

**PLANNING COMMISSION MEETING
MUNICIPAL CENTER COUNCIL CHAMBERS
Tuesday, May 5, 2009**

The regular meeting of the Planning Commission was scheduled and held in the Council Chambers of the Municipal Center on May 5, 2009. Chairman Klevan welcomed everyone and asked the Commission members as well as the audience to please speak into the microphone so they could be heard. Chairman Klevan then called the meeting to order at 6:00 p.m., asking the secretary for the roll.

Ms. Rush called the roll of the Board to establish a quorum:

Commissioners Present: Rick Bennett, Alderman John Drinnon, David Klevan, Forrest Owens, Lisa Parker, Mike Harless.

Commissioner Absent: Dike Bacon, Susan Burrow

Staff Present: David Harris, Jerry Cook, Andy Pouncey, Wade Morgan, Josh Whitehead, Tim Gwaltney and Pam Rush.

A quorum for tonight's Planning Commission meeting was established.

1. Approval of Minutes for April 7, 2009

Chairman Klevan stated for those people who just arrived, tonight's agenda is on the front table. The first order of business is the approval of the minutes for April 7, 2009. If there were no additions, corrections or deletions to the minutes of the April 7, 2009, meeting of the Planning Commission, he would entertain a motion for approval.

Mr. Harless requested a clarification on the Garner Woods Subdivision application. He asked if the request for a variance from the requirement to install sidewalks in Garner Woods Subdivision was approved?

Mr. Whitehead stated the motion for that agenda item included the granting of this request and that the minutes for the April meeting will be amended to make this more explicit.

Mr. Harless moved to approve the Planning Commission minutes of April 7, 2009, as submitted, seconded by Mr. Owens.

Chairman Klevan asked for a roll call.

Roll Call: Bennett – yes; Burrow – absent; Drinnon – yes; Parker – yes; Bacon – absent; Harless – yes; Owens - yes; Klevan – yes. **The motion was passed**

2. Preliminary and Final Site Plan Approval for the Germantown Fire Station no. 4

BACKGROUND: Fire station 4 was originally built by Shelby County sometime in the 1960's and was acquired by the City of Germantown in 1991. On March 10, 2009, the Board of Zoning Appeals approved a variance to allow the building to be 9.6 feet from the north property line.

DISCUSSION: The City and its consultants are in the process of designing a new fire station building to replace the current out-dated and inadequate facility. The new building is planned to have three apparatus bays, a training room, a police dispatch office plus living and sleeping quarters for the firefighters.

SITE DATA	
Area	3.63 acres
Total Proposed Parking	7 spaces, exclusive of the equipment bay
Handicap Parking	1 space
Regular Parking	6 spaces
Building Footprint Area	10,636 square feet
Pervious	50.25%
Impervious	49.75%
Building Height	35' (from ground to roof midpoint)

STAFF COMMENTS:

The Technical Advisory Committee (T.A.C.) met on April 16, 2009, and made the following comments:

1. CONSTRUCTION PLAN COMMENTS

a. Grading and Drainage Plan:

- i. The Drainage Plan should be designed to the 25-year storm.
- ii. Plastic drain fixtures should not be used. All drainpipes shall be A2000.
- iii. Explain where the trench drain in front of the bay drains to.
- iv. Grading in front of the fire station and on the trench drain appear to be only 3 in. below FF; explain;
- v. Show the ridgelines on the plan;
- vi. Indicate where storm-water goes;
- vii. Include the irrigation cisterns in the plan;
- viii. Drain structure no. 6 should be extended all the way to the drainage basin.
- ix. Oil and water separators are needed for the bay drains.

b. Erosion Control Plan –

- i. Use TDEC erosion control details.
- ii. Show the typical TDEC construction entrance detail on the plans and location other than previously submitted.
- iii. The proposed wattle is not required in front of the spillway before the existing stormwater detention pond. Recommend removing the proposed wattle. During construction activity, the existing stormwater detention pond will act as the sediment basin. Require that the Engineer mark (survey by an RLS) the elevation of the existing pond before construction begins (report existing elevation to City of Germantown) and mark (survey by an RLS) the elevation after construction (report after construction elevation to City of Germantown). “Community Development” (CD) will determine whether the contractor is to a) Flocculate, pump and dredge the existing stormwater detention pond to the original elevation before construction started or b) Just flocculate the existing pond
- iv. Total acres needs to be labeled on the plans. Total amount of disturbed area should be provided and labeled on the plan. If more than 1 acre this site will require an NOC approval

c. Utility Plan:

- i. The taps for the bay drain and sewer should be separated.
- ii. The water tap should connect to the 20-inch main, using ductile, class 350 pipe.
- iii. The new 8 in. water main along the north property line should be moved out of the utility easement and into a dedicated easement.
- iv. Place all water mains within water easements.
- v. Show all utility connections;
- vi. Show all existing utility lines and tie-ins;
- vii. Show the demolition of the existing water line;
- viii. Show the size of the existing water main in Forest Hill-Irene Rd.
- ix. Show the location of the existing fire hydrant at the rear of the building.
 - x. The existing 2 inch water service and meter should be used for the new building.
 - xi. Water service and fire service for the building can be provided from an 8-inch line in the driveway.
 - xii. The existing main in Forest Hill-Irene Rd. is 20 in.
 - xiii. Show the isolation valves on the water line.
 - xiv. Show the existing sanitary sewer line on an existing conditions plan and indicate if that service is to be abandoned?
- d. Show the driveway aprons per standard Germantown design, not the city of Memphis.
- e. A 2-inch tap for the Training Building must be tied into the new main with a new valve box.
- f. The equipment bay sewer drains must be separated from the residential sewers, as the drains may often become blocked by debris.
- g. Proofread the notes on the Final Site Plan. Note five has inconsistencies in the numbers. No. 8 is not applicable.
- h. Provide details on the proposed irrigation cisterns. What will drain into them?
- i. Sidewalk drains should be avoided if possible.

2. PROJECT CONTRACT:

- a. Staff shall draft an "official memorandum" in lieu of the standard contract
- b. The memorandum will address all required and accepted plans, standards and benchmarks from TAC

Mr. Harless asked is this project going to be LEED-certified?

Dennis Wolf stated the Fire Station would be LEED-certified. This will be the first City building to be LEED-certified. We hope to get 50 years out of this building, just as we did the first one.

Ms. Parker asked how long will the construction take and when did we do the renovation?

Mr. Wolf stated about 12 months on the construction and in 1993 we took the building over from Shelby County to renovate.

Mr. Harless stated staff would address the additional parking issue.

PROPOSED MOTION: To approve the preliminary and final site plans for Germantown Fire Station No. 4, at 3031 Forest Hill-Irene Road, subject to staff comments.

Alderman Drinnon moved to approve the preliminary and final site plans for Germantown Fire Station no. 4, at 3031 Forest Hill-Irene Road, subject to staff comments, seconded by Mr. Bennett.

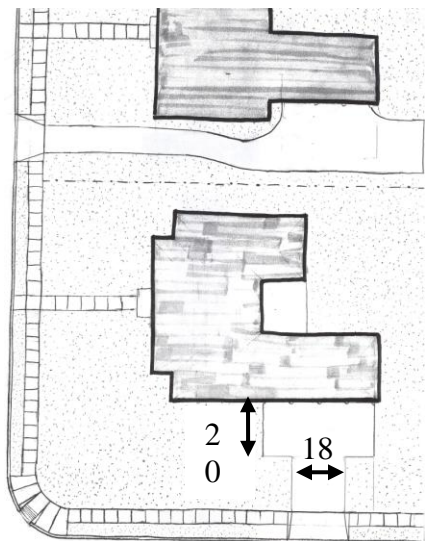
Chairman Klevan asked for a roll call.

Roll Call: Bennett – yes; Burrow – absent; Drinnon – yes; Parker – yes; Bacon – absent; Harless – yes; Owens - yes; Klevan – yes. **The motion was passed.**

1. Driveway Ordinance

BACKGROUND: On September 12, 2005, the Germantown Board of Mayor and Aldermen passed Ordinance 2005-14, also known as the Property Maintenance Ordinance. One of the provisions of this ordinance was a new section in the Zoning Code, §23-88, which stipulated the width and location of driveways and parking pads on single-family and two-family residential lots. Once this ordinance was approved, the City began receiving a number of complaints from homebuilders and homeowners that adherence to the driveway provisions were difficult. The Board of Zoning Appeals, upon granting several variances from the driveway ordinance, requested that Planning Division staff overhaul the ordinance. The proposed ordinance provided in this memorandum is the product of several meetings conducted by Planning Division staff with members of the Engineering Division and Administration.

DISCUSSION: The two sections of the driveway ordinance that have caused the most concern are the restrictions on driveway width and the prohibition of front yard parking pads. The current ordinance allows no more than 20 feet of rear queuing from a garage opening, at which point the driveway must narrow to 18 feet in width (see lower driveway in graphic below). As many cars are about 20 feet in length, this places a burden on rear movement from a garage. The other provision that has proved difficult is the restriction on parking pads. This has been especially difficult on corner lots, which contain parking pads in the secondary front yard for three-point turns out of the driveway or additional off-street parking.



As driveways are limited to 18 feet in width when they are 20 feet or more from a garage opening, this graphic demonstrates the problems with the strict interpretation of the existing ordinance. While the interior lot (house at top of graphic) has rear queuing space when drivers exit the garage, corner lots do not. Any driveable surface that does not lead to a garage opening in the “front yard” is considering a parking space and is forbidden under the existing ordinance. The City’s Fire Marshal has expressed his concern of setting maximum widths on driveways due to the fire department’s need for emergency access.

The proposed ordinance removes language on the maximum width of driveways, with the exception of the widths of aprons. Any areas classified as “parking spaces” must be screened with evergreen landscaping.

In addition to the substantive issues cited above, there are also procedural problems with the current ordinance. The current ordinance stipulates that all driveways – both those requiring apron work and those that do not – shall undergo a permitting process through the Engineering Division. This is not practicable, as the City does not inspect concrete work on private property. The proposed ordinance places the burden of enforcing the landscaping requirements around parking spaces on the Code Compliance Division, which will regulate this issue as it does any other Code issue. To avoid parking pads directly abutting the ROW, a limitation on driveway width has been retained in the proposed ordinance; driveway width shall not exceed apron width where the two abut.

PROPOSED ORDINANCE

Sec. 23-88. *Residential* Driveways.

- (a) The ~~maximum~~ width of a driveway *apron for lots occupied by single-family and two-family dwellings* in the required front yard shall be *a minimum of 16 feet and a maximum of 24 feet*. ~~at the apron, except that for houses that require additional width to accommodate garage access, driveways may be up to the width of the garage/carport within 20 feet of the garage/carport. No parking spaces shall be permitted within the required front yard.~~
- (b) *Residential* parking spaces. *Residential parking* spaces constructed in a legal location and of a permitted material prior to ~~the effective date of this section~~ *July 27, 2009, shall* be permitted and may be maintained in their current location. *Residential parking spaces constructed after July 27, 2009, and located between a residential dwelling and the street shall be reasonably screened from all streets abutting the lot by evergreen landscaping of at least twelve inches in height. If such screening is found to be impracticable on a particular site, a waiver may be granted by the department of economic and community development staff.*
- (c) Nonconforming driveways. Any driveway installed according to the ordinances in effect at the time of installation may be maintained, repaired or replaced in its present configuration. However, no driveway may be altered except in conformity with the provisions of this article.
- (d) Driveway permits. It shall be unlawful to commence the installation or alteration of a driveway *apron* until the city engineer or his designated representative has issued a permit for such work. Applications for driveway *apron* permits will be available at the offices of the city. The city engineer may require the owner to provide an official signed and sealed survey, by a land surveyor in the State of Tennessee, in order to determine the appropriateness of the application for a permit.
- (e) Violation and penalty. Any person violating any provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished as provided in section 1-10 of the code of ordinances. Each day's continuance of a violation shall be considered a separate offense. The owner of any premises, or part thereof, where anything in violation of this article shall be placed, or shall exist, and any person who may have knowingly assisted in the commission of any such violation, shall be guilty of a separate offense. Persons in violation of this article may also be subject to injunctive proceedings.

Sec. 23-2.

Parking space, residential means any area of a driveway on lots occupied by single-family and two-family dwellings not leading to the opening of a garage or carport.

PHOTOGRAPHS OF EXISTING GERMANTOWN DRIVEWAYS



20-foot driveway

Under the current ordinance, this driveway would not be permitted, as it exceeds 18 feet for more than the first 20 feet adjacent to the carport opening. Under the proposed ordinance, the driveway would be permitted.



Corner lot parking space

Under the current ordinance, this driveway would not be permitted, as no parking spaces are allowed in the required front yard. Under the proposed ordinance, it would be permitted since it is screened by landscaping. However, additional landscaping would be required along the principal street (at the right of the photo).



Parking spaces behind the front building line

The existing ordinance does not address parking courts in front of L-shaped homes, as these parking areas are not within the required front yard. The proposed ordinance would require all parking spaces between a dwelling and the street to be screened with landscaping. Under the new definition of “parking space,” the paved area in the far left of this photograph would be considered parking.



Circular drives

The existing ordinance does not address setback or screening for circular drives. The proposed ordinance requires these to be reasonably screened with landscaping. The driveway in this photograph adheres to the proposed ordinance.

Mr. Bennett asked if the landscaping shield the parking pad?

Mr. Whitehead stated yes, at least 12 inches in height.

Mr. Harless asked if the Code Enforcement come by and measure the height of the landscaping?

Mr. Whitehead noted yes.

Alderman Drinnon stated our Assistant City Administrator Mr. Pouncey is a Landscape Architect maybe he can give us some direction.

Andy Pouncey stated the reason all this came up was that we built an ordinance that was very difficult to deal with. There are several different housing types we have problems with such as small lots with buildings in an "L" shape and part of the "L" is the driveway. People want to drive out frontwards, they do not want to back out; we have circular driveways, and we have every kind of the thing in the book. One of the things that started all this was somebody who built a parking pad right at the sidewalk on Poplar Pike and it was atrocious. Then we developed a huge ordinance that was so difficult to deal with that the Board of Zoning Appeals did not even want to deal with it, so we have approved some of these administratively. I think we need to watch how much we want to monitor landscaping. Maybe perhaps just a minimum amount, not encouraging the landscaping to reach a certain height so that they can control their own landscaping. Different situations call for different landscaping, some may need shrubs, some flowers or something small. It gets to be where there can be security issues, where you come home and someone has followed you in, so you do not want to set yourself up for something bad. I think that the ordinance amendment is good, in that we are trying to remedy this previous one to make it more flexible. I think landscaping should just be a certain minimum, maybe a foot to eighteen inches. That way, we are not in the business of landscaping.

Mr. Harless stated the landscaping minimum should be 10 inches or more.

Mr. Whitehead stated the changes for the street should be reasonably screened from all streets abutting the lot by evergreen landscaping of at least twelve inches in height.

Chairman Klevan stated we would just vote on the changes in the staff report section (b) 23-88 Residential Driveways section (b) to read the street shall be reasonably screened from all streets abutting the lot by evergreen landscaping of at least twelve inches in height.

PROPOSED MOTION: To recommend approval to the Board of Mayor and Aldermen an amendment to the driveway ordinance of the Zoning Code.

Mr. Owens moved to recommend approval to the Board of Mayor and Aldermen an amendment to the driveway ordinance of the Zoning Code, seconded by Mr. Harless.

Chairman Klevan asked for a roll call.

Roll Call: Bennett – yes; Burrow – absent; Drinnon – yes; Parker – yes; Bacon – absent; Harless – yes; Owens - yes; Klevan – yes. **The motion was passed.**

2. Amendment to Chapter 23, Accessory Structures

DISCUSSION:

The current Code of Ordinance has several problematic issues dealing with accessory structures. First, the current definition of an accessory structure is very general. This amendment broadens the definitions. In addition, the Code does not allow for accessory structures to be located within five feet of a recorded easement or within fifteen feet of the principal structure without acquiring a variance from the Board of Zoning Appeals (BZA). Finally, accessory structures and uses for churches and other institutions that require approval of a Use on Appeal from the BZA must also be approved by the BZA. This includes minor additions such as storage buildings and small outdoor play areas.

The specific request is an ordinance to amend Chapter 23, Zoning, of the Code of Ordinances to clarify a few items that have increasingly filled the BZA docket. The first proposal is to amend the definition of an accessory building or structure. The second proposal is to clarify what is exempt from the accessory

structure definition. The third proposal will eliminate the required 15-foot separation between principal structures and accessory structures and eliminate the 5-foot setback from all recorded easements. The fourth proposal will allow accessory buildings and uses for institutional uses (such as churches and schools) without approval from the BZA.

Article I, "In General" and Article III, "Districts" are hereby amended by inserting the following underlined, italicized and bolded text and deleting the following struck through text and adjust the numbering accordingly:

Section 23-2. Definitions

Accessory building **or structure means any permanently located outdoor construction that is normal and incidental to principal buildings, including, but not limited to the following: detached garage, trellis, arbor, swing, tree house, play fort, fireplace, storage building and pool house.** ~~and use means a detached building or use subordinate to the principle building or use on the same lot and serving a purpose naturally and normally incidental to the principle building or use.~~ This definition does not include fences.

ARTICLE III. DISTRICTS.

Section 23-137(AG), 23-162(R-E-10), 23-187(R-E), 23-212(R-E-1), 23-236(R), 23-261(R-1), 23-286(R-2), 23-311(R-3). Accessory Buildings.

Accessory buildings/structures and other outdoor accessory constructions and items that are normal and incidental to single-family dwellings; excluding, but not limited to, satellite receiving antennas (covered in Section 23-2), basketball goals, temporary lawn game apparatus, decorative items, lawn furniture, birdhouses, **decorative garden structures and similar appurtenances,** in the AG [R-E-10, R-E, R-E-1, R-1, R-2 and R-3] district shall be located in compliance with the following:

ARTICLE III. DISTRICTS.

Section 23-187(5)(R-E), 23-212(5)(R-E-1), 23-236(4)(R), 23-261(4)(R-1), 23-286(4)(R-2) and 23-311(4)(R-3). Accessory Buildings.

~~All parts of any accessory buildings shall not be located closer than 15 feet to the principal building.~~

ARTICLE III. DISTRICTS.

Section 23-137(3)(AG) and 23-187(7)(R-E). Accessory Buildings.

~~No accessory building or structure shall be located nearer than 25 feet to any lot line and not closer than five feet to any recorded easement~~

Location:

- (a) No accessory building or structure shall be located within a recorded easement.**
- (b) An accessory building or structure with a height of eight feet or more may extend into the required rear yard, but shall be located a distance equal to at least the height of the structure from the rear and side lot lines.**
- (c) An accessory building or structure with a height of less than eight feet may extend into the required rear yard, but shall be located a minimum of three feet, six inches from the rear and side lot lines.**

ARTICLE III. DISTRICTS.

Section 23-162(4)(R-E-10)). Accessory Buildings.

~~No accessory building shall be located nearer than 50 feet to any lot line and not closer than five feet to any recorded easement.~~

Add same language as shown above.

ARTICLE III. DISTRICTS.

Section 23-212(4)(R-E-1), 23-236(2)(R), 23-261(2)(R-1), 23-286(2)(R-2) and 23-311(2)(R-3). Accessory Buildings.

~~Such buildings may extend into the required rear yard but shall be located a distance from the rear and side lot line equal to at least the height of the structure, and not closer than five feet to any recorded easement. However, this subsection shall not be granted to structures containing habitable space.~~

Add same language as shown above.

ARTICLE III. DISTRICTS.

Section 23-129 (AG), 23-154 (R-E-10), 23-179 (R-E), 23-204 (R-E-1), 23-228 (R), 23-253 (R-1), 23-278 (R-2), 23-303 (R-3), 23-328 (R-T), 23-348 (R-H). Uses permitted on approval of the board of zoning appeals.

~~Within the AG agricultural districts [R-E-10, R-E, R-E-1, R, R-1, R-2, R-3, R-T and R-H residential districts] The uses listed in this section shall be permitted by the board of zoning appeals, provided that the use requested is to be located on a route designated as either a major street or a collector street on the official major road plan, and that the other requirements set forth in this division article II, division 4 and article II, division 2 of this chapter are met: Philanthropic or religious institutions; places of worship; public, private or parochial schools offering general educational courses; municipal, county, state or federal uses; public utilities, golf courses; private and country clubs; parks and playgrounds; cultural activities; cemeteries; family day care homes; and wireless transmission facilities; ~~and accessory buildings and accessory uses customarily incidental to such uses.~~ **Accessory buildings and structures and accessory uses customarily incidental to the above uses are allowed, provided that the principal structure on the site was approved by the board of zoning appeals, or if the principal structure on the site is classified as an allowable, nonconforming use, per Sec. 23-666 of this chapter.**~~

STAFF COMMENTS:

1. The Shelby County Building Department only requires that structures with windows be setback more than six feet from other buildings. Therefore, the requirement for an accessory building / structure to not be within 15 feet of the principal structure is excessive.
2. Once a use on appeal is approved by the Board of Zoning Appeals, an applicant need not apply for an accessory structure. The Design Review Commission and Planning Commission can review the building or use if it is a major building or use.
3. The Code of Ordinances does not define an accessory structure but defines accessory buildings and uses as detached buildings, uses subordinate to the principle building or use on the same lot and serving a purpose naturally and normally incidental to the principle building or use. Each zoning district includes a section describing the requirements for “accessory buildings / structures and other outdoor accessory constructions”.

Staff Recommendation: Approval.

Alderman Drinnon asked if once a variance is granted, does it only apply to the land or the owner?

Mr. Whitehead stated it goes with the land.

Alderman Drinnon asked if certain entity should be exempt and not required.

Mr. Whitehead stated under certain situations a shed has to be as far from your side and rear property line as it is in height, so 8 feet off the line. Our Code Compliance Officers have a set of rules that you have to follow before you do a permit for a shed. Those set of rules will be changed with the ordinance amendment, you would not need to get variance.

Mr. Harless asked if he was going to build a shed four feet from his property line, could I do that if it was seven feet high?

Mr. Whitehead stated yes, providing there is no easement.

Alderman Drinnon specifically asked Mr. Cook if over the years we have had any issues with different entities not following the codes as they are written.

Mr. Cook stated we have not had that much trouble with accessory structures. The issue that has come about is having a storage building or a church playground having to go through this lengthy process. This could be handled very easily with the Design Review Commission and Planning Commission. However, the most important thing is to make sure whatever is proposed is done properly. It is sent to the Board of Zoning Appeals. After the original use is approved for the property we will shorten some of the lengthy processes that it has to go through in order to get a accessory building approve on the church site for example, it has not been a problem for us in the pass.

Ms. Parker stated I commend you and your staff for housekeeping. Good Job!

Mr. Owens commented he wish we could have done this many years ago. I know there would be many homeowners that would have less heartache by now. The Board of Zoning Appeals would not have been chastised as much.

PROPOSED MOTION: To grant approval of an amendment to Chapter 23, Zoning, of the Code of Ordinances Regarding Accessory Structures.

Alderman Drinnon moved to grant approval of an amendment to Chapter 23, Zoning, of the Code of Ordinances Regarding Accessory Structures, seconded by Ms. Parker.

Chairman Klevan asked for a roll call.

Roll Call: Bennett – yes; Burrow – absent; Drinnon – yes; Parker – yes; Bacon – absent; Harless – yes; Owens - yes; Klevan – yes. **The motion was passed.**

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3. Chairman Klevan asked if there was any old business or new business to come before the Commission.

Ms. Parker commented that the dog park is alive and well. Parks and Recreation is having their first meeting, I believe, on the 19th for residents who are interested in bringing their dogs to the dog park. You will now have to get a card and learn the rules to obey and your dog will have to obey too. There are lots of things going on in May. There are concerts in the parks on Friday.

Alderman Drinnon commented that he is on the Board and he feels like this new dog park gate system will really help to alleviate the parking situation at Forgey Park. The problem is that we have people coming in from Memphis that use the park without adhering to the rules.

Mr. Harless added that following Mr. Owens comment that is that the administration is cleaning up and doing housekeeping on a lot of the things that make it quite easier on our citizens to approach the City with their needs and I would like to commend them on that.

Mr. Klevan commented that he agreed. This is a slow time with development in the City, this is a great time to catch up on things like this, and I think that the aldermen are doing a great job on that. If there is not anything else before the commission, we will stand adjourned.

4. He asked if there were any liaison reports. **There was none.**

5. The meeting adjourned at 7:00 P.M.