

BOARD OF ZONING APPEALS  
MUNICIPAL CENTER COUNCIL CHAMBERS  
Tuesday, July 12, 2016  
6:00 p.m.

The regular meeting of the Board of Zoning Appeals was scheduled and held in the Council Chambers of the Municipal Center on July 12, 2016.

1. Chairman Sisson called the meeting to order at 6:04 p.m.
2. Chairman Sisson requested the roll call. Ms. Regina Gibson called the roll of the Board and established a quorum:

COMMISSIONERS PRESENT: Ms. Jennifer Sisson, Chairman; Mr. Hunter Browndyke, Vice Chairman; Alderman Mary Anne Gibson; Mr. Frank Uhlhorn; and Ms. Pat Sherman

DEVELOPMENT STAFF PRESENT: Mr. Cameron Ross, Economic and Community Development Director; Ms. Sheila Pounder, Planner; Ms. Regina Gibson, Administrative Secretary, and Mr. Alan Strain, Attorney

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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. This meeting is recorded and those appearing before the Board would need to identify themselves, give their address and be sworn in for the record.

Motions made in all meetings are of an affirmative nature and 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.

3. Approval of Minutes for May 10, 2016.

Mr. Uhlhorn moved to approve the Board of Zoning and Appeals minutes of May 10, 2016, seconded by Ms. Sherman, with no further comments or discussions.

ROLL CALL: Mr. Uhlhorn – Yes; Mr. Browndyke – Abstain; Alderman Gibson – Yes; Ms. Sherman – Yes; Chairman Sisson - Yes

MOTION PASSED

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4. 2609 S. Germantown Road – Approval of a Variance to Allow a Fence within the Required Front Yard to Exceed 30 Inches in Height in the R District. (Case No. 16-630).



BACKGROUND:

DATE OF ANNEXATION: June 13, 1955.

DATE SUBDIVISION APPROVED: The property is not part of a subdivision.

DATE PRINCIPAL STRUCTURE APPROVED/BUILT: The home was constructed in 1946. A demolition permit was issued to remove this structure in April, 2016.

PREVIOUS VARIANCE REQUESTS: None.

DISCUSSION:

SPECIFIC SECTIONS OF ZONING ORDINANCE: The specific request is approval of a variance from § 6-102 (General provisions), 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 with attached fences/walls.

NATURE OF VARIANCE REQUESTED: The “R” zoning district establishes a minimum front yard extending 40 behind the front property line. The applicant proposes a brick wall that will be 5 feet (60 inches) in height along the Germantown and Stout Roads frontages of this subject corner lot. The fence is proposed to be located on the property line behind the sidewalk.

APPLICANT’S JUSTIFICATION: The applicant indicates that the reason the variance is being requested is “to maintain the existing conditions set when South Germantown Road was widened approximately 15 years ago”. See pages 5-7 for a copy of the application with information concerning the justification for this request.

STAFF COMMENTS:

1. The requested variance will result in a wall that is 5 feet (60 in) in height and on the front property line to be located in the front yard of this property.
2. The applicant wishes to install a brick wall that matches the height and materials of the wall that exists north of the subject property that was installed by TDOT during the widening of Germantown Road. The proposed wall would tie into the existing wall.
3. If the variance is approved, the applicant shall apply to the Neighborhood Services Dept. for a fence permit.

PROPOSED MOTION: To approve a variance to allow a fence to exceed 30 inches in Height and be a maximum of 60 inches in height, located on the front property line within the required front yard setback of 2609 S. Germantown Road in the “R” Low Density Residential District, subject to the Board’s discussion, staff comments, and the plan and documents submitted with the application.

Mr. Henry Porter with W.H. Porter explained they were asking for this variance so as to have uniformity across the whole property. The brick wall that they are asking to build will face the brick wall that already exists across Germantown Road on the west side.

After much discussion, Chairman Sisson called for a motion.

Mr. Uhlhorn moved to approve a variance to allow a fence to exceed 30 inches in Height and be a maximum of 60 inches in height, located on the front property line within the required front yard setback

of 2609 S. Germantown Road in the “R” Low Density Residential District, as discussed, staff comments, the plan and documents submitted with the application, and seconded by Ms. Sherman.

**ROLL CALL:** Ms. Sherman – Yes; Alderman Gibson – Yes; Mr. Uhlhorn – Yes; Mr. Browndyke – Yes; Chairman Sisson – Yes

MOTION PASSED

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5. 3389 Forest Hill Irene Road – Approval of a Variance to Allow a Fence within the Required Front Yard to Exceed 30 Inches in Height in the RE-1 District. (Case No. 16-631).



**BACKGROUND:**

DATE OF ANNEXATION: July 26, 2000.

DATE SUBDIVISION APPROVED: Forest Hill Manor Subdivision, 1979.

DATE PRINCIPAL STRUCTURE APPROVED/BUILT: The home was constructed in 1997.

PREVIOUS VARIANCE REQUESTS: None.

**DISCUSSION:**

**SPECIFIC SECTIONS OF ZONING ORDINANCE:** The specific request is approval of a variance from § 6-102 (General provisions), 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 with attached fences/walls.

**NATURE OF VARIANCE REQUESTED:** The property’s “RE” zoning district establishes a minimum front yard extending 60 behind the property line. The applicant erected a new wood fence with brick columns that varies in height from 34 inches to 6 feet along the side (northern) property line within the front yard setback to tie into an existing wrought iron fence located within the side yard. The applicant was notified of this violation by the Office of Code Compliance on June 12, 2016 and advised that his

options to correct the violation were to remove the fence, reduce the fence height to bring it into compliance, or apply to the BZA for a variance.

**APPLICANT’S JUSTIFICATION:** The applicant indicates that the reason the variance is being requested is “The topo along the north property line slopes down toward a ditch in the front yard. The fence was installed to follow the topo and maintain a straight line at the top of the fence, which caused the fence height to vary along the length of the front yard”. See pages 6-8 for a copy of the application with information concerning the justification for this request.

**STAFF COMMENTS:**

1. The requested variance will result in a fence that is 6 feet (72 in) in height on the side property line to be located in the front yard of this property.
2. The applicant submitted a site plan with topo that indicates that there is a change in the property’s topography from east to west along the northern property line. (See attached site plan)
3. If the variance is approved, the applicant shall apply to the Neighborhood Services Dept. for a fence permit.

**PROPOSED MOTION:** To approve a variance to allow a fence to exceed 30 inches in height and be a maximum height of 72 inches, located on the side property line within the required front yard setback of 3389 Forest Hill Irene Road in the “RE-1” Residential Estate District, subject to the Board’s discussion, staff comments, and the plan and documents submitted with the application.

Ms. Cindy Reaves, with SR Consulting explained that Mr. Ward did not know about the City of Germantown Ordinance that only allowed a 30” fence to be installed in the front yard. The reason Mr. Ward installed the fence was to protect him from the view of his neighbors yard and their animals.

The board required Mr. Ward to change the fence boards in the front yard to a shadow box style fence so it would be more aesthetically pleasing for public viewing from either direction on Forest Hill-Irene.

Mr. Browndyke moved to approve a variance to allow a fence to exceed 30 inches in height and be a maximum height of 72 inches, located on the side property line within the required front yard setback of 3389 Forest Hill Irene Road in the “RE-1” Residential Estate District, as discussed by the board, staff comments contained in the staff report, and the site plan submitted with the application, seconded by Mr. Uhlhorn.

**ROLL CALL:** Alderman Gibson – Yes; Mr. Uhlhorn – Yes; Mr. Browndyke – Yes; Ms. Sherman – Yes; Chairman Sisson - Yes

**MOTION PASSED**

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**OLD BUSINESS:** Chairman Sisson reminded the board of their May, 2016 discussion concerning the driveway ordinance and said they needed to decide whether or not to ask the Planning Commission to review this ordinance again for a possible amendment or continue to hear each case on an individual basis as they have been doing. After much discussion, Chairman Sisson called for a motion.

Mr. Uhlhorn made a motion to ask the Planning Commission to review the driveway ordinance again, seconded by Ms. Sherman.

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ROLL CALL: Alderman Gibson – No; Mr. Uhlhorn – Yes; Mr. Browndyke – No; Ms. Sherman – Yes;  
Chairman Sisson – No

MOTION FAILED

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ADJOURNMENT

There being no further business, comments, or questions by the Commission, the Chairman adjourned the meeting at 6:46 p.m.