

**MEETING MINUTES OF THE
FRANKLIN BOARD OF ZONING APPEALS
May 7, 2020**

The Franklin Board of Zoning Appeals held a regular meeting on Thursday, May 7, 2020 at 6:00 p.m. in the City Hall Boardroom.

Members present: Frank Jones
 Jeff Fleishour
 Jonathan Langley

Staff present:

Emily Hunter Wright, Planning & Sustainability Department
Kelly Dannenfelser, Planning & Sustainability Department
Kelli Gibson, Planning & Sustainability Department
Shauna Billingsley, Assistant City Attorney
Tom Marsh, Building and Neighborhood Services Department
Shanna McCoy, Building and Neighborhood Services Department
Lori Jarosz, Building and Neighborhood Services Department

The agenda read as follows:

Call to Order:

Vice-Chair Langley called the May 7, 2020 meeting to order at 6:00 pm. Vice-Chair Langley stated he would be taking a roll call and preceded to do so. Ms. Fischbach and Mr. Tomlin were not present.

Vice-Chair Langley stated the next item was Item 2020-54, a Resolution declaring Board of Zoning Appeals members shall meet on May 7, 2020 and conduct it's essential business by electronic means rather than members being required to be physically present in the same location to protect the health, safety and welfare of Tennesseans in light of the Covid 19 outbreak. Vice-Chair Langley stated he would entertain a motion.

Chair Jones moved to approve, Mr. Fleishour seconded the motion and the motion carried 3-0.

Announcements:

Vice-Chair Langley read aloud the following for how the public could participate in this meeting: To prevent the spread of COVID-19 and to protect the health, safety, and welfare of City of Franklin officials, staff, and citizens, the Board of Zoning Appeals will restrict physical access in the meeting room to a small number of staff members due to current limitations on public gatherings. Accommodations have been made to ensure that the public is still able to participate in the meeting.

The public may participate by:

- Watching the live stream through the City of Franklin Facebook and YouTube accounts.

- Watching the meeting on Franklin TV or the City of Franklin website.
- Calling 615-550-8420 to listen to the meeting.
- Limited viewing will also be available in the lobby of City Hall to watch the live video. The public may be allowed to enter the Board Room one at a time during the public comment periods of the meeting.
- To provide public comment on an agenda item during the meeting:
- Share comment on an agenda item in the comment section of the Facebook or YouTube live videos.
- If participating via Zoom, those who call in will be unmuted when comment is requested during a public comment portion of the meeting. This will be when you provide public comment for the record.
- Email your comment to planningintake@franklintn.gov.
- For any public comments on agenda items, you must indicate your name and address for the record.
- City YouTube: www.youtube.com/user/CityOfFranklin
- City Facebook Live: www.facebook.com/CityOfFranklin
- City website: On the top of the main page at www.franklintn.gov

Review of Minutes from April 2, 2020, BZA Meeting

Chair Jones moved to approve the meeting minutes from April 2, 2020. Mr. Fleishour seconded the motion and the motion carried 3-0.

Vice-Chair Langley requested to know if there were any citizens comments.

No one requested comment.

Mr. Fleishour moved to close the public portion of the meeting. Chair Jones seconded the motion and the motion carried 3-0.

Applications:

- 1. Variance Request To Permit 62 Parking Spaces Within The Urban Frontage And Side Yard Of The Building For The Property Located At 1306 Murfreesboro Road (F.Z.O §7.6).**

Ms. Gibson stated the applicant was requesting a Variance Request to permit 62 parking spaces within the urban frontage and side yard of the building for the property located at 1306 Murfreesboro Road (F.Z.O §7.6). Ms. Gibson stated the site is located on the south side of Murfreesboro Road and zoned RC6. Ms. Gibson stated the current building was constructed in 1992 and houses a Shoney's restaurant. Parking is currently located in front of and on the west side of the building. Ms. Gibson stated parking spaces currently exceed the minimum required for the existing building, and 62 of the 84 existing parking spaces are located within the urban frontage and side yard of the building. Ms. Gibson stated the applicant is not requesting any additional parking spaces within these areas. Ms. Gibson stated the property owner would like to build a two-story commercial building within the existing building footprint. Ms. Gibson stated in addition to

the restaurant space, the bank located on the neighboring property plans to utilize a portion of the new building and add a one-lane drive-through. Ms. Gibson stated the final plat shows a 40-foot front yard setback, but the Zoning Ordinance permits a minimum setback of 20 feet. Ms. Gibson stated a clerical error in the staff report incorrectly stated that the maximum setback for the property was 30 feet. Ms. Gibson stated that when development triggers a site plan review, the site plan is reviewed for compliance with the Zoning Ordinance, and the Zoning Ordinance regulates Frontage Type requirements by zoning district. Frontage describes the area located between the building and the street and regulates parking location on a property. Ms. Gibson stated in the RC6 District, the Ordinance requires that properties develop with an Urban Landscape Frontage or Urban Frontage, which means that parking must be located behind the building unless it is parallel parking along the street or internal drive. Ms. Gibson stated the parking location does not conform to the standards of the current Zoning Ordinance. Ms. Gibson stated the applicant requests to permit 62 parking spaces within the Urban Frontage and Side Yard of the building for the property located at 1306 Murfreesboro Road. Ms. Gibson stated the subject property is typical in terms of size, shape, and location compared to other lots in the subdivision. Ms. Gibson stated the applicant stated that existing construction on the subject lot and adjacent properties along with the existing access from Murfreesboro Road create an infill context that should be considered exceptional. Ms. Gibson stated much of the development in this area does not conform to the Urban Frontage requirements, which assume a shallow front setback and a building location in close proximity to the street and sidewalk. Ms. Gibson stated according to the applicant, the lot was created prior to 1992 and is not deep enough to suit current development standards and provide adequate parking at the rear of the building. Ms. Gibson stated Staff does not have enough information to evaluate that claim. Ms. Gibson stated Staff reviewed GIS and aerial data and found that the property has a typical shape and depth and does not have any exceptional topographic conditions. Ms. Gibson stated Staff finds that the context created by the existing building on the subject lot and construction on surrounding lots do not amount to an extraordinary or exceptional situation or circumstance that does not permit development under the Zoning Ordinance. Ms. Gibson stated due to these reasons, staff finds that the property does not meet the first criterion for a variance. Ms. Gibson stated from the perspective of the applicant, the undue hardship or burden is the inability to re-develop the property without adhering to the Frontage Type requirement. Ms. Gibson stated strict application of the Zoning Ordinance would prohibit use of 62 of the existing 84 parking spaces. Ms. Gibson stated staff finds that the inability to utilize a large percentage of the parking spaces does not amount to a hardship or practical difficulty because the location of the new building could be brought closer to the street to accommodate additional parking at the rear of the building. Ms. Gibson stated the BZA must determine whether or not the inability to redevelop the property in the proposed manner amounts to an exceptional practical difficulty to or exceptional or undue hardship upon the owner of the property. Ms. Gibson stated the plan proposes the construction of a two-story commercial building in the footprint of the current building. Permitting the proposed development of the lot would not be in line with the intent of Urban Frontage requirements, which are intended to promote pedestrian-friendly areas by locating parking at the rear of buildings. Ms. Gibson stated the applicant could modify the site design to accommodate additional parking behind the building while still maintaining the 40-foot building setback, or the applicant could re-plat the property to allow for a 20-foot setback, which could be done administratively and would bring the property into compliance with the Zoning Ordinance. Ms. Gibson stated Staff finds that granting the requested variance would not result in detriment to the public good but would impair the intent and purpose of the Zoning Ordinance. Per Envision

Franklin, the Regional Commerce areas have a high level of visibility along I-65 and primary arterial streets and are important gateways into Franklin. Buildings in the RC6 District should be arranged on sites so that they help to frame and define the streets and give deliberate form to streets and sidewalk areas. Ms. Gibson stated the building setbacks should be minimal to create an active street environment that encourages pedestrian activity. Ms. Gibson stated when larger setbacks are used, plazas and formal open spaces that serve as pedestrian-friendly gathering places should be located between the building and the street, rather than parking, to activate the street frontage. Ms. Gibson stated as Envision Franklin creates a vision of a more urban character along this corridor, granting this variance could set a precedent for future development to not meet the Zoning Ordinance standards that implement this vision. Ms. Gibson stated due to these reasons, staff finds that the third criterion is not satisfied. Ms. Gibson stated based on this reasoning, staff recommends disapproval of the variance based on the criteria that authorize a variance to be established.

Vice-Chair Langley opened the public portion for this item, starting with the applicant.

Mr. Gamble stated he was representing the property owner. Mr. Gamble requested Ms. Gibson go to a slide for him that was being projected on the screen. Mr. Gamble had the existing site plan projected and explained that the parcel was 1.21 acres in size. Mr. Gamble stated it currently has a restaurant that is 6200 square feet. Mr. Gamble stated a property this size is currently required to have approximately 70 parking spaces and currently the property has 84. Mr. Gamble stated if the building is left where it is located today under the urban landscape frontage or the urban frontage parking requirements from the Zoning Ordinance, we would be prohibited from parking in front of the building or on the side of the building. Mr. Gamble stated they were seeking a Variance to permit them to leave the building in the place where it currently is and a Variance to allow that parking in the front and on the side. Mr. Gamble stated their proposal includes adding a two-story building where the existing one-story building is today. Mr. Gamble stated it would replace a 6200 square foot restaurant with a 4000 square foot restaurant and a 2200 square foot bank and 6200 square foot of office upstairs on the second floor. Mr. Gamble had a plan showing this development needing 84 parking spaces which is exactly what we have today. Mr. Gamble stated they do believe the parking frontage requirement does create a hardship thus create impracticality. Mr. Gamble stated this is an existing site, there are existing utilities on the site, the application of the urban frontage would require that we move the building and would require complete and total redevelopment of the site. Mr. Gamble stated this plan shows an extraordinary exceptional situation because the site is developed. Mr. Gamble stated there is an existing site pattern that exists on Murfreesboro Road. Mr. Gamble stated the plan shows an example of bringing the building up to the street. Mr. Gamble stated we have a fixed access point on Murfreesboro Road that has to be respected and we can't move it left or right, so the drawing shows how the 6200 square foot building could be located. Mr. Gamble stated you see on the drawing how many parking spaces we could achieve and we believe we have achieved the maximum number of 32 parking spaces which is less than half of the required parking that would be needed for the existing 6200 square foot restaurant that is there today. Mr. Gamble stated in addition locating the building here in this location, it would be 70-feet in front of the adjacent neighboring

buildings. Mr. Gamble has Ms. Gibson go to the next slide. Mr. Gamble stated we have here what would be the maximum size restaurant we could fit on the property and comply with the urban frontage and we were able to achieve 42 parking spaces at the back which would equal approximately a 3100 square foot restaurant along Murfreesboro Road and we believe this does result in undue hardship on the property owner. Mr. Gamble stated the parking lot would have to be completely rebuilt and we would have fewer parking spaces than we currently have today, and the building square footage would be less and we would have to redo all the utilities on the site. Mr. Gamble stated the third aspect of this request is substantially impairing the purpose and intent of the Zoning Ordinance. Mr. Gamble stated the Urban frontage is described as intended for areas with shallow setbacks, to provide a landscape area between the sidewalk and the front façade. Mr. Gamble stated you could see on the graphic below the intent of the Zoning Ordinance of having more urban streetscape and in this particular section of Murfreesboro Road it is unique and the buildings even at 20-foot setback would be 60-feet from the street which is quite a bigger vision in my opinion than the illustration in the Zoning Ordinance. Mr. Gamble requested Ms. Gibson go to the next slide and stated this shows you the aerial view of this stretch of Murfreesboro Road on Highway 96. Mr. Gamble stated it has an existing development pattern, but these are not all buildings built years and years ago. Mr. Gamble stated Candlewood Suites was finished in 2019, the AT&T and Smoothie King buildings were finished in 2017 and both were required to have a drive aisle between Murfreesboro Road and the building for connectivity and additional parking. Mr. Gamble stated that six of the eleven businesses seen here have been renovated in the past three or four years. Mr. Gamble stated they were asking for a Variance to respect the existing development pattern to allow us to move forward with the parking within that front zone. Mr. Gamble stated he was happy to answer any questions.

Vice-Chair Langley requested to know if anyone had any questions from the public.

Alderman Burger stated this area down 96 is right down the middle of her ward and Alderman Speedy's ward. Alderman Burger stated with the old development down the way we have been giving a lot of thought to 96 as well and so it comes into play here because of the other development. Alderman Burger stated with this development Mr. Gamble is right there is existing development with existing infrastructure in place with utilities already stubbed out. Alderman Burger stated she heard the words encouraging street environment and increasing pedestrians. Alderman Burger stated this is exactly the opposite of what they want to do here. Alderman Burger stated this is not an urban setting and we really don't want to encourage pedestrians on a state route because it is an interstate exchange and between the interstate and Royal Oaks it is an extremely busy road with fast traffic. Alderman Burger stated if you look down the Candlewood area corridor it would be very odd to go down and see all these buildings moved back and then you have one moving closer. Alderman Burger stated the thing that concerns me is that we are talking to TDOT all the time and we do need to redo the design of the interchange there. Alderman Burger stated down the road there may be a need to add another lane and that would cut

into that property and so on that end of the property I want to be able to cut into when TDOT gets on board. Alderman Burger stated she is not in favor of moving this up. Alderman Burger stated another thing is you are going to be putting parking behind that building and you need to think about a safety factor because behind that building you have a motel and you have families driving up to those motel rooms loading and unloading so to put more vehicular movement in back of that building and I don't think it is a good idea to add back parking due to safety. Alderman Burger stated any foot traffic should be between the buildings internally. Alderman Burger summed up her comments to use common sense, practicality and safety.

Alderman Speedy stated they are trying to move that building and the access off 96 really limits this. Alderman Speedy stated you have a citizen here willing to make a pretty substantial investment to improve this property, but the new Zoning Ordinance is creating a hindrance and an economic disincentive. Alderman Speedy stated he was worried if we go down a path of disincentive of infill and redevelopment of projects. He thinks they could go with the existing footprint and greatly improve this project. Alderman Speedy stated it makes sense to keep the footprint where it is at currently.

Vice-Chair Langley stated he would entertain a motion to close the public hearing.

Chair Jones moved to close the public portion of the meeting. Mr. Fleishour seconded the motion and the motion carried 3-0.

Vice-Chair Langley requested know if staff had any other comments to share at all.

Ms. Gibson stated she had no additional comments.

Ms. Dannenfelsler stated she had one comment about the existing pattern of development along Murfreesboro Road and stated that some of the redevelopment and rehab has been done under the previous Zoning Ordinance and this project is coming through under the new Zoning Ordinance. Ms. Dannenfelsler stated the Variance process is very particular about meeting the three standards per state law to grant a Variance. Ms. Dannenfelsler stated if the Board of Mayor and Alderman wanted to look at in terms of a larger discussion and different standards than there is an avenue for that.

Vice-Chair Langley stated he would entertain a motion and then discuss.

Mr. Fleishour commented he felt the applicant should go to the Board of Mayor and Alderman to pursue further options if this item is voted down tonight.

Mr. Jones stated if there are other opportunities with the Board of Mayor and Alderman than the applicant should proceed with that rather than come to this Board.

Vice-Chair Langley requested to get a motion on the floor before any more discussion.

Mr. Fleishour moved to disapprove the Variance request to permit 62 parking spaces within the urban frontage and side yard of the building for the property located at 1306 Murfreesboro Road because the criteria for granting a variance has not been satisfied as stated in Staff's report. Mr. Jones seconded the motion because of the new zoning and Envision Franklin that are in place at this time.

Vice-Chair Langley requested to know if the board had any more discussion.

Vice-Chair Langley stated it is his concern as well that there is a new Zoning Ordinance and Envision Franklin for the area in place and to come right out of the box and have the Board of Zoning Appeals change that is not looking at this holistically.

Chair Jones stated he felt this is something legislatively that needs to be worked out.

The motion carried 3-0.

2. Variance Request To Exceed The 40-Foot Maximum Front Yard Principal Building Setback By 20 Feet For The Property Located At 4419 South Carothers Road (F.Z.O §3.13.5).

Ms. Gibson stated the applicant was requesting to exceed the 40-Foot maximum front yard principal building setback by 20 feet for the property located at 4419 South Carothers Road (F.Z.O §3.13.5). Ms. Gibson stated the 3.6-acre site consists of two adjoining parcels located on the south side of South Carothers Road and zoned NC. Ms. Gibson stated a single-family home built in 1967 is currently located on the property. Ms. Gibson stated the applicant plans to construct a 10,250-square-foot pre-school building and a 9,000-square-foot mixed-use commercial building on the site. Ms. Gibson stated a 40-foot Middle Tennessee Electric Membership Corporation (MTEMC) easement is located along the South Carothers Road property frontage. Buildings cannot be located within this easement, and any building on the property would have to be located behind the 40' setback line. Ms. Gibson stated this restriction does not require a setback increase of 20 feet. Drainage from the Echelon Subdivision and the project site drains through the MTEMC easement. Ms. Gibson stated when new development is proposed for a site, the new buildings must meet the setback requirements per the Zoning Ordinance. Ms. Gibson stated that in this case, the Zoning Ordinance requires a front yard principal building setback between 10 and 40 feet. Ms. Gibson stated the applicant requests to exceed the 40-foot maximum front yard setback by 20 feet for the property located at 4419 South Carothers Road. Ms. Gibson stated the subject property is typical in terms of shape, size, and location compared to surrounding lots. Ms. Gibson stated a 40-foot MTEMC easement, which prohibits placement of any buildings within that area, is located along the South Carothers Road property frontage. Ms. Gibson stated the applicant stated that drainage from the Echelon Subdivision and the subject lot drains through the easement and that the variance is required in order to utilize the easement and adjacent upstream areas for management of stormwater per the City's standards. Ms. Gibson stated upon reviewing the case, staff concluded that the location of the 40-foot MTEMC easement does create an extraordinary and exceptional condition on the property that does not permit development under the Zoning Ordinance. Ms. Gibson stated though the site cannot accommodate the 40-foot-maximum setback requirement, a

shallower setback than the one proposed would better meet the intent of the Zoning Ordinance. Ms. Gibson stated due to these reasons, staff finds that the property does meet the first criterion for a variance. Ms. Gibson stated Staff finds that despite the location of the easement, the applicant could modify the site design to locate the buildings closer to the 40' setback line. Ms. Gibson stated the proposed plan includes a drive lane located in front of the commercial building that permits circulation around the building for the desired traffic pattern for the pre-school. Ms. Gibson stated the location of the drive aisle along the front of the building reflects the desire of the applicant. Ms. Gibson stated there is no requirement in the Zoning Ordinance for the location of this drive along the front of the building and the drive aisle could be placed at the rear of the building. Ms. Gibson stated while the site cannot accommodate the 40' maximum setback permitted under the Zoning Ordinance, an increase of 20 feet is more than what is necessary to accommodate development. Ms. Gibson stated Staff finds that altering the site design to accommodate a setback closer to 40 feet does not amount to a hardship or practical difficulty and the property does not meet the second criterion for a variance. Ms. Gibson stated the proposed plan is not in line with the goals of Envision Franklin, which encourages minimal setbacks for buildings and internal drives wherever possible in order to create an active street environment that encourages pedestrian activity. Ms. Gibson stated the Zoning Ordinance implements this vision with the standards identified for this zoning district. Ms. Gibson stated while the applicant stated that granting the proposed variance will allow for proper management of stormwater on the project site, this outcome can be achieved through a minor increase in the maximum building setback. Ms. Gibson stated Staff finds that granting this variance would not result in detriment to the public good but would impair the intent and purpose of the Zoning Ordinance. Ms. Gibson stated due to these reasons, the third criterion is not satisfied. Ms. Gibson stated based on this reasoning, staff recommends disapproval of the variance based on the criteria that authorize a variance to be established.

Vice-Chair Langley stated at this time they would open the public hearing and start with the applicant.

Mr. Michael Hindman requested to know if Mr. Jason Morelock was here.

Vice-Chair Langley stated no.

Mr. Hindman apologized because Mr. Morelock is the applicant who submitted everything. Mr. Hindman stated Mr. Morelock submitted an additional plan that removed the drive and requested to know if staff had that.

Ms. Gibson stated yes and could pull up on the projector.

Mr. Hindman stated this site has changed several times due to significant issues. First of all it was designed before the new Ordinance was in place and then modified several times per the current ordinance and changed several times due to the topography and adjusted due to the proposed development to the east. Mr. Hindman stated the plans originally submitted for BZA had a drive, but that has been taken out. Mr. Hindman stated taking out the drive pulls this up as close to the easement as possible. Mr. Hindman explained about the retention and easements. Mr. Hindman stated this is the current plan proposed.

Vice-Chair Langley requested to know if the request is still the same based on the new plan submitted.

Mr. Hindman stated no, and he could not exactly tell you what it is now, but he thinks it is a couple of feet off the easement line.

Vice-Chair Langley requested to know if there are any public comments related to the request.

Ms. Gibson stated yes, staff has received two public comment emails from Matt Ginsburg of 9009 Wenlock Lane and Brendan Boles of 9003 Wenlock Lane who spoke against this item.

Ms. Gibson stated the new plan requests an encroachment of five feet.

Vice Chair Langley stated he would entertain a motion to close the public portion of the meeting.

Chair Jones moved to close the public portion. Mr. Fleishour seconded the motion and the motion carried 3-0.

Chair Jones stated he thinks the plan in his packet does not reflect the new location of the building and requested to know if the one we are now looking at shows an encroachment of five feet.

Ms. Gibson stated yes, based on the applicant's new plan the encroachment would be five feet instead of twenty.

Mr. Fleishour requested to know staff's comment on the lesser encroachment.

Ms. Gibson stated that five feet would be supported by staff due to meeting the three criteria for meeting a variance.

Vice-Chair Langley stated he had Mr. Hindman message Mr. Morelock and Mr. Hindman stated Mr. Morelock has been trying to get into the meeting.

The meeting was paused to wait for Mr. Morelock.

Mr. Hindman responded to the two emails stating he agrees with them and noted there is a substantial buffer and on the western side of the site they are 180 feet from the property line and are trying to stay far away from the neighborhood.

Mr. Morelock stated he finally got into the meeting.

Mr. Fleishour requested to know if staff changed their position to approve.

Ms. Gibson stated yes.

Chair Jones requested to know if more of a buffer could be added.

Mr. Morelock stated they have a large buffer.

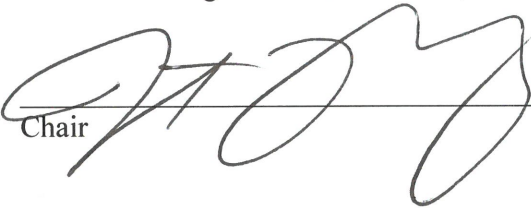
Mr. Fleishour moved to approve the variance request to exceed the 40-Foot maximum front yard principal building setback by five feet at 4419 South Carothers Road due to the application meeting the three required criteria to grant a variance and based on staff's comment.

Other Business.

No other business.

Adjourn.

With there being no further business, the meeting was adjourned at 7:01.


Chair