

**BOARD OF ZONING APPEALS**

**March 11, 2016**

**AGENDA**

**CHAIRPERSON JANIE ROWLAND PRESIDING**

1. Approval of the minutes of the February 12, 2016 meeting.
2. Letters of Credit: Safe Deposit Box (**no action needed**).
3. Mr. Mark Spalding and Mr. Doug Sharp of Gresham Smith and Partners, representing Ferrari Enterprises (having multiple properties under option) request variances for a proposed multi-phase project as listed below:  
  
1833 Cromwell Drive: 29% disturbance of steep slopes for the drive. No additional infrastructure beyond the drive is planned on this lot  
6206 Melbourne Drive: 32% disturbance of steep slopes for a drive. A residence is planned on this lot in a later phase of this proposal  
"0" Melbourne Drive: A reduction of Canopy Retention Requirement from 60% to retaining 39.1%, 48% disturbance of steep slopes for the drive and proposed home, and an accessory structure (pool) to be located in the side yard with a side setback variance of 25 feet.  
The private drive must also cross 1833 Cromwell Drive (Lot 5). The Board of Zoning Appeals must approve all structures, including driveways, built in the Hillside Protection Overlay District.
4. M. Ed Tessier, Landscape Architect and Mr. Fleming Smith, Architect, represent Mr. and Mrs. John Ellison, who have the property at 2239 Chickering Lane under contingency contract. They request a permit to build in the Hillside Protection Overlay District, seek rear and side yard setback variances and ask for an accessory structure (pool) to be located in the side yard.
5. Mr. Isaac Wantland, representing Ms. Robin Rains, owner of the newly created lot at the end of Maplemere, request a permit to build in the Hillside Protection Overlay District, seeks variances to disturb 20% of the area classified as a steep slope and build a retaining wall over ten feet.
6. Adjourn Meeting

City's Recommendations on BZA Variance regarding the Forest Trails Enclave

3-11-2016

Information: the requests are as follows:

1833 Cromwell Drive: 29% disturbance of steep slopes for the drive. No additional infrastructure beyond the drive is planned on this lot

6206 Melbourne Drive: (lot 33) 32% disturbance of steep slopes for a drive. A residence is planned on this lot in a later phase of this proposal (how many trees and disturbance then??)

Melbourne Drive: (lot 34) A reduction of Canopy Retention Requirement from 60% to retaining 39.1%, 48% disturbance of steep slopes for the drive and proposed home, and an accessory structure (pool) to be located in the side yard with a side setback variance of 25 feet.

The private drive must also cross 1833 Cromwell Drive (Lot 5). The Board of Zoning Appeals must approve all structures, including driveways, built in the Hillside Protection Overlay District.

A future home is planned on "lot 35" we do not know disturbance or tree removal at this time. We are unaware of any variances they may request.

They came to the Board for information sessions in March and June of 2015. They were told to be aware and careful of massing and protection of vegetation.

**The City does not recommend approval of this application.**

- On Tuesday, February 9- we received notice that we would be receiving the application. We had no prior notice that they intended to make application. (This is requested in the BZA Application Packet).
- At approximately 1:10 Mark Spalding brought in the application before the 2:00 deadline.
- Given the size of the application we went through to ensure each of the requirements were met, but analysis of each section was not possible at the time.

Upon analysis the City has the following concerns:

- 1.) The land disturbance in the Hillside Protection Overlay is too extensive. The allowance in the code is for 10%. Their requests are for triple and quadruple this allowance. The City seeks to preserve hillsides. Understanding that lots on hills are unavoidable, the level of disturbance is controllable.
- 2.) The applicant asks for a variance in tree retention. Phases IA and IB proposed to remove 249 of the 549 trees located in this area, many of which are old, large-calipered trees. The City seeks to protect its' Forest and this plan does not go out of the way to respect that preference. They talk about reforestation, but reforestation in this case could take over 50 to 100 years.

- 3.) The tree retention and hillside protection overlay variances are extensive and this is only phase 1a & 1b of the project. We do not yet know what the full tree removal will be or the full disturbance will be. On lot 33, they are asking for 32% disturbance – but the house is not yet proposed. On lot 35, they don't have any house, but a house will be proposed. They are already taking do 249 trees, how many more for house three? It needs to be shown as a whole project, because tree removal will be contingent on other lots.
- 4.) The applicant presupposes that they can create an accessory side setback of 25 feet on lot 34. Our code specifies that the side accessory set back is that of the house. This could be wholly avoided with a different plan.
- 5.) The Geotech is not site specific- and notes detail that a site specific plan is necessary.
- 6.) There are periodic errors throughout the entire application- things like where older iterations have not been corrected or items are either missing or not labeled.
- 7.) The stormwater plan causes concern:
  - a. What is existing conveyance around north side of existing house on Lot 5 (downstream from detention pond outlet, lot 4).
  - b. TR55 should not be used for detention design.
  - c. What is purpose of water quality swale on Lot 35? As shown on Stormwater Concept Exhibit, collected stormwater by passes water quality swale?
  - d. What are intentions for cistern overflow?
  - e. Pipe slopes are steep. Down grade slopes are steep. How are erosive velocities due to steep pipe, steep slopes and concentrated flow going to be managed?
  - f. Stormwater Pollution Prevention Plan (SWPPP) will be required.
  - g. Before a detailed review of the stormwater management plan can be performed the following will be required:
    - i. Complete drainage report with time of concentration calculations
    - ii. Detailed breakdown and identification of subbasins contributing to each lot with pre/post development CN's, and time of concentration calculations
    - iii. Location of site outfalls
    - iv. Drainage calculations for closed system
    - v. Drainage calculations for driveway open ditch with ditch profile
    - vi. Soils data for swale design and depth to groundwater/bedrock
    - vii. Drainage calculations for all water quality features and 303(d) requirements for Otter Creek
    - viii. Drainage calculations for cistern design
- 8.) Finally and maybe most importantly: The comprehensive plan states that there is a desire to protect natural resources such as Hillside and Forest areas. As an extension: One such goal is to maintain the low density, wooded character of the community, including protecting forest lands, hillsides and scenic vistas. This type of development is detailed as an issue facing the city to be warded against.

This is an intensive, overuse of the land and the variances should not be granted.

Variances to the nature they are requesting would be in direct defiance of our comprehensive plan.

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

**March 11, 2016**

The Forest Hills Board of Zoning Appeals (herein also the "Board") held its regular monthly meeting Friday, March 11, 2016 at the City's Offices, 6300 Hillsboro Pike, Nashville, Tennessee, beginning at 8:00 a.m. Chairperson Janie Rowland presided. Also present were Mr. Jim Littlejohn, Mr. Mark Banks, Mr. David Waller, City Attorney, Chad White, City Engineer Brad Bivens, and City Manager, Amanda Deaton-Moyer. Chairperson Rowland recused herself on agenda item five and alternate, Mr. Waller served as a member for that item. Others present are shown on the attached sign-in sheet. A copy of the agenda is attached to these minutes.

1. **Approval of the minutes of the meetings dated January 8, 2016.** Mr. Banks motioned to approve the minutes from January, 2016. Mr. Littlejohn seconded the motion and it was approved unanimously.
2. **Approval of the minutes of the meetings dated February 12, 2016.** Mr. Waller motioned to approve the minutes from February, 2016. Mr. Littlejohn seconded the motion and it was approved unanimously.
3. Mr. Mark Spalding and Mr. Doug Sharp of Gresham Smith and Partners, represented Ferrari Enterprises (who had multiple properties under option) and requested variances for a proposed multi-phase project as listed below:
  - (a) **1833 Cromwell Drive:** 29% disturbance of steep slopes for the drive. No additional infrastructure beyond the drive was planned on this lot.
  - (b) **6206 Melbourne Drive:** 32% disturbance of steep slopes for a drive. A residence was planned on this lot in a later phase of the proposal.
  - (c) **"0" Melbourne Drive:** A reduction of Canopy Retention Requirement from 60% to retaining 39.1%, 48% disturbance of steep slopes for the drive and proposed home, and an accessory structure (pool) to be located in the side yard with a side setback variance of 25 feet.
  - (d) The private drive crossed 1833 Cromwell Drive (Lot 5) and required approval from the Board due to the Hillside Protection Overlay District.

Mr. David Kleinfelter, attorney for Ferrari Enterprises, introduced the project and the associated variances. He stated that the project sought to uphold Forest Hills values, while building homes that fit the area.

Chairperson Rowland asked Mrs. Deaton-Moyer for the City's recommendation. Mrs. Deaton-Moyer stated that the City did not recommend approval of the project for a number of reasons that she outlined in a prepared statement. That statement is included with these minutes. Broadly, those reasons included significant land

disturbance, concerns over the presented tree retention, accessory structure location, concerns regarding the nonspecific geotechnical report, concerns regarding the storm water design, unknown future disturbance with upcoming phases, and incongruence with the Comprehensive Plan.

Mr. Sharp explained the project. He detailed the hardships that included two landlocked lots, significant slopes in the hillside, and the TVA easements that limited the building space the lots. Mr. Sharp supposed that the reason these lots did not have homes on them was because of these hardships and the obvious need for a thoughtful approach. He said their proposed common drive was the least invasive way to access these lots. He described the phasing and layout of the plan, with only one house presently proposed. He discussed the storm water plan that included capturing runoff from the homes and pervious pavers and running it to cisterns. He said the adjacent lots to the project should not be affected by run off. Mr. Sharp added that the home and drive had been surgically placed on the lots to minimize pavement and disturbance. He outlined the tree removal strategy which included a proposal to remove more than the required retention. He said that the lot in question had nearly 60% canopy coverage, but all of the lots together had closer to 67% canopy coverage. The Board and staff asked questions about how they arrived at those numbers. Concern was raised over the size of the trees being removed, the conservative nature of the plan, and that future phases that would bring additional canopy removal.

Mr. Sharp said that in the house design, the Board's comments and the comments of the downhill neighbor had been considered. The house was proposed to have a low profile, a one story, with a full basement. Because the hillside limited the possibility of having a large yard, a full-sized sport court was planned underneath the garage. Mr. Sharp said the result would be a secluded enclave- not visible from Cromwell Drive, but elegant and appropriate to the context.

Mr. Littlejohn asked Mr. Sharp why there were no heights to the walls surrounding the house. Mr. Sharp drew their attention to a supplementary handout that included elevations of the walls. No wall exceeded 10 feet. Mr. Waller commented that their disturbance plan did not seem to account for footing of the walls, so the total disturbance was skewed. Chairperson Rowland asked Mr. Sharp about the square footage of the home. He could not find the information immediately, and Chairperson Rowland stated that the information provided said it was 18,000 square feet. Mr. Sharp said he would find the answer.

Chairperson Rowland asked if there were neighbors present to speak to the proposal. Before neighbors spoke, Mrs. Deaton-Moyer told the Board that she had received 20 written responses opposing the development. She had also fielded a number of phone calls.

**William Bradford of 1837 Cromwell Drive** spoke. He said he had lived on Cromwell a long time and provided history of the street. He said there was obviously a reason no one had built homes on those. He had concerns of adding to

the traffic issues and the proposed detention pond near the street. He concluded that people in Forest Hills were there for the hills, the trees, and the peace and quiet.

**Brenda Shanyfelt represented her parents of 1901 Cromwell.** She said her late father (died recently) was very much opposed to the project. She wondered who in their right mind would buy a view of the TVA and Piedmont easements. She was afraid that this type of disturbance would ruin the woodland and wildlife there indefinitely. She felt that the developers had disingenuously spun this project into something palatable. The project was counter to everything Forest Hills stood for and it seemed like an act of desperation to make quick bucks on the part of the developer.

**Kathryn Crow represented her sister of 6232 Hillsboro Pike.** She drew the Board's attention to the letter she had provided them that outlined her estimate of tree demolition. She suggested that only 40% of the trees there would remain, while 100 and 150-year-old Oaks and Chestnuts would be removed. She discussed the unique habitats of wildlife that would be forever gone. She added that the average home in the area was 3500 square feet, not 9,000 or 18,000. She disagreed with the developer's assertion that no one would see the home. Her sister would see the home because no level of replanting would rebuild the natural screening of that hillside. She believed that their home at 6232 Hillsboro Pike was their forever-home, but a proposal such as this, may make them reconsider that notion.

**Boyd Simmons of 6204 Melbourne spoke.** He said that the lots were there and had been there. They had been plotted that way and they had a right to have homes on them.

**Ed Smith of 6109 Stonehaven spoke.** He said that the residents of Forest Hills had a deal with the City. Part of that deal was that the City would support protecting hills, trees, and wildlife. He urged the City not to renege on that deal. He stated that he supported property rights, but he also very much valued natural resources.

Mr. Doug Sharp confirmed that the home was 18,000 square feet as the plans had detailed.

Mr. Banks asked Mr. Sharp about his process regarding neighbors. Mr. Sharp stated that they had met with Kathryn Crow a couple of times, but no other neighbors.

Mr. Littlejohn said he had a good respect for Mr. Sharp and his team. He said that the land possessed significant challenges. He felt however, that the proposal before them went well beyond what the City and Board were trying to accomplish. Mr. Banks stated that projects like these were the reason for the Hillside Protection Overlay. The rule was 10% disturbance in the Hillside, but they were asking for more than four times that allowance. Allowing this variance to pass through would

be in conflict with the zoning code and Comprehensive Plan. Mr. Sharp asked the Board if they felt anything could be built on these lots. Mr. Littlejohn responded that homes could be built on the lots, but more respect to the hillside and surrounding vegetation would be necessary.

*Mr. Littlejohn motioned to disapprove the project as submitted. Mr. Banks seconded it and it was approved unanimously.*

4. **Mr. Ed Tessier, Landscape Architect and Mr. Fleming Smith, Architect, represented Mr. and Mrs. John Ellison, who have the property at 2239 Chickering Lane** under contingency contract. They requested a permit to build in the Hillside Protection Overlay District and sought variances for rear and side yard setbacks and to build an accessory structure (pool) in the side yard.

Chairperson Rowland asked Mrs. Deaton-Moyer for the City's recommendation. Mrs. Deaton-Moyer described the project. The new construction was proposed for the building pad where a previous home had been recently demolished. Because of its presence in the hillside, the City's outside consultant, Rick Heckel, reviewed the geotechnical report. Mr. Heckel found that colluvium was likely to be present on the downhill slope of the subject lot. The geotechnical engineer on the project discussed the issue with Mr. Heckel and conducted additional soil testing. They found presence of colluvium on the lower side of the hill and changed the drainage system accordingly. With those changes, the City recommended approval.

Mr. Ed Tessier illustrated the plan, showing the previous house's building pad and the proposed building footprint. He said they would be using the existing driveway to limit additional disturbance and grading. He stated that the home was 18 feet from the property line, but that there were substantial plantings planned. Because of the elevation and location of other homes, the proposed home was more than 130 feet from all other homes.

Mr. Fleming Smith detailed the home plan, discussing the footprint and programming concept of the proposal. The plan included a pool and attached (to primary dwelling) pool house. Mr. Banks asked him about the very basic elevations provided. Mr. Smith responded that the specific facades had not yet been determined, but showed several pictures that illustrated the Ellison's concept and intent regarding materials and details. Mr. Smith said the current elevations were to show massing and footprint. The footprint of the home would be about 6500 square feet including the garage. Mr. Banks expressed that the Board needed to know more about what the home would look like when complete.

Mr. Stone addressed the geotechnical and engineering reports. He said that they had conducted a slope stability analysis and found an existing safety factor of 1.5 which was satisfactory. He also discussed the placement of the home on a layer of limestone bedrock. All footings would either be tied to the bedrock or sit directly on it. Testing found that most of the building pad was directly over limestone. Mr. Littlejohn stated that he would have to leave shortly, but he would like more time

to review the drainage plan. He indicated that he saw a few issues that he wanted to discuss further.

Chairperson Rowland asked if there were neighbors present to speak to the proposal.

Mrs. Lisa Whitten of 2301 Chickering Lane spoke. She had concerns regarding the drainage and the existing driveway that constantly erodes. She indicated that while she was an adjacent neighbor, she had not been contacted by the Ellison's or their team. She understood that several other neighbors had worked with the team and she hoped this was not purposeful negligence.

Mr. Ed Davies of 4358 Chickering Lane said that the Chickering Review Committee had no problem with the plans but had concerns regarding downhill colluvial soils and drainage off the lot.

Lance Gruner of 4382 Chickering Lane that he understood the placement of the home, but that he was concerned about the level of disturbance uphill from his home. He surmised that such disturbance could cause downhill earth to move. He asked the Board to require the applicant to have additional insurance that would protect downhill neighbors after the home was built.

Mr. Beasley of 4378 Chickering Lane stated that he understood that between 10-20 trucks of rock would need to be excavated for the project. He was concerned that this magnitude of disturbance would destabilize the slope on the backside of the hill. He detailed the damage he suffered as a result of landslide during the 2010 Flood. That damage made him wary of any changes to the hillside. He agreed with Mr. Gruner that additional insurance would be a good idea.

Mr. Waller (who had stepped-in for Mr. Littlejohn) asked City Attorney, Chad White about how insurance might work. He said he would research that issue.

Mr. Stone discussed the proposed drainage system that included collecting much of the water and releasing it slowly through a level spreader. He stated that the post construction water volume was better than the preconstruction environment.

The Board discussed the project and said they agreed to the variances in concept. Given Mr. Littlejohn's reservations and questions regarding the overall look of the construction and questions regarding insurance, the Board wanted to review the application again.

*Mr. Waller made a motion to approve the variances based on the following condition: satisfactory construction plans with accurate elevations and indicated building materials must be submitted and reviewed by the Board.*

*In the meantime, based on neighbors' concern regarding drainage, the Board wanted to further investigate the plan. Additionally the Board wanted the City to investigate any insurance that could be provided by the owner of 2239*



*Chickering Ln. to protect neighbors from possible adverse effects to hillside caused by construction.*

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

5. **Mr. Isaac Wantland, represented Ms. Robin Rains, owner of the newly created lot at the end of Maplemere.** He requested a permit to build in the Hillside Protection Overlay District, and sought variances to disturb 20% of the area classified as a steep slope and build a retaining wall over ten feet. Chairperson Rowland recused herself from the meeting because she was an adjacent neighbor and had a financial interest in the outcome.

Mr. Wantland introduced and detailed the proposed new construction. The 4000-square-foot home was sited such that easements and existing drainage could be avoided. Additionally, the home and landscaping was placed so that neighbors would have minimal views of the property. He also discussed the challenging topography. Mr. Waller asked Mrs. Deaton-Moyer for the City's recommendation. Mrs. Deaton-Moyer explained the history of the property as it had progressed through the Planning Commission during the previous year. The Planning Commission had approved the final plat, but the plat had not been officially recorded. Mrs. Deaton-Moyer asked that if the Board chose to approve the proposal, then she requested a condition of recording the plat before permitting be added. The City's Geotechnical Consultant found the geotechnical report and recommendations sufficient. The City had reviewed numerous iterations of the plan and felt the applicant had sought to make the best decisions regarding the land. The City recommended approval.

Mr. Wantland described the grading plan and the wall that would exceed 10 feet in height. Mr. Banks asked about how long the wall was above 10 feet. Mr. Wantland described the wall as foundational, as it would also serve as the basement wall for a portion. The area that came off of the home, would be greater than 10 feet. There was some discussion of the requirement of the wall and the necessary screening to hide the wall from the downhill neighbor.

Mr. Waller asked about the drainage plan. Ryan Shields, engineer on the project showed the Board how it would go around the house into an existing swale and drainage easement. They were using a system of pipes, french drains, swales, and level spreaders.

Mr. Banks asked about the design of the house and the proposed materials. Mr. Wantland said that the walls would be either painted brick or stucco to match the house. The roof would be made of cedar shake.

Mr. Waller asked if there were neighbors present to speak to the issue. There were none, but Mrs. Deaton-Moyer reminded the Board that they had received a written letter from Mrs. Millman (2005 Maplemere) an adjacent neighbor to the south. She was concerned about screening and her view from her porch area. The Board

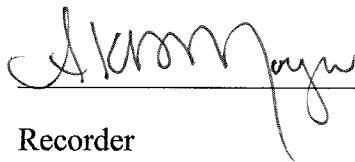
reviewed the letter. Mr. Wantland showed views from the adjacent home. He felt that very little, if any, of the home would be visible from the Millman's.

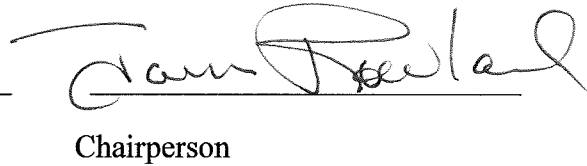
*After discussion, the Mr. Banks motioned to approve the application with the following two condition*

- a) All materials for the house (painted brick or stucco and cedar shake roofing) and retaining walls (brick walls or stucco to match the home) indicated to the Board of Zoning Appeals must be detailed on construction drawings.*
- b) The final plat must be recorded before any permit is approved for the property.*

*Mr. Waller seconded the motion and it was approved unanimously.*

6. **The Meeting was adjourned.**

  
Recorder

  
Chairperson

**SIGN IN SHEET**

**City of Forest Hills  
Board of Zoning Appeals Meeting**

**Date:** March 11, 2016

**NAME:**

**ADDRESS:**

Brian Brews

CITY ENGR

Jarvis Rowland

City

Doug Sharp

GS&P

MARN SPALDING

GS&P

William Bradford

CITY FH 1837 Cromwell

Cynthia O'Leary

City of Forest Hills

Karl Brown

Forest Goldstone Ct.

SCOTT HAYDUK

5901 Robert E Lee Ct

Jim Littlejohn

City -

Chip Howarth

2737 Larnon Dr. 37204

Ryan Shields

2737 Larnon Dr.

Matthew Kuykendall

2737 Larnon Dr

Ed Termin

1706 17<sup>th</sup> Ave. S.

B. Heath Clement

Jeffrey Tungan Architects

**SIGN IN SHEET**

**City of Forest Hills  
Board of Zoning Appeals Meeting**

Date: Friday March 11, 2016

**NAME:**

**ADDRESS:**

Jay Barron

1600 Linden Ave Nash 37212

Ethel Simmons

6204 Melbourne Dr 37215

~~Blaine~~

" " " "

David Waller

1809 Kingsbury Dr. 37215

Wesley Wilkinson

6015 SHERWOOD DR 37215

Hunter Davis

1140 Travlers Ridge Dr.

Alex Robinson

6004 Kenwood Dr.

Brenda Shuey-Feet

1901 Cromwell Ave. 37215

Ed Davis

4358 Chickering Lane 37215

M.A.

2777 LAMON AVE

MBL

City of FH

Tyrone

1510 Old Hickory 37027

Rick Farris

C. Farris Ave

Jim Pardo

2231 CHICKERING LN 37215

**SIGN IN SHEET**

**City of Forest Hills  
Board of Zoning Appeals Meeting  
Date: March 11, 2014**

**NAME:**

**ADDRESS:**

Brady Fry

6204 maple mere

Alex Watson

5130 Stanford

Sheri Shaneyfelt

1901 Cromwell Drive

[Signature]

1220 Old H

Gary Moody / USE Hydrology

Hendersonville TN

David Kleinfelt

2904 2<sup>nd</sup> Av. S. 37215  
Nashville

John and Allison Beasley

4378 Chickering Lane 37215

Steve Andrews

6045 Sherwood Ct

Andy Tompkins

6007 Sherwood Ct

FLEMING SMITH

DAAD  
2520 WHITE AVE NASHVILLE 37204

LANCE GRUNER

4382 Chickering Lane

ED SMITH

EDSMITH6109@icloud.com

Rami Mishu

2909 Eliz. Str

Jane McLean

6009 Andover Dr

**SIGN IN SHEET**

**City of Forest Hills**  
**Board of Zoning Appeals Meeting**  
**Date:** March 11, 2014

**NAME:**

**ADDRESS:**

Mandy Merrell

6120 Melbourne

Mod Black

1841 Cromwell Dr

Robin Rains

2455 Old Hickory Blvd.

Larry Wood

620 9th Ave S.

L. N. Whitter

2301 Chickering Ln

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