

**MEETING MINUTES OF THE
FRANKLIN BOARD OF ZONING APPEALS
SEPTEMBER 2, 2021**

The Franklin Board of Zoning Appeals held a regular meeting on Thursday, September 2, 2021 at 6:00 p.m. in the City Hall Boardroom.

Members present: Jonathan Langley
 Jeff Fleishour
 Gillian Fischbach

Staff present: Kelly Dannenfels, Planning & Sustainability Department
 Victoria Hensley, Planning & Sustainability Department
 Bill Squires, Law Department

The agenda read as follows:

Call to Order:

Chair Langley called the August 5, 2021 meeting to order at 6:00 pm. Chair Langley stated he would be taking a roll call and proceeded to do so.

Announcements:

Ms. Dannenfels stated the State requires four hours of training for BZA members each year and this is a reminder that we are going to have training through the Tennessee American Planning Association Chapter on November 5th from eight am until noon that day. Ms. Dannenfels stated more information would be sent out at a later date on registration.

Review of Minutes from August 5, 2021, Special Meeting:

Mr. Fleishour moved to approve the August 5, 2021, meeting minutes. Ms. Fischbach seconded the motion and the motion carried 3-0.

Public Comment:

Chair Langley requested to know if any citizens wished to make any comments and no one requested to comment.

Ms. Fischbach moved to close the Public Comment. Mr. Fleishour seconded the motion and the motion carried 3-0.

Applications:

Variance Request For A Front Yard Fence To Be 5 Feet Taller Than The Maximum Height of 3 Feet To Construct An 8-Foot Tall Fence At 311 Eddy Lane. (F.Z.O. 13.1.2.C, Fences and Walls, Front Yard Fence and Wall Height).

Ms. Hensley stated the subject parcel is located at 311 Eddy Lane and is zoned LI – Light Industrial District. Ms. Hensley stated the applicant is seeking a variance for a front yard fence to be 5 feet taller than the maximum height of 3 ft in order to construct an 8-foot tall fence along the perimeter of the subject property. Ms. Hensley stated Tier Pointe Data Center, a subsidiary of Compass Datacenters is requesting the variance for further security of the building. Ms. Hensley stated the applicant has provided examples of the type of fencing they propose to install around the perimeter of the parcel. Ms. Hensley stated the examples can be found in the attachments of this item. Ms. Hensley stated the applicant also provided a site plan indicating where they propose to install the 8-foot tall fence.

Ms. Hensley 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. Hensley 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 subject property is located on Eddy Lane in a Light Industrial District. The property is not an exceptional shape or exhibit any exceptional features. Therefore, staff believes this criterion is not met.

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.

The applicant has requested the variance for front yard fence height in order to further secure the data center located on the subject property. The applicant cited the December 25th explosion on 2nd Avenue in Nashville, which affected the AT&T data center as a reason for seeking the 8-foot tall fence.

This applicant intends to construct an 8-foot tall fence along the side and rear yard along the perimeter of the property. The Zoning Ordinance permits taller fences in side and rear yards, which provides fencing in areas that are less visible from the public right-of-way.

The applicant is requesting an 8-foot tall fence as a front yard fence paralleling Eddy Lane. The City recognizes the important of public safety and security to property, but the Ordinance does not provide a means to differentiate security for this use over other uses. There may be other means of providing front yard security, in addition to a fence at a lower height that could be permitted by the Ordinance.

Therefore, staff believes this criterion is not met.

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.

The building sets back approximately 240 feet from Eddy Lane and the proposed fence will be set back approximately 90 feet from the street, so the placement is not in a typical front yard perimeter location along the street. Therefore, staff believes the fence does not cause detriment to the public good or impair the purpose of the Zoning Ordinance and this criterion is met.

Ms. Hensley stated Staff recommends disapproval of the Variance request based on the reasoning of the Staff Report.

Mr. Ken Jackson was represented the item and stated he took this company over in July of 2019 and noticed there was no fence, which is not natural for a data center to not have a fence. Mr. Jackson stated he was told the zoning only allowed for a three-foot-tall fence and that height is not going to allow for any security. Mr. Jackson stated it was never a real issue until Christmas 2020 when the bombing took place at the Nashville data center. Mr. Jackson explained they do not have 911 in their facility but do have hospital information, banking information and a number of government entities that keep information in their facility. Mr. Jackson stated they have lost customers due to not having a fence. Mr. Jackson referenced the drawing on the screen and explained they keep a park like setting and would not change that with the fence. Mr. Jackson stated they are asking to build a fence along Eddy Lane similar to their competitors.

Chair Langley requested Staff tell what is around the surrounding area.

Ms. Hensley stated there is some residential but also, they are next to an Industrial site.

Chair Langley opened the Public Comment.

Ms. Lori Kariott who lives in the house beside the back line on the photograph spoke against supporting the fence.

Mr. Jackson explained they would take care of the chain link fence and it would stay.

Ms. Dannenfelser clarified the side and rear yard fence is not part of this application.

Ms. Fischbach moved to close the public comment portion. Mr. Fleishour seconded the motion and the motion carried 3-0.

Ms. Fischbach requested to know from Staff how this is different from the issue we had with BGA.

Chair Langley requested to know if the same requirement applied.

Ms. Dannenfelser stated the same requirement does apply and explained how children was a factor in the BGA request.

Mr. Squires stated the two projects are similar but different.

Ms. Fischbach moved to disapprove the Variance request for a front yard fence to be 5 feet taller than the maximum height of 3 feet to construct an 8-foot tall fence in the front yard of the property at 311 Eddy Lane because of the criteria required for granting a variance as described in the staff report. Mr. Fleishour seconded the motion.

Chair Langley stated he felt criterion number one is narrow in many respects because there is some leeway concerning extraordinary or exceptional situation or conditions, and this is one of those lots that sits way back. Chair Langley stated if he owned a data center in this location, I would want an eight-foot fence in the front yard.

Ms. Fischbach stated it was a compelling argument and she has sat there thinking about what you would consider being comfortable with as an exceptional situation. Ms. Fischbach requested Chair Langley articulate what the exceptional situation would be.

Chair Langley stated it is the need for security.

Mr. Fleishour stated he is open to it because it is so far back off the road.

With the motion to disapprove having been made and seconded the motion fails 2-1 with Ms. Fischbach voting yes.

Mr. Fleishour moved to approve the variance based on the setback from the road and the property needs security. Ms. Fischbach seconded the motion and the motion carried 2-1, with Ms. Fischbach voting no.

Variance Request For A 14-Foot Encroachment Into The Required 25-Foot Rear Yard Setback To Construct a Rear Screened In Porch For The Property Located At 301 Sterling Park Terrace. (F.Z.O. 3.10.7, Planned District - Dimensional Standards).

Ms. Hensley stated the subject parcel is located at 301 Sterling Park Terrace in the Fieldstone Farms Subdivision. It is lot 1242 in Section R1 of the Fieldstone Farms subdivision. Ms. Hensley stated the final plat for this section of Fieldstone Farms has a required rear yard setback of 25 feet. The parcel is zoned PD – Planned District. Ms. Hensley stated the applicant is seeking a variance for a 14-foot encroachment into the required 25-foot rear yard setback. Ms. Hensley stated the applicant is seeking to construct a rear screened in porch within the rear yard setback. Ms. Hensley stated based on plans, which can be found in the exhibits, the edge of the porch would be 11 feet from the rear property line, which is adjacent to an approximately 25-foot open space along Spencer Creek Road.

Ms. Hensley 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. 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 subject lot is located at the end of Sterling Park Terrace in a cul-de-sac. Angled lots, such as the one found at the subject property, are common around cul-de-sacs. The property is significantly wider in the rear, which is approximately 177 feet across than in the front, which is approximately 61 feet across. The lot is approximately 91 feet deep from the front property line to the rear property line. While slightly smaller than other lots around the cul-de-sac, the lot has a typical shape and size for the subdivision. Therefore, staff believes this criterion is not met.

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.

The house constructed at the subject property currently meets all setback requirements. The house was constructed 2 feet away from the rear yard setback line, leaving minimal buildable space in the rear. The lack of remaining buildable area on the subject property does not represent an exceptional practical difficulty. Therefore, staff believes this criterion is not met.

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.

The subject property is adjacent to an open space that is approximately 25 feet from the rear property line to Spencer Creek Road. The house does not back another house or building, but an open space and then a road. Therefore, staff believes the 14-foot encroachment into the rear yard setback does not cause substantial detriment to the public good or impair the Zoning Ordinance, and this criterion is met.

Ms. Hensley stated based on the reasoning detailed above, staff recommends disapproval of the Variance request because the applicant has not met all of the required criteria.

Mr. Reed Smith was present to represent the item and stated he was the contractor for the screened porch. Mr. Smith stated this variance thing was new to him, but Ms. Hensley has been very helpful and explained the process and would be here to answer any questions.

Chair Langley requested to know if there was an existing deck on the home.

Mr. Smith stated yes there was and pointed it out on the screen.

Chair Langley requested to know if there were any citizens comments and no one requested to speak.

Ms. Fischbach moved to close the public comment. Mr. Fleishour seconded the motion and the motion carried 3-0.

Ms. Fischbach stated over the years we have granted dozens of variances just like this one and due to such a tight build envelope, it creates an exceptional situation and has a practical difficulty for the homeowner.

Ms. Fischbach moved to approve the Variance request for a 14-foot encroachment into the required 25-foot rear yard property located at 301 Sterling Park Terrace because the criteria required for granting a variance has been met. Mr. Fleishour seconded the motion and the motion carried 3-0.

Other Business.


No other business.

Adjourn.

Chair Langley stated he would entertain a motion to adjourn.

Mr. Fleishour moved to adjourn. Ms. Fischbach seconded the motion and the motion carried 3-0.

With there being no further business, the meeting was adjourned at 6:33.


Chair