

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

January 9, 2015

The Forest Hills Board of Zoning Appeals (herein also the "Board") held its regular monthly meeting Friday, January 9, 2015 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. Jim Littlejohn 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 November 14.** Mr. Banks motioned to approve the minutes from November 14, 2014 meeting. Mr. Littlejohn 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 addition to the 1909 Edenbridge Way home would not increase the nonconformity of the home. The home was nonconforming due to a rear setback encroachment. Mr. Littlejohn moved for approval. Mr. Banks seconded, and it was approved unanimously.
3. **Mr. Van Pond, Architect, representing the Dale T. Reifschneider Revocable Trust, located at 4606 Skymont Drive,** requested a permit to construct a new home and pool in the Hillside Protection Overlay District. Mr. Pond described the new construction. He discussed the locations and heights of the three retaining walls. Mr. Pond presented a revised drainage plan with water draining to a bio-detention pond on the southeastern side of the home. Mr. Sean Winters, civil engineer, explained the reasoning for the new plans. Mr. Littlejohn commended the revised plan. Chairperson Rowland asked if there were neighbors present to speak to the issue.

John Springer of 1609 Ash Valley addressed the Board. His was the home adjoining the property behind the subject property to the south. He stated that he was not opposed of the plan, but he was cautious about the drainage coming onto his property. Mr. Littlejohn addressed his concern: if the plan was implemented as presented, then there should be no reason for concern. Water would be intercepted by swales and the detention pond.

Mr. Eddie Schwartz of 2606 Skymont spoke. He questioned why the retaining walls were allowed outside of the building envelope and wondered what the retaining walls would look like. Mr. Banks addressed the location of the retaining walls, telling Mr. Schwartz that the envelope was for the dwelling and that retaining walls were permitted outside of the setbacks. Mr. Littlejohn commented that walls were proposed to have stone veneers. Mr. Schwartz said he had built extensive berms and swales on his property and he hoped this new construction would not neutralize his efforts. Mr. Littlejohn again stated the bio-detention pond was positioned to collect most of the water from the property.

Mr. Alfonso Luengas of 4600 Skymont Drive asked why he was not given a copy of the plans. Mrs. Deaton-Moyer stated that he received a letter 30 days in advance letting him know that plans were available on request. He wanted to know how the home would impact him. Mr. Littlejohn responded that Mr. Luengas would be looking down at a wall and the side of a pool.

Chairperson Rowland asked about landscaping along the walls. Two of the walls had planned landscaping, but the one was without cover. Mr. Pond said that could be remedied. Mr. Littlejohn noted that the Geotechnical analysis had detailed some soft soils. He asked how that was to be mitigated. Mr. Pond said pools would be a fiberglass shell placed to meet the grade of the slope on one side minimizing the excavation requirement.

Mr. Littlejohn said the ditch on the north side of the property appeared to be too shallow and would need deepening to meet the planned detention pond. Chairperson Rowland reiterated the need for landscaping on the lower side of the wall and asked for larger plantings on the wall nearest the pool. There was brief discussion on these points.

Mr. Littlejohn moved to approve the application with the following conditions:

- *There must be strict adherence to the Geotechnical Report as submitted and regular reviews from the Geotechnical Engineer.*
- *The swale on the north side of the property must be deepened and reinforced to ensure drainage reaches the bio detention area. This should be shown on plans submitted for permitting.*
- *An updated landscape plan must be provided. It must include additional plantings along the lower retaining wall and pool. Additionally the plant material proposed for the west retaining wall should be increased in height.*

Mr. Banks seconded the motion and it was approved unanimously.

4. **Mr. Daniel Woods of the Addison Group, representing Mr. Micah Lacher, owner of lots 12 & 13 in the Tyne Estates Subdivision,** requested a variance to the platted setbacks and permission to build in the Hillside Protection Overlay District. Mrs. Deaton-Moyer explained to the Board that this lot had been recently consolidated from two (2) lots of about 1.5 acres each to one lot just over three (3) acres. The Planning Commission made the building envelope very small, adhering to the stipulation that new building envelopes be 50 feet away from steep slopes. The Planning Commission was aware that the Board of Zoning Appeals would have to review any application and set building envelope as they deemed appropriate. Chairperson Rowland said she was familiar with the process. Mrs. Deaton-Moyer stated that the new construction proposed met the bulk standards of the zoning code and minimized slope disturbance. The home was designed for the site. She added that the drainage connected to the already-established drainage system built for the Tyne Estates Subdivision that ended in a detention pond fronting on Tyne Blvd. The City recommended approval. Mr. Daniel Woods explained the project. The new construction would be the only home on the cul-de-sac, the drive would go along the north western side of the property, and garage doors would face the same direction.

Chairperson Rowland asked if there was a home on the parcel directly west of the subject property. They responded that there was not and given the ownership and topography, development was unlikely. Chairperson Rowland asked if they had considered landscaping the back of the property. Mr. Woods said the lot was heavily wooded and that the owners expected to leave it natural. They would consider adding trees in the back. Mr. Littlejohn added that the back of garage also needed attention in terms of landscaping.

Mr. Littlejohn asked about how sanitary sewer was provided to the property. Mr. Tom King, engineer on the project, directed Mr. Littlejohn to stub-outs located on the site plan. He added that the second one was low enough to be effective. Mr. Banks asked Mr. King to explain how the water would drain off the property. Mr. King directed the Board's attention to the back of the property to see where a swale went along the property line and turned toward the detention pond on Tyne Blvd. Mr. Littlejohn asked about the veneer of the proposed wall along the driveway. Mr. Woods responded that it was planned to be stone veneer, but it might be painted brick to match the home. Mr. Littlejohn commented that the geotechnical analysis was comprehensive and strict adherence to the recommendations would be required for construction.

Mr. Littlejohn moved to approve the application with the following conditions:

- *There must be strict adherence to the Geotechnical Report as submitted and regular reviews from the Geotechnical Engineer.*
- *An updated landscape plan must be provided. It must include landscaping along the garage and the downhill slope.*

Mr. Banks seconded the motion and it was approved unanimously.

5. **Mr. Ron Farris, representing Mr. and Mrs. John Sunday, owners of the lot located at 1624 Chickering Road,** requested a building permit and variances for a proposed new home, a barn and a swimming pool in the front yard (the existing home was to be demolished with a proposed barn to take its' place). Their requests included: a variance for an accessory structure to be located in the front yard and an impervious surface ratio variance from 14% to 18.18%. Mrs. Deaton-Moyer briefly explained the project. This was a proposed new home and barn. The owners expected to have horses which were allowed under the Zoning Code. Their impervious surface ratio was over the bulk standard because of an

easement drive at the side of the property of which the Sondays had no control. Without the coverage of the driveway easement, the project would be in compliance with the impervious surface regulation. Mr. Farris came before the Board during the September 12, 2014 meeting to gauge their opinion on the easement as a hardship. At the time, the Board tentatively agreed it would be considered a hardship. Mrs. Deaton-Moyer stated that the code did not allow accessory structures in the front yard, but that the Board reviewed each situation on an individual basis. She asked the Board take that into consideration as they reviewed this application. Chairperson Rowland and Mr. Littlejohn discussed the history of the property. Mr. David Andrews, who lived on the property behind the subject property gave some insight to the easement. He stated that they had always used his late mother's drive to get to their property. However, when her health started to decline and they knew they would be selling the property, the Andrews built a drive so they would have unfettered access to their home. Their utilities also ran the length of the drive. Chairperson Rowland thanked him for his explanation.

Mr. Farris described the property as having three areas: public, semi-private, and private. The home currently on the property (where the barn was to be placed) was in the private area; the area in front of the two large trees was the public area; and the place they wanted to position the home was in the semi-private area. The setback restrictions allowed them to position the house in the public area, but it would not be in line with the other houses and it might put the large trees at risk.

Mr. Farris described a three tier landscaping system to screen the pool from view. The first would be a line of hedges at the front of the property, the second would be landscaping below the pool and the third would be directly in front of the pool. The tiered approach would ensure the pool would not be seen from Chickering Rd. Mr. Farris showed a brief video that simulated what it would look like driving by the home.

Chairperson Rowland and Mr. Banks asked if the garage was to be landscaped. Mr. Farris said there was none currently planned. Mr. Isaac Wantland, landscape architect on the project, said that they could coordinate with the Andrews and landscape the area. Mr. Wantland also added that there was significant screening on that side of the proposed home as a result of a line of Magnolias on the LeBlanc property. Mr. Wantland showed pictures demonstrating his point.

Mr. Littlejohn asked about where the horses would be when out of the barn. Mr. Farris responded that they would be walked from the barn to the lower pasture in front of the trees. There was some space in front of the barn, but they would primarily be pastured in front of the home. Chairperson Rowland commented that the Code certainly allowed for horses and she was not concerned about the assertion that there would be odor or flies. She asked how they reduced the size of the barn from the original plan. Mr. Farris responded that a stall and wash bay were removed to reduce the footprint. The barn would have room for a tractor and trailer on site. He added the homeowners had a farm and would be transporting horses regularly. Related to the barn, he drew the Board's attention to the additional landscaping along the southeastern property. Mr. Farris said that Mr. Warner Bass, contiguous neighbor had requested that screening.

Mr. Banks asked about other spatial iterations they had tried to comply with the code. Specifically, he asked if they had turned the house completely around, having the pool in the back. Mr. Farris said they had considered that option, but it interrupted the traffic flow and increased land disturbance in areas with steeper slopes. He explained that the home was designed to hide traffic – residents, services, farming, etc. – from the street in the back of the home. Chairperson Rowland commended him on consideration of the traffic. Mr. Littlejohn said he had a fundamental problem with the presence of the pool in the front yard. He suggested changing the orientation of the pool. He also asked if there was any way to preserve the aspect of the project and comply with the code. Chairperson Rowland asked if she thought the landscaping and screening would block out views of the pool furniture. Mr. Farris responded that the house of the north and south side would block the view in addition to the landscaping.

Chairperson Rowland asked if there were any neighbors wishing to be heard on the issue. Mr. David LeBlanc of 1620 Chickering Rd. spoke. He stated that he was there on behalf of Mrs. Leblanc and that she was opposed to the project. She was concerned that the views from her home would be destroyed by the barn and pool furniture. She also felt the project would significantly reduce the resale value of her home. Mr. Leblanc also said there was worry that this construction

would negatively impact their Magnolias north of the subject property. Mrs. Deaton-Moyer stated that was near impossible because it was on the opposite side of the easement drive, of which the Sondag's had no planned construction. Mr. Leblanc concluded his statement.

Mr. Don Baltimore of 1632 Chickering Rd made remarks. He said that Mr. Farris and the Sondag's had addressed many of his concerns. His chief complaint was that the traditional back yard seemed to be in the front of the home, facing the street. He was thankful for the Board careful deliberation and suggested extending the line of screening down the southern border of the property.

Mr. Andrews of 1626 asked for clarification regarding the number of horses allowed by the Forest Hills Zoning Code. Mrs. Deaton-Moyer stated that they were allowed one horse for every 2.5 acres. In this case, the homeowners would be allowed no more than two (2) horses.

Chairperson Rowland thanked the neighbors for their comments. Discussion continued about the pool in the front yard. Mr. Farris assured the Board that this plan was well-thought-through and sought to minimize traffic and land disturbance. Mr. Littlejohn and Mr. Banks asked Mr. Farris if there were other positioning solutions to meet the Sondag's requests. Chairperson Rowland said she liked how the pool was shielded on the north, south and east sides, but wondered if there were other options.

Mr. Farris asked the Board to defer their decision to give him time to review other options for the placement of the house and pool. The Board agreed.

6. **The Meeting was adjourned.**

Recorder

Chairperson