

**BOARD OF ZONING APPEALS
MUNICIPAL CENTER COUNCIL CHAMBERS**

April 14, 2009

6:00 p.m.

Chairman Boyd called the meeting to order at 6:00 p.m. The secretary called the roll to establish a quorum.

COMMISSION PRESENT:

Chairman Elizabeth Boyd; Mr. Henry Evans; Alderman Carole Hinely; Ms. Patricia Sherman; Mr. David Klevan; Mr. Ron Poe

DEVELOPMENT STAFF PRESENT:

Mr. Jerry Cook, Director of Economic & Community Development; Mr. Josh Whitehead, Director of Planning; Mr. Wade Morgan, Chief Planner; Ms. Katie Graffam, Economic Development Coordinator; Ms. Carmen Richardson, Secretary.

Interested Individual(s) present:

Mr. Adam Cartwright – Jones Bros Tree & Landscape Co. – 7892 Summer Avenue, Bartlett TN 38133

Chairman Boyd called the meeting to order and established a quorum.

ROLL CALL: – Mr. Evans – present; Mr. Henwood – absent; Ms. Sherman – present; Mr. Klevan – present; Alderman Hinely – present; Mr. Poe – present; Chairman Boyd – present

Chairman Boyd reminded those in attendance that the Board of Zoning Appeals is a Quasi-Judicial body and as such, the latitude for acting on applications is somewhat limited by State Statute and City Ordinance. She also reminded those appearing before the Board that the meeting is recorded and they would need to identify themselves, give their address and be sworn in for the record. She then swore in the staff.

Chairman Boyd stated that she would like to make note that the motions made in all meetings are of an affirmative nature. She stated this does not necessarily mean that the motion will be approved, but that the language will be in an affirmative nature when the motion is made.

Approval of March 10, 2009 Minutes

Mr. Evans made a motion to approve the minutes from the March 10, 2009, meeting that was seconded by Alderman Hinely.

ROLL CALL: -- Mr. Henwood – absent; Ms. Sherman – yes; Mr. Klevan – yes; Alderman Hinely – yes; Mr. Evans – yes; Mr. Poe – abstain; Chairman Boyd – yes

MOTION PASSED

SUBJECT: 7297 Stags Leap Circle - Request a variance to allow a fence to exceed thirty inches (30") in the required front yard setback in the "R-T" Residential zoning district.

BACKGROUND:

DATE SUBDIVISION APPROVED: The Vineyards PUD, Phase I, is a sixty (60) lot, single-family detached, zero lot line Planned Unit Development (PUD). The PUD was granted preliminary and final plan approval by the Planning Commission on April 5, 1994. The Board of Mayor and Alderman granted approval for Project Development Contract no. 966 on May 9, 1994.

DATE PRINCIPLE STRUCTURE APPROVED/BUILT: The house was constructed in 1998.

PREVIOUS VARIANCE REQUESTS: None.

DISCUSSION:

NATURE OF VARIANCE REQUESTED: The specific request by the applicant is to allow a fence to exceed eighteen inches (18") above the maximum thirty inches (30") allowed in the front yard setback. The primary purpose of the fence is to enclose a patio extension on a double-frontage lot.

SPECIFIC SECTIONS OF ZONING ORDINANCE: The specific request is a variance from §6-102(b) of the Code of Ordinances, which states, "fences over 30 inches in height are not permitted within the required front yards of lots, as specified in the zoning ordinance, with the exception of subdivision entrance features and attached fences/walls." The fence, as proposed, would be forty-eight inches (48") in height.

APPLICANT'S JUSTIFICATION: The applicant is requesting the variance due to exceptional narrowness of the property that results in peculiar and exceptional practical difficulties. According to the applicant, the home is on a corner lot with double-frontage that severely restricts his ability to enclose the patio extension. In addition, the applicant feels that the eighteen inches (18") of wrought iron on top of the thirty inch (30") brick wall would add value to the property.

STAFF COMMENTS:

1. The applicant is requesting an **eighteen inch (18") variance** to allow a fence to extend into the required front yard setback.
2. The Vineyards Homeowners' Association has approved the homeowners' request for the fence.
3. The homeowners have an existing thirty inch (30") brick wall. The eighteen inch (18") extension would consist of a decorative wrought iron top to the existing fence.
4. Should the variance request be granted, the applicants must apply for a building permit through the Department of Economic and Community Development.

Adam Cartwright, Representative
Jones Bros. Tree & Landscape Co., Inc.
7892 Summer Avenue
Bartlett, TN 38133

Mr. Cartwright stated that because of the setback they were only allowed to go 30" above the retaining wall. The home's floor level is so high that there is a normal step down onto the patio that left them with an exterior wall; when they sit at the patio table, basically half of their body is up and above the patio walls. He further explained that the homeowners really would like more privacy from the street/traffic. He said that the railing will be decorative wrought iron that matches the existing wrought iron gates to the home. Per Mr. Cartwright, the railing will not extend over the other wall or any other places, just around the patio. The one exception is that there will be a gate that is accompanied with the same type of decorative wrought iron. The railing that is put on top will extend across on the gate as well.

Mr. Evans asked staff if the gate should be included with the motion for the fence. Wade Morgan responded by saying that typically, we include gates as part of a fence. He said that it certainly would not hurt to include this in the motion. However, because the motion also mentions the site plan that accompanies the application, it [fence] should be sufficiently covered.

PROPOSED MOTION: To approve a variance at 7297 Stags Leap Circle to allow a fence with a gate to exceed thirty inches (30") into the required front yard setback, subject to staff comments and the site plan filed with this application.

Mr. Klevan moved to approve a variance at 7297 Stags Leap Circle to allow a fence with a gate to exceed thirty inches (30") into the required front yard setback, subject to staff comments and the site plan filed with this application; Mr. Evans seconded the motion.

ROLL CALL: -- Mr. Henwood – absent; Ms. Sherman – yes; Mr. Klevan – yes; Alderman Hinely – yes; Mr. Evans – yes; Mr. Poe – yes; Chairman Boyd – yes

MOTION PASSED

Meeting Adjourned at 6:04 p.m.