet Tall.

1. To support the sloped front yard and create a yard that is able to be maintained, the retaining wall in the front yard must be taller than 2 feet. The grade in the front yard is up to 60% which is considerably steep to maintain. The applicant would like to achieve 3:1 slope ratio in the front yard so that it can be maintained by the homeowner, and that would require a 4' retaining wall given the existing conditions of the front yard. Given these conditions, Staff finds this criteria is met.
2. If the retaining wall were to comply with the 2' maximum height requirement for retaining walls in a front yard, the wall would potentially fail to support the sloped yard and the steep slope of the yard would be difficult for the homeowner to maintain. Staff finds this criteria is met.
3. Staff finds that this would not be a detriment to the public good and it would not impair the intent of the Zoning Ordinance. The retaining wall is necessary to support the sloped yard to protect the integrity of the sidewalk and the neighboring property, so it would not be a detriment to the public good. The intent of the Ordinance in this case is aesthetic concern. The applicant has tried to minimize the height of the retaining wall to only the height necessary to support the slope and create a maintainable front yard. The applicant has also tried to design the wall in a way that is aesthetically consistent with the existing house and the neighborhood. This is an effort to address the aesthetic concern for having a taller than allowable retaining wall in the front yard. Staff finds this criteria is met.

Recommended Motion: Staff recommends the Board of Zoning Appeals move to approve the Variance Request To Allow A Retaining Wall To Be Located A Minimum Of 0 Inches From The Lot Lines And approve the Variance Request To Allow A Front Yard Retaining Wall To Be A Maximum Of 4 Feet Tall For The Property Located At 128 Barlow Drive, because the criteria for granting a variance have been met.

Citizen Comments: None

Board Member Scales motioned to close the public comment portion, seconded by Commissioner Reeves. The motion carried 4-0.

Applicant: Matthew Grayson. Mr. Grayson did not have any additional comments to add but would be happy to answer any questions.

Board Member Smith asked Mr. Grayson if approval of height and position of the retaining wall was required by the HOA. Also, when driving around in Ladd Park, Ms. Smith stated that she didn't see many other four foot retaining walls and asked the applicant if there were other retaining walls in the neighborhood.

Mr. Grayson stated that the HOA required approval of the materials to be used with further approval coming from the city. Regarding other retaining walls, Mr. Grayson stated that further back in the neighborhood there are retaining walls.

Ms. Stanford clarified that the retaining wall design is consistent with other retaining walls in the neighborhood and staff does not know if the height would be considered consistent with existing retaining walls in the area.

Board Member Reeves asked Mr. Grayson for wall height clarification regarding the construction plans and a reference of six feet.

Mr. Grayson stated that height measurements include the footer of the wall that cannot be seen, which adds additional height as seen on the construction plans.

Ms. Stanford also clarified that zoning height is measured from the base elevation to the top of the wall, whereas a building permit requires height to be measured from the footer to the top of the wall.

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 lot lines and a variance request to allow a front yard retaining wall to be a maximum of 4 feet tall for the property located at 128 Barlow Drive because the criteria for meeting both variance requests have been met, seconded by Board Member Reeves.

The motion carried 4-0.

OTHER BUSINESS

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

ADJOURN

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

There being no further business, the meeting adjourned at 6:23 PM.


Chair

10/3/24
Date

