

**MEETING MINUTES OF THE  
FRANKLIN BOARD OF ZONING APPEALS  
December 6, 2018**

The Franklin Board of Zoning Appeals held a regular meeting on Thursday, December 6, 2018, at 6:00 p.m. in the City Hall Boardroom.

Members present:           Jonathan Langley  
                                  Greg Caesar  
                                  Gillian Fischbach  
                                  Frank Jones

Staff present:               James Svoboda, Planning & Sustainability  
                                  Joey Bryan, Planning & Sustainability  
                                  Tiffani Pope, Law Department  
                                  Lori Jarosz, BNS Department

The agenda read as follows:

**Review and approval of Minutes from November 1, 2018, BZA Meeting**

**Review and approval of 2019 Board of Zoning Appeals Meeting Calendar**

**Zoning Map Interpretation Request** by Kyle Griffin, for the BZA to make an interpretation that the location of the boundaries of the Floodway Fringe Overlay (FFO) District on the City of Franklin Zoning Map for the properties located in the Water's Edge PUD Subdivision, Section 4 (Lots 51-59, 78-81, 295-301) and Section 5 (Lots 302-310, 311-321, 359-395), be based on the Letter of Map Revision Based on Fill (LOMR-F) Determination issued by FEMA on September 28, 2018 (FEMA Case No. 18-04-6868A) (F.Z.O. § 2.2.4(1)(a) and F.Z.O. § 5.8.5(5)(c)(i)).

**Minutes from November 1, 2018, BZA Meeting**

Mr. Caesar moved to approve the November 1, 2018, meeting minutes. Ms. Fischbach seconded the motion and the motion carried 4-0.

**Review and approval of 2019 Board of Zoning Appeals Meeting Calendar**

Mr. Caesar moved to approve the 2019 BZA meeting schedule. Mr. Langley seconded the motion and the motion carried 4-0

**Zoning Map Interpretation Request** by Kyle Griffin, for the BZA to make an interpretation that the location of the boundaries of the Floodway Fringe Overlay (FFO) District on the City of Franklin Zoning Map for the properties located in the Water's Edge PUD Subdivision, Section 4 (Lots 51-59, 78-81, 295-301) and Section 5 (Lots 302-310, 311-321, 359-395), be based on the Letter of Map Revision Based on Fill (LOMR-F) Determination issued by FEMA on September 28, 2018 (FEMA Case No. 18-04-6868A) (F.Z.O. § 2.2.4(1)(a) and F.Z.O. § 5.8.5(5)(c)(i)).

Mr. Bryan stated the subject property is located Water's Edge PUD Subdivision, Section 4, Lots 51-59, 78-81, 295-301, and Section 5, Lots 302-310, 311-321, 359-395. Mr. Bryan stated the Floodway Fringe Overlay (FFO) District boundaries coincide with the 100-year floodplain areas designated by FEMA on the adopted Flood Insurance Rate Maps (FIRMs). Mr. Bryan stated the current FFO boundaries are based on the adopted FIRM Map Number 47187C0214F, effective September 29, 2006. FEMA issued a Letter of Map Revision Based on Fill (LOMR-F) Determination on May 16, 2018, updating the flood zone information and the location of the 100-year floodplain boundaries on the subject property. Mr. Bryan stated the LOMR-F approved by FEMA became effective on September 28, 2018 (FEMA Case No. 18-04-6868A). Pursuant to the provisions of the Franklin Zoning Ordinance in § 2.2.4(1)(a), § 3.1.2, and § 5.8.5(5)(c)(i), the applicant is requesting the BZA to interpret the location of the boundary of the FFO Overlay District on the City of Franklin Zoning Map be based on the LOMR-F Determination issued by FEMA. Mr. Bryan stated the applicant has provided the necessary information to satisfy the Zoning Ordinance standards required for the BZA to interpret the location of the FFO based on the approved LOMR-F and therefore, staff recommends approval of the request to interpret the location of the Floodway Fringe Overlay (FFO) Zoning District boundary be based on the Letter of Map Revision Based on Fill Determination (LOMR-F) issued by FEMA on September 28, 2018 (FEMA Case No. 18-04-6868A), effective September 28, 2018.

Mr. Lovelace stated they agree with all staff comments and would be happy to answer any questions.

Chair Jones requested to know if anyone wished to speak on this item and no one requested to speak.

Mr. Caesar moved to close the public portion. Mr. Langley seconded the motion and the motion carried 4-0

Mr. Caesar moved to approve the request to interpret that the location of the boundary of the FFO Overlay District on the subject properties located in the Water's Edge PUD Subdivision, Section 4 (Lots 51-59, 78-81, 295-301) and Section 5 (Lots 302-310, 311-321, 359-395), be based on the LOMR-F Determination approved by FEMA on September 28, 2018 (FEMA Case No. 18-04-6868A), effective September 28, 2018, because the applicant has satisfied the Zoning Ordinance requirements for making the boundary line interpretation. Mr. Langley seconded the motion and the motion carried 4-0

**Other Business.**

No other business

**Adjourn.**

With there being no further business, the meeting was adjourned at 6:04.

*Fred E. Jung Jr*

Chair

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Add w/minutes

Item 2  
Variance Request  
Updated/Supplemental Staff Report Information Handout  
BZA 1/3/19  
COF #6888

**Variance Request** by James Kennon, for a 20-foot encroachment into the required 40-foot street buffer along Interstate 65 to construct a commercial building at 1228 Lakeview Drive (F.Z.O §5.4.7(d)(ii)).

**Exhibits**

1. Staff Report and Analysis
2. BZA Application Materials and Supporting documentation
3. Location Map
4. Email, James Svoboda, 12/6/18
5. Notice of Violation, FMC§ 23-106(2)(a) Development without permit. Parking lot construction without approved plans and permits from the City's Engineering Department, 11/26/18

**Updated Applicable Zoning Ordinance Regulations – Section 5.4.7(3)**

**5.4.7 Street Buffers**

**(3) Standards**

- (a) Development subject to this subsection shall provide at least 24 aggregate caliper inches (ACI) of canopy trees per every 100 linear feet of lot line adjacent to Mack Hatcher Parkway or Interstate 65.
- (b) In areas where overhead utilities exist, understory trees may be substituted for canopy trees.
- (c) At least 50 percent of the ACI shall be evergreen trees.
- (d) Streetscape areas shall have the following minimum widths:
  - (i) 30 feet along Mack Hatcher Parkway; and
  - (ii) 40 feet along Interstate 65.
- (e) Off-street parking spaces or structures shall not be located within the street buffer area.
- (f) Portions of the street buffer area not occupied by trees or other allowable forms of development shall include grass or other appropriate ground cover.

**Updated Staff Recommendation**

In order for the BZA to grant a variance, the applicant must have demonstrated that all three of the standards required to grant a variance have been satisfied. Based on the analysis presented above, staff recommends disapproval of the variance requested by the applicant because the applicant has not met all three of the standards required for granting a variance.

Staff would support a motion to defer the variance request to the next meeting in order for the applicant to provide a more detailed landscaping and buffering plan to show how they propose to meet the intent of the required 40-foot Street Buffer as described in the staff report.

If the BZA wishes to approve the variance to vary the required 40-foot street buffer by 20 feet, Staff would recommend that the BZA clearly state that a condition of the approval of the variance is that the applicant shall be required to comply with the planting requirements and standards specified in Section 5.4.7(3), including removing the unpermitted off-street parking spaces from within the required street buffer.

**Updated Motion for Variance Requests**

Move to deny the variance request to vary the required 40-foot street buffer by 20 feet to construct a commercial building located at 1228 Lakeview Drive because the applicant has not sufficiently demonstrated that all three of the standards required for granting a variance have been satisfied as described in the staff report.

If the BZA wishes to defer the item to the next BZA meeting, the motion needs to specify the reason for the deferral and request that the applicant provide additional information and a proposed landscaping plan to demonstrate how they intend to meet the intent of Street Buffer requirements as described in the staff report.

If the BZA wishes to approve the variance to vary the required 40-foot street buffer by 20 feet, Staff would recommend that the BZA clearly state that a condition of the approval of the variance is that the applicant shall be required to comply with the planting requirements and standards specified in Section 5.4.7(3), including removing the unpermitted off-street parking spaces from within the required street buffer.

**ITEM 2**  
**BZA 1/3/19**  
**EXHIBIT 4**

**From:** [James Svoboda](#)  
**To:** ["Alex Chan"](#); [Joseph Bryan](#)  
**Cc:** [Jimmy Wiseman](#); [Emily Hunter](#); [Amy Diaz-Barriga](#); [Paul Holzen](#)  
**Subject:** RE: 1228 Lakeview redevelopment  
**Date:** Thursday, December 6, 2018 4:49:00 PM

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Mr. Chan,

I apologize for us not getting back with you sooner. After looking into this further, it still seems premature to apply for a variance from just the Street Buffer requirements in FZO §5.4.7 (3).

As we discussed, there are a lot variables involved with the Stormwater Notice of Violation (NOV) as well as the zoning requirements for the proposed redevelopment of this property (setbacks, street buffers, LSR, etc.).

Additional variances may be required depending on what exactly is being proposed. Has your design team identified all of the variances that will be needed?

In researching the subdivision plat, the property is a platted lot of record that was created in May 2008. The subdivision plat shows a 50-foot front setback, 25-foot side setbacks, and a 40-foot rear setback. The plat also shows a 15-foot connective access easement and 10-foot public utility and drainage easement along the property line adjacent to I-65 where the street buffer is required. Please be advised that the BZA cannot grant variances from the easements, but they may consider a variance from the 40-foot rear yard setback requirement.

If you are proposing to build a new building within the 40-foot rear setback you will also need to request a variance from the rear yard setback.

It would be advisable to meet with staff again to discuss what is being proposed to address the NOV and also discuss any proposed redevelopment to make sure that all of the variances that may be needed are being requested.

However, if you wish still wish to proceed forward with an application for the January BZA meeting, please make sure that the application includes all of the information required on the checklist. Please make sure to also submit a plot plan showing the size of the buffer reduction, a planting plan showing how you will attempt to meet the other street buffer requirements, and include any proposed new construction on the property that will require setback variances. The planting plan is necessary for staff to be able to fully evaluate the reduction of the street buffer.

As a reminder, the application fee is based on the number of variances being request. The application fee will be \$300 per variance being requested.

Please let me know if you have any questions.

Thank you!

**Jim Svoboda, AICP**

Assistant Director of Planning and Sustainability  
City of Franklin Planning and Sustainability Department  
109 Third Avenue South  
Franklin, TN 37064  
Phone: (615) 550-6734

**From:** Alex Chan <alex.chan@fes-surfacing.com>  
**Sent:** Thursday, December 6, 2018 2:28 PM  
**To:** Joseph Bryan <joseph.bryan@franklintn.gov>  
**Cc:** James Svoboda <james.svoboda@franklintn.gov>  
**Subject:** Re: 1228 Lakeview redevelopment

***ATTENTION COF staff: This email originated from outside the City of Franklin. Please use discretion when clicking on attachments & links from unknown senders or suspicious emails.***

Gentlemen,

We are about to wrap up our submittals for the BZA. When we last spoke, I was to hear back from you all if there was anything else that would be an issue for my appeal. Is there?

Thank you.

Regards,

Alex Chan  
615-668-8988  
FES-Surfacing, LLC representing,  
Edel Grass - Synthetic Turf Systems  
[www.fes-surfacing.com](http://www.fes-surfacing.com)  
[www.edelgrass.com](http://www.edelgrass.com)

On Mon, Nov 26, 2018, 3:41 PM Joseph Bryan <[joseph.bryan@franklintn.gov](mailto:joseph.bryan@franklintn.gov)> wrote:

And the plat.

Joey

**From:** Alex Chan <[alex.chan@fes-surfacing.com](mailto:alex.chan@fes-surfacing.com)>  
**Sent:** Monday, November 26, 2018 12:21 PM  
**To:** Joseph Bryan <[joseph.bryan@franklintn.gov](mailto:joseph.bryan@franklintn.gov)>  
**Cc:** James Svoboda <[james.svoboda@franklintn.gov](mailto:james.svoboda@franklintn.gov)>  
**Subject:** Re: 1228 Lakeview redevelopment

*ATTENTION COF staff: This email originated from outside the City of Franklin. Please use discretion when clicking on attachments & links from unknown senders or suspicious emails.*

Gentlemen,

Thank you for meeting with me this morning.

A quick update, I swung by the registrar and found that there was no restriction covenants recorded for lot 20.

Joey, please send me the sample letter you mentioned.

Could you also please send me electronic copies of the submission application/checklist and the Plat from 2008?

Thank you very much for your assistance.

Regards,

Alex Chan

615-668-8988

FES-Surfacing, LLC representing,

Edel Grass - Synthetic Turf Systems

[www.fes-surfacing.com](http://www.fes-surfacing.com)

[www.edelgrass.com](http://www.edelgrass.com)

On Nov 26, 2018 9:36 AM, "Alex Chan" <[alex.chan@fes-surfacing.com](mailto:alex.chan@fes-surfacing.com)> wrote:

Joey,

I am out all week. So let's meet this morning but it will be about 10:15 or 10:30am.

Hope that works for you.

Regards,

Alex Chan

615-668-8988

FES-Surfacing, LLC representing,

Edel Grass - Synthetic Turf Systems

[www.fes-surfacing.com](http://www.fes-surfacing.com)

[www.edelgrass.com](http://www.edelgrass.com)

On Wed, Nov 21, 2018, 10:04 AM Alex Chan <[alex.chan@fes-surfacing.com](mailto:alex.chan@fes-surfacing.com)> wrote:

Thank you and see you then. Have a great Thanksgiving.

Regards,

Alex Chan

615-668-8988



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Edel Grass - Synthetic Turf Systems  
[www.fes-surfacing.com](http://www.fes-surfacing.com)  
[www.edelgrass.com](http://www.edelgrass.com)

On Wed, Nov 21, 2018, 10:03 AM Joseph Bryan <[joseph.bryan@franklintn.gov](mailto:joseph.bryan@franklintn.gov)> wrote:

I'll schedule you for 10am on Monday. We'll meet in the Community Development Conference Room in City Hall. From the 2<sup>nd</sup> Ave entrance by the Fire Department offices, it's the first set of double doors on the right. Or you can check in at the Planning Department Office in Suite 133 further down the hallway.

Joey

**From:** Alex Chan <[alex.chan@fes-surfacing.com](mailto:alex.chan@fes-surfacing.com)>  
**Sent:** Wednesday, November 21, 2018 9:30 AM  
**To:** Joseph Bryan <[joseph.bryan@franklintn.gov](mailto:joseph.bryan@franklintn.gov)>  
**Subject:** Re: 1228 Lakeview redevelopment

*ATTENTION COF staff: This email originated from outside the City of Franklin. Please use discretion when clicking on attachments & links from unknown senders or suspicious emails.*

Morning Joey,  
Let's do Monday morning. Would 10am work for you? Please also direct me to your office or meeting place.  
Thank you.

Regards,

Alex Chan  
615-668-8988  
FES-Surfacing, LLC representing,  
Edel Grass - Synthetic Turf Systems  
[www.fes-surfacing.com](http://www.fes-surfacing.com)  
[www.edelgrass.com](http://www.edelgrass.com)

On Wed, Nov 21, 2018, 9:25 AM Joseph Bryan <[joseph.bryan@franklintn.gov](mailto:joseph.bryan@franklintn.gov)> wrote:

Hello Mr. Chan,

Next week I am available Monday morning, Tuesday morning, or Friday afternoon. Let me know if any of those slots work with your schedule.

Joey

**From:** Alex Chan <[alex.chan@fes-surfacing.com](mailto:alex.chan@fes-surfacing.com)>

**Sent:** Tuesday, November 20, 2018 3:19 PM

**To:** Joseph Bryan <[joseph.bryan@franklintn.gov](mailto:joseph.bryan@franklintn.gov)>

**Subject:** 1228 Lakeview redevelopment

*ATTENTION COF staff: This email originated from outside the City of Franklin. Please use discretion when clicking on attachments & links from unknown senders or suspicious emails.*

Dear Joey,

I was told that you are the person to help me with working out a BZA appeals for our development of this site. Can we meet? Please give me some times we can do so. Thank you.

Regards,

Alex Chan

615-668-8988

FES-Surfacing, LLC representing,

Edel Grass - Synthetic Turf Systems

[www.fes-surfacing.com](http://www.fes-surfacing.com)

[www.edelgrass.com](http://www.edelgrass.com)



ITEM 2  
BZA 1/3/19  
EXHIBIT 5

NOTICE OF VIOLATION

Date: November 26, 2018  
From: Paul Holzen City Engineer/ City of Franklin, TN Engineering Department  
Property Owner/Permit Holder: AEA Group LLC  
Address: 4245 Carrolton Dr, Franklin, Tn 37064

Location of the violation(s): 1228 Lakeview Drive, Franklin, Tn 37067

The following is a list of violations that have been observed on this site.

**FMCS 23-106(2)(a) Development without permit.** Parking lot construction without approved plans and permits from the City's Engineering Department.

**Comments; how to correct the violation(s):** Plans shall be submitted to the City's Engineering Department detailing all work to be performed and all required stormwater management features and infrastructure to adequately convey stormwater runoff shall be shown. These plans shall be submitted by December 31, 2018. Once approved, construction activities associated with the approved plans shall begin 90 days thereafter. These dates shall remain enforced unless otherwise specified by the City Engineer. Please contact the City's Engineering Department at 615-791-3218, or at 109 3<sup>rd</sup> Ave South Suite 133 with any questions.

- The stated violation(s) shall be corrected in their entirety by the referenced dates and timeframes in the comments section above. If these violations are not corrected by referenced dates and timeframes, a civil penalty in the amount of One Thousand Eight Hundred dollars (\$1,800.00) will be issued on a day by day basis until violations are corrected.**
- Violations of the Stormwater Management Ordinance are subject to civil penalties and/or other enforcement actions pursuant to FMCS 23-112 et seq. Any civil penalties and/or other enforcement actions will be addressed in a separate letter. In the event there are penalties assessed by the Tennessee Department of Environment and Conservation (TDEC) against the City caused by any person, company, or facility, said person, company, or facility shall be assessed the equivalent amount of civil penalty.**
- Appeal:** Pursuant to FMCS 23-112 & FMCS 23-301 et seq., upon issuance of a citation or notice of violation, it shall be conclusive and final unless a written notice of Appeal is submitted to the City Engineer within ten (10) days of the violation notice being served. If the City Engineer does not reverse the decision or if the violation is considered upheld, the aggrieved party may Appeal to the Stormwater Appeals Board, by filing a written request for hearing within thirty (30) days of the City Engineer's decision on the Appeal. The request for hearing shall state the specific reasons why the decision of the City Engineer is alleged to be in error, and shall be accompanied by a payment for seven hundred fifty dollars (\$750.00) to cover the cost of court reporters, transcripts, plan reviews and other administrative costs associated with the Appeal. In the event the Stormwater Appeals Board overturns the decision of the City Engineer, this payment may be refunded to the appellant.
- Cost Recovery:** If corrective action, including maintenance delinquency, is not taken in the time specified or within a reasonable time if no time is specified, the City may take the corrective action, and the cost of the corrective action shall be the responsibility of the owner and the developer. The cost of the abatement and restoration shall be borne by the owner of the property and the cost therefore shall be invoiced to the owner of the property. If the invoice is not paid within ninety (90) days, the enforcement official is authorized to take all legal measures as are available to enforce the lien as a judgment, including, without limitation, enforcing the lien in an action brought for a money judgment, by delivery to the assessor or a special assessment against the property [FMCS 23-111(7)].

**Method of Service:**

MAIL CERTIFIED    MAIL REGULAR    PERSONAL    POSTING ON PROPERTY    EMAIL

**CMRR#**

Signature

Date:

11/26/18

Erosion Prevention & Sediment Control (EP&SC) and stormwater controls shall be installed and maintained according to the City of Franklin Best Management Practice (BMP) Manual. A copy is available at:

<http://www.franklintn.gov/index.aspx?page=772>

