

**MINUTES OF A MEETING OF
THE BOARD OF ZONING APPEALS OF
THE CITY OF FOREST HILLS**

October 19, 2012

The Forest Hills Board of Zoning Appeals (herein also the “**Board**”) held its regular meeting on October 19, 2012 at the City’s Offices, 6300 Hillsboro Pike, Nashville, Tennessee, beginning at 8:00 a.m. Chairperson Janie Rowland presided. Also present were Mark Banks, and the City Attorney, Matt Foster. Others present are shown on the attached sign-in sheet. A copy of the Agenda is also attached to these minutes.

1. Approval of Minutes of September 21, 2012. Upon motion by Mr. Banks, which was seconded by Ms. Rowland, the members unanimously voted to approve the minutes of the September 21, 2012 meeting.

2. Letters of Credit. No action required.

3. 4326 Chickering Lane: Request for variance to exceed fence height limitations.

Ms. Kris Wiseman of Farris Concepts in Architecture, representing the owners of the property, presented a request to construct two stone entrance piers connected to a wooden panel gate. The request required a variance from Section 4.08(b), which imposes a height restriction on fences.

Ms. Wiseman stated that the stone piers would be approximately six feet ten inches in height, connected to a wooden panel gate ranging from approximately four feet one and one half inches to five feet six inches. The resident requires the gate and taller fence to provide privacy and to discourage loitering on the cul-de-sac. Ms. Wiseman stated that other residents have taller fences.

There were no public comments. Mr. Banks asked why construction had commenced prior to initiating this variance request. Ms. Wiseman stated that only the footings had been poured and that the height could still be adjusted if a variance were not granted.

Mr. Banks made a motion to grant the requested variance. Ms. Rowland seconded the motion and the Board unanimously voted to grant the variance.

4. 4506 Carlton Drive: Request for variances to permit construction of a residence that exceeds the permitted maximum building cover ratio, and encroaches on side yard setbacks.

Mr. Alan Looney, representing the owners of the property, presented a request to construct a new residence on the property. The proposed residence would exceed various bulk standards set forth in the Zoning Ordinance. The proposed residence would require (1) a variance from the Maximum Building Cover Ratio requirement, and (2) a variance from the Side Yard setback requirement, all such requirements being contained in Table 4.02. This matter came before the Board following a deferral from the prior month’s meeting. Since then, the property owner has revised the plans such that the project now complies with the city’s Impervious Surface Ratio requirement.

Mr. Looney acknowledged that the lot is flat, that it is not exceptionally narrow, shallow, oddly shaped, and does not contain an extraordinary or exceptional situation or condition rendering compliance with the zoning ordinance an undue hardship on the property owner. Mr. Looney did, however, note that other houses in the area are of comparable size and that the property owners have received support from neighbors. Mr. Looney stated that the lot is 1.07 acres, and that the ordinance penalizes his clients for having a small lot. Mr. Looney further stated that if the lot were 1.25 acres, the proposed construction would be closer to compliance with the zoning ordinance, but still would require the variances.

Ms. Rowland opened the floor to public comment. Mr. Johnny Paulk, the hardscape designer, spoke in support of the variance requests stating that the proposed project will improve drainage over the prior submittal. Mr. Chip Fridrich, the owner of the property, also spoke in support of the project. He stated that he purchased the property in December 2011 without knowledge of the pending zoning ordinance amendments. Mr. Fridrich stated that he is “Anti-McMansion” and that based on his study of other properties on the street, only one lot on the street has more acreage than the minimum required of the zoning district. He also stated that the proposed home is a “green” home and should be approved.

Ms. Rowland closed the public hearing. Mr. Banks stated that the revised plans addressed his concerns from the prior month. Mr. Banks made a motion to grant the requested variances. Ms. Rowland seconded the motion and the Board unanimously voted to grant the variances.

5. 1808 Stonehaven Court: Request for variances to encroach on the front yard setback, to exceed fence height limitations, and for issuance of a building permit in a steep slope area.

Mr. Issac Wantland of Wantland INK, representing the owners of the property, presented a request to construct a home in a steep slope area. The request required the following variances and approvals: (1) A variance from the Table 4.02 to permit an encroachment into the front yard setback, (2) A variance from Section 4.08(b), which imposes a height restriction on fences, and (3) Approval for a building permit in a steep slope area, as required by Section 2.06(e)(ii).

Mr. Wantland reviewed the materials submitted to the Board. The project requires a 35 foot variance from the front yard setback requirement in order to place the residence where desired. Mr. Wantland noted that the lot includes steep slopes such that strict application of the zoning ordinance would result in an undue hardship on the owners of the property.

Ms. Rowland opened the floor to public comment. Ms. Laura Baugh, resident of Cambridge Downs and president of the Cambridge Downs homeowners' association, spoke in opposition to the requests. Ms. Baugh stated her concern that storm water runoff from the project would contaminate the pond in Cambridge Downs. She explained that the drainage ditch on Stonehaven Court drains to a culvert that feeds into the pond. She explained that the pond has already been filled with silt from runoff, which she believes partially comes from Stonehaven Court. She stated that once water leaves the site, it will affect all of the community and requested that a plan be made to erect a barrier to prevent silt from this project from running into the pond and other erosion control.

Ms. Baugh further expressed concern about the proposed fences and walls. She expressed no concern about the proposed height, but rather the aesthetics of the fences and walls because residents of Cambridge Downs will look uphill to this residence. In summary, Ms. Baugh stated that her dominant concern was with respect to drainage. She requested that the homeowner take such steps as are necessary to ensure the ditch, culvert, and pond are protected.

A representative from Littlejohn Engineering, the civil engineer for the project, stated that the homeowner had no way of providing erosion prevention and sediment control ("EPSC") on any land not owned by the homeowner and that all EPSC measures must be placed on the homeowner's property. He further stated that the homeowner will provide a construction entrance to minimize mud being tracked on streets.

Ms. Rowland closed the public hearing and the Board commenced deliberations. Mr. Banks expressed concern (1) that no drainage calculations had been submitted with the requests, (2) that no geotechnical report had been submitted, and (3) about the quality and capacity of the existing storm water conveyances within the public right of way. The applicant responded by stating that a "limited geotechnical study" had been performed and delivered a copy to the Board. Mr. Banks noted that the study was two years old and very limited in scope. Mr. Banks inquired whether the study satisfied the city's requirements. The City Attorney reviewed the requirements for a geotechnical study as set forth in the zoning ordinance; and, Mr. Wantland acknowledged that the submitted study did not satisfy the city's requirements.

The Board recommended that the applicant perform a geotechnical investigation, deliver drainage calculations and complete EPSC plans, and meet with the neighbors to address their concerns. Mr. Wantland requested a one month deferral, which the Board agreed to grant.

6. 1855 Laurel Ridge: Request for variance to encroach on a side yard setback.

Robin Farris of Farris Concepts in Architecture, representing the owners of the property, presented a request to construct a new home on an existing foundation. The present residence has not been demolished yet. The proposed plan would reduce grading in an otherwise steep area. The request required a variance from Table 4.02 to permit an encroachment into the side yard setback. The homeowner desires to correct a "geometry" problem in the existing home and change an unusual shaped corner to a 90 degree angle. This change necessitates a five foot encroachment on the side yard setback.

Ms. Rowland opened the floor to public comment. Dr. Key, resident of 1857 Laurel Ridge, stated her opposition to the project because of her concern for the impact on flora and fauna in the area, particularly the effects on owls, foxes, coyotes and bats. She stated that she has contacted the EPA and requested that the applicant perform an environmental impact study. Dr. Key also expressed concerns about the noise resulting from construction.

Ms. Rowland closed the public comment. Ms. Rowland stated that she had visited the site and expressed her sympathy for Dr. Key's concerns. Ms. Rowland stated that this is a thoughtful approach to minimize impact on the environment and the community. The City Attorney addressed questions from the Board about how the city can control noise pollution from construction.

Mr. Banks made a motion to grant the requested variance. Ms. Rowland seconded the motion and the Board unanimously voted to grant the variances.

7. 6205 Hillsboro Pike: Request to construct an accessory building and accessory use in a front yard.

Mr. Ed Tessier of Page-Duke Landscape Architecture, representing the owners of the property, presented a request to construct a pool pavilion, swimming pool, lap pool, and play pad in the front yard of the lot. The request required a variance from Section 4.05(a) of the Zoning Ordinance, which requires accessory uses to be constructed in rear yards.

Mr. Tessier explained that this property does not have street frontage on a public road and is accessed by a private easement. Because of the layout of the lot, there is no clear front, side, or rear yard. The City interpreted the front yard to be that portion of the lot extending between the private street within the easement and the exterior wall with a front door. Because the residence is sited in a corner of the lot, the City's interpretation makes nearly all of the lot a "front yard." Mr. Tessier stated that because of the unusual topography of the lot, and because it is non-conforming, it is impossible to comply with the strict requirements of the zoning ordinance. Mr. Tessier explained that the structure was sited in what the resident considers the "side yard" of the lot and offset from neighbors in such a way as to reduce neighbors' view of the structure. Mr. Tessier also explained that the proposed location minimizes grading as compared to other areas of the lot and reduces drainage impacts.

Ms. Rowland opened the floor to public comment. Mr. Bruce P'Pool, resident of 2105 Picadilly Place, expressed his concern about the proposed project, specifically how the project will interfere with his view of green pasture, the blasting required for construction, the negative impact on his home's value, and the noise and light to be generated by the project. Mr. P'Pool requested information on who would compensate him for damages to his home resulting from the project.

Ms. Betty Young, resident of 2113 Picadilly Place, expressed her concern about the noise and light to be generated by the project. She acknowledged that her property does not adjoin the proposed site.

Mr. Mickey Martin, resident of Picadilly Place, expressed his concern about the impact of blasting on the site during construction. He acknowledged that while his property adjoins the project, it will be screened from his view.

Ms. Rowland closed the public comment and the Board commenced deliberations. The Board requested information from Mr. Tessier about plans for blasting during construction. Mr. Tessier stated that construction will utilize an air hammer and will probably not require blasting.

Mr. Banks stated that he understood the neighbor across the private road had recently sold that residence, and he queried whether the new owners were concerned about the plans. Ms. Trudy Byrd, a realtor involved in the transaction, stated that she represented the purchaser, who was aware of the variance request, but wanted to reserve the right to object until they had reviewed the plans. Mr. Banks asked the City Attorney whether the Board should delay action pending the purchaser's review of the project. The City Attorney confirmed that the City sent the notice legally required for the variance, that a sign had been posted, and that the purchaser had already received adequate notice to object to the project and that the Board need not delay action.

The Board stated its opinion that the proposed location was, in fact, located in a side yard and not a front yard. The Board debated whether the applicant should try to provide additional screening for the pool pavilion to accommodate the P'Pools, or whether the applicant should attempt to move the project to another location on the lot. Mr. Banks noted that the applicant had not submitted an adequate landscaping plan. The Board recommended that the applicant defer the request one month in order to provide a complete landscaping plan with additional screening for the project. Mr. Tessier requested a one month deferral, which the Board agreed to grant.

There being no further business to be discussed and no further business to come before the Board, the meeting was adjourned.

City Recorder

Chairperson Janie Rowland