

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

October 10, 2014

The Forest Hills Board of Zoning Appeals (herein also the "Board") held its regular monthly meeting Friday, October 10, 2014 at the City's Offices, 6300 Hillsboro Pike, Nashville, Tennessee, beginning at 8:00 a.m. Chairperson Janie Rowland presided. Also present were Mr. Mark Banks, Mr. David Waller, and City Manager, Amanda Deaton-Moyer. Others present are shown on the attached sign-in sheet. A copy of the agenda is also attached to these minutes.

1. **Approval of the minutes of the meetings dated September 12, 2014.** Mr. Waller made the motion to approve the minutes from September 12, 2014 meeting. Mr. Banks seconded the motion and it passed unanimously.
2. **Consent Agenda.** Chairperson Rowland asked the City Manager to briefly describe the consent agenda item. Mrs. Deaton-Moyer explained that the house was nonconforming but the addition did not add to the nonconformity. The request required the approval of the Board. Mr. Banks moved for approval. Mr. Waller seconded, and it was approved unanimously.
3. **Mr. George Dean, represented Mr. and Mrs. Bill Freeman owners of the home located at 6114 Hillsboro Pike** in their request for three (3) variances in connection with plans for a proposed detached garage. They requested variances for the proposed garage (accessory use) to be located in the side yard, a side setback variance of 58 feet, and a floor area ratio increase from 1% to 1.3%. Chairperson Rowland asked Mrs. Deaton-Moyer for an explanation and the City's recommendation. Mrs. Deaton-Moyer stated that the applicant intended to remodel their current garage into living space and build a detached garage, two feet off of the property line. She said that although the applicant provided all the requested information, the City was not clear on the hardship that necessitated the variances. Mr. Dean stated that the proposed garage will be located on an already paved surface, eliminating any additional impervious surface needed for the project. He added that any other placement of the garage would increase the impervious surface ratio over the maximum allowed. He said that the current impervious surface ratio combined with the nonconformity of the home served as hardship. Mr. Dean said that in situations like this he asked the Board to consider whether the project caused any harm. He maintained that the project did not cause any harm. Mr. Banks questioned the hardship explanation provided and asked if alternate plans had been considered. He said they considered rotating the garage, but then the doors would face the road, which was prohibited in the zoning code. Mr. Waller concurred that the hardship was not strong and asked if pervious pavers had been considered. Mr. Mike Ireland, architect on the project, said pervious systems had not been considered.

Chairperson Rowland asked if the garage was as close to the property line as it appeared to be on the site plan. Mr. Dean responded affirmatively and added that the Messina's and other neighbors had provided letters of support. (He provided the letters to the Board). He added that the Messina's thought the garage may improve the privacy of their home. The Board wondered what a future neighbor may think about a garage being two feet off the property line. Mr. Banks asked if the neighbors were comfortable with the Freemans planting the proposed trees in their yard. Mr. Ireland said this was approved by the Messina's. Mr. Banks and Mr. Waller offered alternatives to the presented plan that would either bring the garage into codes or make the variances less severe. Mr. Banks stated that he thought that the garage was aesthetically pleasing, but the placement needed some thought. Mr. Waller agreed.

Mr. Freeman said that as proposed, the garage allowed continued access to his backyard which he uses extensively for entertaining. Other configurations would block off the access.

Chairperson Rowland said she was struggling with the presence of a hardship in this case. Mr. Waller suggested that they take a look at a few alternatives and return to the Board. Mr. Dean requested a deferral. The Board granted the deferral unanimously.

4. **Mr. Thomas Rhodes represented Mrs. Glynis Sandler and Mrs. Kim Rhodes, owners of the lot located at 37 Annandale**, in their request to build a home in the HPOD. He also requested a variance to disturb 34% of the area of steep slopes. This item had been deferred from the previous meeting. Chairperson Rowland asked Mrs. Deaton-Moyer for the City's recommendation. Mrs. Deaton-Moyer stated that the key reason the application was deferred was that the geotechnical recommendations were not included in the site plan. Other reasons were the outstanding issues raised by the Otterwood Homeowners Association and the organization of the various site plans. Mrs. Deaton-Moyer believed these issues had been addressed. The site plan now showed a curtain drain that ran the width of the back yard. The applicant had addressed driveway concerns from the HOA and in doing so reduced impervious surface areas and the area of disturbance in steep slopes from 34% to 32%. The City recommended approval.

Mr. Rhodes discussed changes to the plan. He stated that by altering the driveway, they would save more trees than originally planned, but would have to cut a couple of larger trees. The new configuration of the drive allowed for a more level staging area and fewer retaining walls. Chairperson Rowland asked if there were any neighbors present to discuss the project. Mr. Brian Ansley of 39 Annandale said one of his concerns was how long it would take to build retaining walls and foundation. Mr. Rhodes responded that provided cooperative weather, it could take between 4 and 6 weeks. Mr. Ansley asked if the house (37 Annandale) would be below his home topographically. Mr. Rhodes answered that 37 Annandale was below 39 Annandale in elevation. Mr. Ansley was worried about possible landslides below his property. Mr. Ansley also asked if the home could be moved over and back away from his home. Mr. Rhodes responded that movement of that nature would make the house over the setbacks. Mr. Ansley worried about seeing the home from his bedroom. Chairperson Rowland thanked him for his remarks and asked if there were others. M. Elecia Lewis, representing the Otterwood Homeowners Association said that the HOA was in favor of the approval. She added there were still a few items to be resolved with Mr. Rhodes, but they should not stop the Board from approving the project. There was brief discussion about the borings, footings, and foundation methods.

Chairperson Rowland made a motion to approve the application conditioned upon providing to the City a revised landscape plan to be reviewed by the City Arborist, which includes additional screening (preferably evergreen material) on the southeastern side of the home facing 39 Annandale. Mr. Waller seconded the motion and it was approved unanimously.

5. **Mr. Isaac Wantland represented the owners of the home located at 5401 Hillsboro Road** in their requests for variances related to the construction of a pool. The variances included an accessory structure not located in the rear yard and a retaining wall of 18 feet. The structure would also be located in the HPOD. They also sought a reaffirmation of their previous 17.1% impervious surface ratio variance. This item was deferred from the previous meeting. Mr. Wantland gave a recap of the project, stating the project was underway, but the homeowners chose to add a pool. The deferral was based on the question of continued noise from rock hammering during construction. Hugh Smalley, contractor on the project, walked the Board through the progress of the project. He stated that generally the rock excavation was complete. Borings would still have to be drilled into the rock for footings. This might constitute additional noise. The top of the pool was approximately 8 feet in height from grad; therefore, it should not require digging, rather it needed filling. Chairperson Rowland said that she and Mr. Waller visited the site and understood how the pool would need to be filled rather than excavated. After viewing the site and

understanding the construction plan, she understood that the worst part of the noise was complete. Mr. Smalley agreed. She asked Mr. Smalley how long the footings would take. Mr. Andy Stone, engineer on the project, responded that it could take up to three (3) weeks and would cause some noise. There was some discussion about the difference of the equipment used between a pneumatic/hydraulic drill and hydraulic hammer.

Chairperson Rowland asked if there were neighbors to speak to the issue. Mr. John Ellis of 5350 Hillsboro Pike spoke. He said that it appeared that no more hammering was going to take place, but he also remembered when it was going to stop by the end of June and then went through August. He questioned the intensive sound of the drilling and wondered why other construction options were not being sought to lessen the immense noise. He believed that the noise would undoubtedly continue. Mr. Waller stated that he thought there were two issues: history and the pool. The history of construction was very loud and noisy, but the pool did not seem to involve excavation. Mr. Ellis retorted that in the previous meeting they indicated that it would require excavation. The construction team for the project indicated that further exploration and placement of the site had eliminated the need for excavation. Mr. Waller confirmed that they were now discussing footings, not additional hammering. The team also indicated that they were aware of the noise issue and had self-restricted themselves to no weekends and only after 9:00am and before 5:00pm on the weekdays.

Mr. Ellis asked if Mr. Waller had read his letter from earlier in the week. (A copy of the letter is attached herein). Mr. Waller said he had. Mr. Ellis asked whether he had any experience with Precision Controlled Rock Blasting (PCRB). Mr. Waller said he had done projects all over the country using this and other processes. Mr. Ellis stated that this process was used in Rome and Greece near some of the world's oldest/greatest monuments and wondered why they had not considered it here. Mr. Waller responded that it was not required for the remainder of the project. Mr. Ellis asked Mr. Waller of the practices that are available today are they using the quietest? Mr. Waller said that under the circumstances, yes.

Chairperson Rowland told Mr. Ellis that she sympathized. After visiting the site she realized that he was probably getting the brunt of the sound based on location at topography. She too had endured a house being built across the street for over a year. Because of how her house was situated, she heard most of the construction. She said that it was inconvenient and unpleasant, but part of living in a place like Forest Hills. Occasionally neighbors have large projects. Mr. Ellis responded by asking what was next for this homeowner? A tennis court? A go-cart track? If money is no issue, when do the enhancements finally end? "Do I need to seek the role of plaintiff," he asked. Chairperson Rowland thanked Mr. Ellis for the comments.

Chairperson Rowland made motion to approved provided the contractors abide by the construction activity restrictions outlined in the letter from Andrew M. Stone dated September 29, 2014. Mr. Banks seconded the motion and it was approved unanimously.

6. The Meeting was adjourned.

7. **The Meeting was adjourned.**

Recorder

Chairperson