

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

February 10, 2017

The Forest Hills Board of Zoning Appeals (herein also the "Board") held its regular monthly meeting beginning at 8:00 a.m. on Friday, February 10, 2017 at the City Office, located at 6300 Hillsboro Pike in Nashville, Tennessee. Chairperson Janie Rowland presided. Also present were Mr. David Waller, Mr. Scott Hayduk, and City Manager, Amanda Deaton-Moyer. 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 meeting dated January 13th, 2017.** These minutes were deferred until next meeting when more of the those present could attest the minutes' accuracy.

2. **Catherine Sloan represented David and Kristen Malone, owners of the property located at 2608 Tyne Boulevard.** She requested approval of a building coverage ratio variance of 1.34% (11.34%) for their proposed new home. Mrs. Deaton-Moyer described the project to the Board. She encouraged the Board be fully understand the applicant's hardship as the home was essentially starting anew by demolishing the existing home. Ms. Sloan walked the Board through the design concepts including a substantial back deck and outdoor space. She discussed the roof design and the goal of her clients to keep the new home in context with the surrounding neighborhood. Chairperson Rowland asked about the design process, alluding to the fact that they started with a blank slate and were still requesting variances. Ms. Sloan responded that the Malones had considered several options and reduced the overall size of the home, but felt that the rear deck space was needed. Mrs. Deaton-Moyer attested to Castle Homes (the builder) and Ms. Sloan's continual work to bring the home into code as much as possible. They had removed impervious surface to comply with the code and shifted the home over to be within the newly defined setbacks.

Chairperson Rowland asked if there were any neighbors present to discuss the project. Mary Kay Hunt an adjacent neighbor said she was pleased with design and scale of the home and did not feel the height was overwhelming. Mrs. Deaton-Moyer stated that Castle had gotten nearly 13 letters from surrounding neighbors and all were in support. *After more discussion, Mr. Waller motioned to approve the requested variance for the proposed new home. Mr. Hayduk seconded the motion and it was approved unanimously.*

3. **Charles Massey, landscape architect, represented Hank and Dina Richter, owners of the property located at 5847 E. Ashland Drive.** They requested a permit to build a pool and associated covered porch connected to the home in the Hillside Protection Overlay. Mr. Massey discussed the site plan. Mr. Hayduk asked Mr. Massey if the drainage would make it to the road culvert or if it would be otherwise diverted. Mr. Massey responded that the intent was that it would make it to the road, but he saw where that may not have been clear. He said the grading could be revised to make that more evident. Chairperson Rowland asked about how much of the proposed landscaping was evergreen. Mr. Massey said that

about 75% of the proposed planting would be evergreen. Mr. Haduk described a submitted complaint about possible noise issues with a pool. Mr. Massey said that he believed that the landscaping barriers would help immensely to reduce any traveling sounds. The Board also noted that the City's Geotechnical engineer recommended the plan with further global stability analysis and recommended an engineer be on site when excavation occurred. Mr. Massey said that was normal practice and this instance was no exception. *Mr. Waller made a motion to approve the application with the following conditions:*

- (a) *A geotechnical engineer was present when all excavation occurred for the project and when foundations are set.*
- (b) *A global stability analysis be performed to ensure slope stability.*
- (c) *The grading be sufficient to reach the culvert at the road way.*

Mr. Haduk confirmed those conditions and seconded the motion. The motion was approved unanimously.

4. **Michael Upchurch, owner of the lot located at 1617 Tynewood Drive,** requested variances related to a proposed pool in his side yard. The proposed location was in the rear of the home, but located in the global side yard. The lot was located in the Hillside Protection Overlay District and Mr. Upchurch requested a side yard setback variance of 42 feet to avoid construction in a steeper area of the lot. Mr. Upchurch described his home and the pool project. Mrs. Deaton-Moyer explained that the home was placed on the property in an unconventional way: the back of the home faced the side yard. For purposes of the proposal, the applicant was seeking to put the pool in his back yard, but the code regarded that area as side yard. The biggest concern for the City, Deaton-Moyer suggested, was the proximity to the adjacent property. That homeowner had expressed concern over the nearness to the property line and possible noise that would emanate from the pool. Mrs. Deaton-Moyer recommended reviewing the application and seeing what could be done regarding the proximity.

Mr. Hayduk asked Mr. Upchurch and Mr. Scott Dismukes, landscape architect, why the pool was sited on a skew. Mr. Upchurch responded that it was meant to be in-line with an existing retaining wall. Mr. Dismukes said that they had not intended to move any other infrastructure to preserve the slope and reduce impact to trees. They alluded to the Geotech report that stated placing the pool directly behind the home would be costly and risk damaging existing drainage systems that had been implemented in response to the 2010 Flood. There was discussion about existing infrastructure such as arbors, trellises, and walkways that would be updated or removed as a part of this project. Chairperson Rowland asked about the arbor and how it blocked the view from the adjacent neighbor. Mr. Upchurch said it did a good job of screening and more could be done.

Chairperson Rowland asked if there was anyone there to speak to the project. Mr. Dick Jewell of Stuart Glenn said he was not directly impacted, but he warned the Board of drainage issues that might affect his neighbors, the Scarborough's. He

encouraged a “decent retaining wall” that could divert the water. Chairperson Rowland thanked him for his comments.

Returning to the issue of the pool at a skew, Mr. Dismukes said adjusting the wall would be possible and get the pool at least 10-15 feet off of the property line. Mrs. Deaton-Moyer said that 15 feet would be in line with regular accessory rear setbacks and she would be more comfortable with that approach. Mr. Hayduk said that he would expect such a change to interact with the existing drainage. New drainage infrastructure would have to be developed. Mr. Dismukes said Mr. Hayduk was correct, but they could tie new French drains into existing drainage structure.

After discussion, Mr. Waller motioned to approve the application based on the following conditions.

- a.) Evergreen landscaping would be proposed (and approved) that would address the screening along the property line.*
- b.) All recommendations made by the City Geotechnical Engineer would be followed.*
- c.) Drainage plans would be submitted and approved by the City Engineer.*
- d.) The pool would be no closer than fifteen feet from the property line.*

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

5. During the spring of 2016, Mr. Don Burke, Architect, represented Mr. and Mrs. Philip Feemster of 6034 Sherwood Court. They were granted a variance for a west side setback of 34 feet for a second story addition. Mr. Burke returned to the Board to report on construction setbacks and confirm the setback variance. Mrs. Deaton-Moyer described the history on the project and noted that it had not yet been permitted. In preparing to permit the structure, the builder found that the foundation was damaged beyond cost-appropriate repair. As a result, the builder recommended that instead of building a second story, the whole home be rebuilt to the same specification. Mrs. Deaton-Moyer stated that the plans had not changed since the approval, but since they were now “starting from scratch” she felt the Board needed to be aware and reaffirm the previous variance. There was brief discussion and clarifications from the Board. *Mr. Waller made a motion to reaffirm the Board’s approved variances and conditions. Mr. Hayduk seconded the motion and it was approved unanimously.*
6. Jeff Heinze of Littlejohn Engineering, represented Linda W. Dale and Robert V. Dale, owners of 0, 6 and 10 St. James Place. They requested approval of a private shared drive for three residential lots, 0, 6, and 10 St. James Place. All three lots had portions located in the Hillside Protection Overlay District. The proposed drive would provide access to future, possible dwellings. Mr. Heinze described the project in detail. The proposed drive followed the grade and disturbed as little land as possible. The Dales had owned the properties for over 30 years and began looking how to transition the land to development. They owned adjacent property,

off of Chickering Road, to the subject lots and intended to continue residing there. Mrs. Deaton-Moyer said that the City had spent significant time reviewing the application and received favorable comments from the City's Geotechnical consultant. She recommended review and approval. Mr. Hayduk asked the City Attorney for an explanation of how easement drives functioned. Mr. White described that all properties enter into a shared maintenance agreement where maintenance and responsibilities are shared amongst the properties in an agreed-upon fashion. Such agreements were relatively common in Forest Hills.

Mr. White referred the Board to his memo where he addressed several items of which had been questioned by residents. He discussed that the Dales were requesting a shared drive and not a subdivision. Because the designations of land were already of record, an easement drive was an appropriate method of ingress and egress. He clarified that none of the subjects lots were flag lots and giving them access would not make them into flag lots. He also reminded the Board of Zoning appeals that their approval would reflect only acceptability/compliance on behalf of the City and not any other private covenants.

Chairperson Rowland asked if there were anyone there to speak to the project. Ed Davies, representing the Chickering Estates Committee spoke. He said that they were against it and had disapproved the design and concept. They believed they were in violation of the covenants. He discussed required street frontage that he thought was necessary. He stated that in his experience, private drives were just not a good idea.

Gilbert Smith, another member of the Chickering Estates Committee stated that this item was obviously different from other agenda items. He thought that this would create a buildable lot that was otherwise unbuildable. Approval would go against the Board's normal practices. He was also concerned about drainage issues and soil problems. He asked the Board to deny the application. Mr. Waller asked Mr. Smith where his property was from the properties. It was determined that his property was uphill and that most drainage would approach the Dales existing home. An extensive drainage pond was proposed on the plans. Mrs. Deaton-Moyer stated that the City's Geotechnical consultant reviewed the engineering reports and felt, any soil issues could be mitigated.

Mr. Bailey Robinson of 4409 Chickering Lane spoke to concur with the previous two residents.

Mr. Phillip Percy with Littlejohn Engineering stated that they had not yet presented the plan in total to the HOA, but rather they were seeking only the Board's approval at this time. He also explained the drainage concept in detail.

After further discussion, Mr. Waller made a motion to approved with the following conditions:

- (a) Geotechnical Engineers should be present during excavation*
- (b) Regular reports (to be determined by the City/Contractor) be furnished from the geotechnical engineers to the City during the construction period*

Chairperson Rowland seconded the motion and it was approved unanimously.

7. Alvaro Rojo, of Rojo Construction, represented Ms. Tatia Rose, owner of the home located at 1914 Old Hickory Boulevard. This home is non-conforming due to setback encroachments on both sides. A west side setback variance of approximately ½ foot was requested for a vertical addition to the home. The addition will encroach no further than the existing home. Mrs. Deaton-Moyer described this application: the addition was vertical and would go directly above the existing home. The overall footprint would not be expanding, but because it was already over the setback lines, the project was before them.

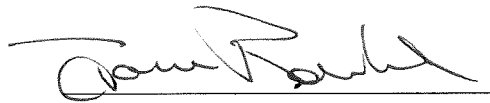
Chairperson Rowland asked if there was anyone to speak to the project. Mr. Bishop of 1912 Old Hickory Blvd said he welcomed the project as long as construction hours were closely followed.

Mr. Waller motioned to approve the project. Mr. Hayduk seconded the motion and it was approved unanimously.

8. **The Meeting was adjourned.**



Recorder



Chairperson

BOARD OF ZONING APPEALS

February 10, 2017, 8:00 AM

AGENDA

CHAIRPERSON JANIE ROWLAND PRESIDING

1. Approval of the minutes of the January 13, 2017 Meeting. (Defer)
2. Alvaro Rojo, of Rojo Construction, is representing Ms. Tatia Rose, owner of the home located at 1914 Old Hickory Boulevard. This home is non-conforming due to setback encroachments on both sides. A west side setback variance of approximately ½ foot is requested for a vertical addition to the home. The addition will encroach no further than the existing home.
3. Brett Wright of Castle Homes, LLC, representing David and Kristen Malone, owners of the property located at 2608 Tyne Boulevard, requests approval of two variance requests for their proposed new home: a maximum building coverage ratio from 10% to 11.34% and an impervious surface ratio from 20% to 20.49%.
4. Charles Massey, landscape architect, representing Hank and Dina Richter, owners of the property located at 5847 E. Ashland Drive requests a permit to build a pool and associated covered porch connected to the home.
5. Michael Upchurch, owner of the lot located at 1617 Tynewood Drive, request variances related to a proposed pool in the side yard. The proposed location is in the rear of the home. The lot is located in the Hillside Protection Overlay District and a side yard setback variance of 42 feet is requested to avoid construction in a steeper area of the lot.
6. During the spring of 2016, Mr. Don Burke, Architect, represented Mr. and Mrs. Philip Feemster of 6034 Sherwood Court. They were granted a variance for a west side setback of 34 feet for a second story addition. Mr. Burke returns to the board to report on construction setbacks and confirm the setback variance.
7. D. Phillip Piercy of Littlejohn Engineering, representing Linda W. Dale and Robert V. Dale, owners of 0, 6 and 10 St. James Place, requests a private shared drive for three residential lots, 0, 6, and 10 St. James Place. All three lots have portions located in the Hillside Protection Overlay District. The proposed drive would provide access to future, possible dwellings.
8. Adjourn meeting.

SIGN IN SHEET

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

Date: Feb 10, 2017

NAME:

ADDRESS:

<u>Janie Rowland</u>	<u>City</u>
<u>GILBERT SMITH</u>	<u>4401 Chickering Ln</u>
<u>Jack Hooper</u>	<u>11</u>
<u>Billy P. Blumso - 2</u>	<u>4409 Chickering Ln</u>
<u>Kristen + Dave Malone</u>	<u>2608 Tyne Blvd.</u>
<u>Doris Bishop</u>	<u>1912 Old Hickory Blvd.</u>
<u>George Bishop</u>	<u>1912 Old Hickory Blvd.</u>
<u>Charles Henson</u>	<u>1924 Old Hickory Blvd</u>
<u>Edna Blair</u>	<u>4358 Chickering Lane</u>
<u>Lynnda + Bobby Dale</u>	<u>1454 " RA 37215</u>
<u>Kim Waller</u>	<u>1809 Kingsbury Dr. 37215</u>
<u>Robert Wright</u>	<u>5219 Marlboro Way</u>
<u>Catherine Sloan</u>	<u>3732 Central Ave 37205</u>
<u>Jeff Harbuck</u>	<u>5901 Robert E Lee Ct</u>

SIGN IN SHEET

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

Date: Feb 10, 2017

NAME:

ADDRESS:

Kerley Duen

1414 Chickering

Cathy Jackson

5819 Hulsboro

Bradley Minnigan

1901 Old Hickory

Phillip Piccini

LITTLESONN ENCL 1935 21ST Ave S.

Charles Messing

230 Pearl St

John Stokes

Pearl Pools

DON BURKE

BURKE ARCHITECTURE

Dibbie Machi

4342 Chickering Lane

Ron LOWERY

173 FOREST TR

Michael Baldwin

2608 TYNE BLVD.

Joan Raskin

1420 Otter Creek Rd.

AUSTIN COX

2113 PICCADILLY PL

Caroline Smith Cox

"

Molly + Milce Yehurch

1617 Tynewood Dr.

SIGN IN SHEET

**City of Forest Hills
Board of Zoning Appeals Meeting
Date: Feb 10, 2017**

NAME:

ADDRESS:

Tony Heath

1935 21st Ave S

Alan Loney

Castle Homes

Philip Feemster

6034 Sherwood Ct.

Mary Kay Hunt

2604 Tye Blvd.

Henry Richte

5847 E Ashland Dr.

John Hook

6005 Hudson Dr.

Jim Murphy

1600 Divina St, Sub 700 37203

Jeff Heinze

5824 Chase View Rd 37221

SCOTT DISMUKES

2710 HEMINGWAY DR 37215

Dick Jewell

4712 Stuart Glen Dr

Alvin Rojo