

**MEETING MINUTES OF THE  
FRANKLIN BOARD OF ZONING APPEALS  
February 4, 2021**

The Franklin Board of Zoning Appeals held a regular meeting on Thursday, February 4, 2021 at 6:00 p.m. in the City Hall Boardroom.

Members present:                 Jonathan Langley  
  Gillian Fischbach  
  Frank Jones  
  Joel Tomlin  
  Jeff Fleishour

Staff present:

Kelly Dannenfelser, Planning & Sustainability Department  
Kelli Gibson, Planning & Sustainability Department  
Bill Squires, Law Department  
Alex Bearden, Building and Neighborhood Services Department

The agenda read as follows:

**Call to Order:**

Vice-Chair Langley called the February 4, 2021 meeting to order at 6:00 pm. Vice-Chair Langley stated he would be taking a roll call and proceeded to do so.

**RESOLUTION 2021-08**

Consideration of Resolution 2021-08, "A Resolution Declaring That The Board of Zoning Appeals Members Shall Meet On February 4, 2021, And Conduct Its Essential Business By Electronic Means Rather Than Being Required To Gather A Quorum Of The Members Physically Present In The Same Location Because It Is Necessary 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 to adopt Resolution 2021-08.

Ms. Fischbach moved to approve. Mr. Jones seconded the motion.

The motion carried 5-0.

**Announcements:**

Vice-Chair Langley read aloud the following:

The Board of Zoning Appeals meeting will restrict physical access in the meeting room to a small number of staff members due to current limitations on public gatherings to prevent further spread of COVID-19 and to protect the health, safety, and welfare of City of Franklin officials, staff, and citizens. Accommodations have been made to ensure that the public is still able to participate in the meeting. The public may participate in the following ways:

• Watch the meeting on FranklinTV or the City of Franklin website. • Watch the live stream through the City of Franklin Facebook and YouTube accounts. • Call in to the meeting 1-312-626-6799; Meeting ID: 974 8997 1822; Password: 126788. Callers will be unmuted and given the opportunity to comment during the meeting at specific times • Limited viewing will be available in the lobby at City Hall for up to ten persons, but in-person comment in the Board Room will not be available. •The public may email comments to [planningintake@franklintn.gov](mailto:planningintake@franklintn.gov) to be provided in full to the BZA and included in the minutes, but not read aloud in their entirety during the meeting. Comments will be accepted until noon the day before the meeting.

### **Review of Minutes from January 7, 2021, BZA Meetings**

Mr. Jones moved to approve the minutes from the January 7, 2021 meetings. Mr. Fleishour seconded the motion and the motion carried 5-0.

Chair Langley requested to know if there were any citizen comments and no one wished to comment.

Mr. Jones moved to close the public comment and Ms. Fischbach seconded the motion and the motion carried 5-0.

### **Applications:**

#### **1. Variance Request For A Six-Foot Encroachment Into The Required 50-Foot Front Yard Setback And A Four-Foot Encroachment Into The Required 30-Foot Rear Yard Setback For The Property Located At 204 Matthew Place (F.Z.O §3.6.5).**

Ms. Gibson stated the variance request is for a six-foot encroachment into the required 50-foot front yard setback and a four-foot encroachment into the required 30-foot rear yard setback for the property located at 204 Matthew Place. Ms. Gibson stated the subject property is located within the Magnolia Place Subdivision and is zoned Residential 3 District (R3). Ms. Gibson stated as the property is located in a recorded subdivision, the setbacks on the final plat determine the dimensional standards for the lot and based on the final plat, the required rear yard setback for the property is 30 feet and the required front yard setback is 50 feet. Ms. Gibson stated the rear property line is significantly angled, which results in an angled rear setback line and an irregularly shaped building envelope. Ms. Gibson stated additionally, the paved parking area on a neighboring property encroaches into the rear yard of the property. Ms. Gibson stated the BZA may authorize a variance only when the request has met all three criteria in accordance with F.Z.O §20.10.6 and State law. Ms. Gibson stated the staff has completed an analysis of the request in light of these criteria:

1. Where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the Zoning Ordinance or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition, such a piece of property is not able to accommodate development as required under this Ordinance. The shape of the property is irregular, and the significantly angled rear property line and subsequent rear setback line combined with the required front yard setback result in a triangular building envelope. The building envelope is atypical to those located on comparable lots. Staff finds that these conditions amount to an extraordinary and exceptional situation on the property

that does not permit development under the Zoning Ordinance. Due to these reasons, staff finds that the property meets the first criterion for a variance.

2. The strict application of any provision enacted under the Zoning Ordinance would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of the property. Compliance with the platted setbacks would result in a limited building envelope that would require a narrow building design substantially different from the homes that characterize the street and subdivision. Staff finds that the property meets the second criterion for a variance.
3. Such relief may be granted without substantial detriment to the public good and without substantially impairing the purpose and intent of the Zoning Ordinance.

Ms. Gibson stated the proposed variance would allow for a building envelope closer in line with those of surrounding lots and would promote a more transitional appearance to the new construction in relation to the surrounding existing homes. Ms. Gibson stated the proposed rear yard encroachment does not appear to affect the adjacent lot's parking area that encroaches onto the property. Ms. Gibson stated furthermore, the requested front yard encroachment would not result in a building location significantly out of line with the other homes located on the street. Ms. Gibson stated the conditions on the lot and the minor nature of the requested encroachments support the rationale that the request would not result in detriment to the public good. Granting the request would promote consistency with Envision Franklin standards for the Single-Family Residential design concept, which states that new buildings along established streets should be designed to be compatible with the predominant character along the street. Ms. Gibson stated Staff finds that the request would not impair the intent and purpose of the Zoning Ordinance. Ms. Gibson stated due to these reasons, the third criterion is satisfied, and staff recommends approval of the variance based on the criteria that authorize a variance to be established.

Mr. Hathaway stated Ms. Gibson covered it nicely and explained how the measurement was determined.

Chair Langley requested to know if there were any citizen comments and no one wished to comment.

Mr. Jones moved to close the public comment. Mr. Tomlin seconded the motion and the motion carried 5-0.

Mr. Jones stated when he votes on an item, he bases it on two things. Mr. Jones stated one is safety of the citizens and what our vote can mean for the future. Mr. Jones stated he did not know with all the encroachments how they were going to handle the driveway at Matthew Place and thinks the intent is for the property to be built on and sold. Mr. Jones stated if this driveway encroaches into the side yard and say a child is hurt on that driveway who is going to have the liability for that child getting hurt. Mr. Jones stated he would like to know from legal if this is something that could put the City of Franklin in jeopardy if we approve this in anyway or if someone backs out onto the street and there is a collision is the City liable for someone getting hurt.

Mr. Squire stated the quick answer is you can almost be sued for anything. Mr. Squire stated there is a difference on whether you could be sued or held liable. Mr. Squire stated could you get sued for

something like that sure absolutely now would a court do anything with that that is almost impossible to predict. Ms. Squire stated in terms of State liability the City enjoys serving communities that would protect the City in that regard and as it relates to Federal claims however should you end up with a Federal claim those end up not as broad. Mr. Squire stated so it's difficult to answer your question with certainty, but the short answer is you can always be sued but would you be found liable is difficult to predict.

Mr. Hathaway stated he spoke with the owner at 600 and it is not paved but graveled and they have already made plans to create another parking pad on the northeast corner of their property so that will not be encroaching on my property.

Mr. Jones requested to know if Mr. Hathaway owned the property and Mr. Hathaway stated yes.

Mr. Jones requested to know when Mr. Hathaway bought the property and when was it platted.

Mr. Hathaway stated he bought the property in November 2020 and thinks it was platted in January 2020 and noted he did not plat the property but 600 Alexander did include the 204 Mathew Place as an entire property and then it was sold and the new owner platted out 204 Mathew Place and had plans for the encroachment. Mr. Hathaway stated that property will not encroach on 204.

Mr. Jones questioned if a family moves in and has say six vehicles will there be ample parking.

Mr. Hathaway stated he had no idea how to answer that question and noted currently all vehicles have to back out of their driveways. Mr. Hathaway stated this access is all backing into the cul-de-sac of Mathew Place.

Mr. Jones requested to know if they were planning on a cut into Mathew Place from 600 Alexander.

Mr. Hathaway stated the drawings did not show well enough there already is a cut into Mathew Place.

Chair Langley requested the drawing be shown again.

Ms. Dannenfelser noted the Zoning Ordinance requires two spaces for a single residential house.

Mr. Jones requested to know from Ms. Dannenfelser if it was a two family residence at 600 Alexander would they only be required to have two parking places.

Ms. Dannenfelser stated there is a difference when it is a duplex and the parking is based off the number of bedrooms per unit which is a different requirement.

Mr. Hathaway stated there is one bedroom per unit.

Mr. Fleishour stated he actually looked at this lot way back when and actually laid a house out on it and came to the same conclusion you have. Mr. Fleishour stated he wasn't as concerned with parking the setback is obviously a limitation that looks like it should be remedied today. Mr. Fleishour requested to know about the plans for the rear garage.

Mr. Hathaway stated it will be fine he and the other owner have discussed the garage situation.

Mr. Fleishour to approve the variance request for a six-foot encroachment into the required 50-foot front yard setback and a four-foot encroachment into the required 30-foot rear yard setback for the property located at 204 Matthew Place because the criteria for granting a variance have been satisfied as described in the staff report. Mr. Tomlin seconded the motion and the motion carried 4-0 with Mr. Jones abstaining.

**2. Variance Request To Exceed The Maximum Number Of Convenience Signs By Three Signs And To Place Two Wall Signs Above The Roofline Of The Building For The Property Located At 601 Hillsboro Road (F.Z.O §15.6 and 15.15).**

Ms. Gibson stated the subject property is a former Wendy's restaurant building located within the Independence Square shopping center and is zoned Central Commercial District (CC). Ms. Gibson stated the property parcel also includes a commercial building with a Mexican Restaurant as its current use. Starbucks is the current tenant and is proposing new signage for the building. Ms. Gibson stated the Zoning Ordinance provides standards for size, placement, and quantity for certain sign types, including wall signs and convenience signs. Ms. Gibson stated the purpose of the variance request is to permit a signage quantity and placement locations not permitted under the Zoning Ordinance. Ms. Gibson stated the Zoning Ordinance permits a maximum of four convenience signs and requires that the maximum height for wall signs be the main roofline of the uppermost full story. Ms. Gibson stated the variance request is to exceed the maximum number of convenience signs by three signs and to place two wall signs above the roofline of the building for the property located at 601 Hillsboro Road. Ms. Gibson stated the BZA may authorize a variance only when the request has met all three criteria in accordance with F.Z.O §20.10.6 and State law. Ms. Gibson stated the staff has completed an analysis of the request in light of these criteria:

1. Where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the Zoning Ordinance or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition, such a piece of property is not able to accommodate development as required under this Ordinance.
2. The subject property is typical in shape, size, and depth to similar properties located nearby. There are no exceptional topographic conditions or other extraordinary or exceptional situations or conditions on the lot that do not permit development under the Zoning Ordinance. Due to these reasons, staff finds that the property does not meet the first criterion for a variance.
3. The strict application of any provision enacted under the Zoning Ordinance would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of the property.

Ms. Gibson stated to comply with the Zoning Ordinance, the proposed wall signage would need to be located several inches lower on the building. Ms. Gibson stated from the applicant's perspective, the permitted location for the wall signage does not provide optimal visibility and the limitation on convenience signage may present issues for customer guidance through the parking lot. Ms. Gibson stated the placement of the wall signs below the roofline and the limitation of four convenience signs is feasible for the site but does not reflect the applicant's desire (See Exhibits 2 and 3). Ms. Gibson stated the BZA must determine whether the minor modification of the placement of the wall signs and

the limitation of four convenience signs amount to a hardship or practical difficulty for the applicant. Such relief may be granted without substantial detriment to the public good and without substantially impairing the purpose and intent of the Zoning Ordinance. Ms. Gibson stated the purpose of sign standards is to manage the visual impact of signage within zoning districts for commercial uses. A significant increase in the number of convenience signs and the placement of signage in unpermitted locations on a building that can accommodate signage permitted under the Zoning Ordinance would result in detriment to the public good and would impair the intent of the Zoning Ordinance signage standards and due to these reasons, the third criterion is not satisfied. Ms. Gibson stated based on this reasoning, staff recommends disapproval of the variance requested by the applicant because the applicant has not met the standards required for granting a variance.

Mr. Rodatz stated Starbuck's concern is twofold on this starting with the building signage their concern is this is a smaller building than what they typically construct. Mr. Rodatz stated their concern primarily is visibility and more so on the siren logo on the drive thru elevation more so than the channel letters but both signs are lower even at twelve and half feet and their concern is a visibility issues that would come with the exact location and also depending on how the building is constructed and during the renovation there are some concerns about how the signs will be mounted and penetrated right into the façade if lowered because sometimes that happens. Mr. Rodatz stated they believe if it is sitting at this twelve and half foot line there won't be any electrical issues at that location and mounting will be optimal at that location. Mr. Rodatz stated the convince signs have become a bigger factor especially with mobile orders and a drive thru becomes a bigger part of their business and they are trying to really control traffic more so than they used too and with that comes the "Please Pull Ahead" sign to help guide traffic flow at this particular site. Mr. Rodatz stated they want to help control traffic and foot traffic better throughout the lot.

Chair Langley requested to know if there were any citizen comments and no one wished to comment.

Ms. Gibson stated staff did receive two email comments on this item, one spoke in favor of the request and one spoke against the request.

Mr. Jones moved to close the public comment. Ms. Fischbach seconded the motion and the motion carried 5-0.

Mr. Jones moved to disapprove the variance request to exceed the maximum number of convenience signs by three signs and to place two wall signs above the roofline of the building for the property located at 601 Hillsboro Road because the criteria for granting a variance have not been satisfied as described in the staff report. Mr. Fleishour seconded the motion.

Mr. Fleishour stated he did not think there would be a problem with the signage, if anything the only additional signage would be to direct the traffic.

The motion carried 5-0.

#### **Other Business.**

No other business.

**Adjourn.**

Chair Langley stated he would entertain a motion to adjourn.

Ms. Dannenfelser thanked Ms. Gibson for working with the BZA members.

Mr. Fleishour moved to adjourn. Ms. Fischbach seconded the motion and the motion carried 5-0.

With there being no further business, the meeting was adjourned at 6:50.

  
Chair