

BOARD OF ZONING APPEALS
CITY HALL COUNCIL CHAMBERS
Tuesday, September 12, 2017
6:00 p.m.

The regular meeting of the Board of Zoning Appeals was scheduled and held in the Council Chambers of City Hall on September 12, 2017.

1. Chairman Sisson called the meeting to order at 6:00 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; Mr. Mike Harless; Alderman Mary Ann Gibson Hunter Browndyke; and Ms. Sherrie Hicks

DEVELOPMENT STAFF PRESENT: Mr. Cameron Ross, Economic and Community Development Director; Mr. Joe Nunes, Neighborhood Services Manager; Ms. Sheila Pounder, Planning Division Manager; Ms. Sarah Goralewski, Planner; Ms. Regina Gibson, Administrative Secretary, and Mr. Alan Strain, Attorney.

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 from the August 8, 2017 Meeting

Mr. Harless moved to approve the Board of Zoning and Appeals minutes of August 8, 2017, as discussed; seconded by Ms. Hicks, with no further comments or discussions.

ROLL CALL: Mr. Harless – Yes; Mr. Browndyke – Yes; Ms. Hicks – Yes; Alderman Gibson – Yes; Chairman Sisson - Yes

MOTION PASSED

4. 2316 Johnson Road – Approval of a Variance to Allow a Fence over 30” in the Front Yard Setback in the R-E Residential Estate Zoning District.(Case No. 17-745)



BACKGROUND:

DATE OF ANNEXATION: December 31, 1987 (Ordinance No. 1987-39)

DATE SUBDIVISION APPROVED: The Johnson Road Subdivision was approved in January, 1957. The resubdivision of lot 4 to create this lot was approved in May of 1959. (Shelby County Register of Deeds, plat book 23, page 55.)

DATE PRINCIPAL STRUCTURE APPROVED/BUILT: 2007

PREVIOUS VARIANCE REQUESTS: Approval of a variance for a 6' entrance gate with 7' decorative elements, 27' from the front property line

DISCUSSION:

SPECIFIC SECTIONS OF ZONING ORDINANCE: The specific request is approval of a variance from the following section of the Code of Ordinances: §6-102(b): "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."

NATURE OF VARIANCES REQUESTED: The subject property is an interior lot in the "R-E" residential estate zoning district. The property's "R-E" zoning district establishes a minimum front yard setback, extending 60' behind the property line.

On January 11, 2011, the property owners at 2316 Johnson Rd. were granted a variance for a 6' high entrance gate with 7' high decorative elements, in the front yard setback. Per the approvals, the gate was to be 27' from the front property line (or 45' from the edge of pavement). However, according to staff's research, the property line for 2316 Johnson Rd., appears to be 40' from the edge of pavement. (The public right-of-way for the eastern section of Johnson Rd. is 50' from the centerline. Currently, the eastern width of the pavement from the centerline is 10'. Thus, the property line along this section of Johnson Rd. begins 40' from the edge of pavement. See attached survey and plat.)

Thus, the originally stated property line for the 6' high entrance approval was incorrect. Per staff's field measurements, the existing gate appears to be approximately 40' from the edge of pavement on Johnson Rd., thus directly on the property line. The applicant's current request is for a 5' iron fence in the front yard setback, which would be in line with the existing 6' high entrance gate. The proposed 5' high iron fence would also be in line with the next door neighbor's existing entrance gate, which also appears to be on the front property lines. Along this section of Johnson Road, variances have been granted for numerous gates which are in the front setback and appear to be in line with the subject property's gate. (On September 11, 2007, the next door neighbor at 2326 Johnson Rd. was granted a variance for a 7.5' entrance gate in the front setback.)

APPLICANT'S JUSTIFICATION: The applicants indicate that the reason the variance is being requested is: "A fence meeting the setback requirements would appear peculiar when paired with the existing gate that received a variance. Additionally, the proposed fence will be in line with the neighbor's iron fence."

STAFF COMMENTS:

1. The requested variance will result in a 5' high iron fence on the front property line, which would be in line with the existing 6' high entrance gate.
2. If the variance is approved, the applicant shall apply to the Neighborhood Services Dept. for a fence permit within 30 days of this approval.

BOARD DISCUSSION:

Mr. Mark Anderson w/Memphis Invest presented the homeowners' request to the Board and answered the Board's questions. Mr. Anderson confirmed that the proposed fence would not be in the public right-of-way and would line up with the next door neighbor's fence. He also assured the Board that there would not be a gap in between the new proposed fence and the neighbor's fence.

PROPOSED MOTION: To approve a variance to allow a 5' high iron fence within the required front yard (on the front property line) at 2316 Johnson Rd. in the "R-E" Residential Estate zoning district, subject to the board's discussion, staff comments contained in the staff report, and the site plan submitted with the application.

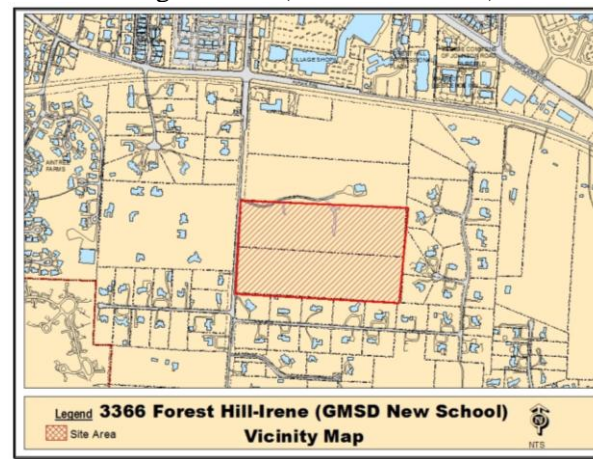
After brief discussion, Chairman Sisson called for a vote.

Ms. Hicks moved to approve a variance to allow a 5' high iron fence within the required front yard (on the front property line) at 2316 Johnson Rd. in the "R-E" Residential Estate zoning district, subject to the board's discussion, staff comments contained in the staff report, and the site plan submitted with the application, seconded by Mr. Browndyke.

ROLL CALL: Mr. Harless – Yes; Mr. Browndyke – Yes; Ms. Hicks – Yes; Alderman Gibson – Yes; Chairman Sisson – Yes

MOTION PASSED

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5. 3366 Forest Hill Irene Rd - Approval of a Use on Appeal to Allow a New Public Elementary School in the Re-1 Residential Estate Zoning District. (Case No. 17-746)



BACKGROUND:

DATE OF ANNEXATION: July 26, 2000. (The property rezoned to "RE-1" Residential Estate in September, 2000.)

DATE SUBDIVISION APPROVED: The Oak Subdivision recorded in 1987 (Plat Book 120, Page 58), describes parcels as Lots 3-5 and part of Lots A and 2.

DATE PRINCIPAL STRUCTURE APPROVED/BUILT: Vacant.

PREVIOUS VARIANCE REQUESTS: None.

DISCUSSION: The property is currently 38.12 acres of undeveloped land, which the Germantown Municipal School District (GMSD) is under contract to purchase for the construction of a new elementary school. The proposed construction consists of a 126,000 sq. ft. building that includes the elementary

school and central office with 194 parking spaces located east of proposed structures. The request for a use on appeal is based on Section 23-204 of the Zoning Ordinance, which states, in part, that “educational facilities shall be permitted [in the “RE-1” zoning district] 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 Article II, Division 4 (requirements of the “RE-1” zoning district); (General Exceptions) and Article II, Division 2 (Board of Zoning Appeals) of this chapter are met.”

Article II, Division 2 describes the project characteristics the Board of Zoning Appeals must review in its deliberations on the use: 1) whether or not the approval will impair an adequate supply of light and air to adjacent property, 2) will it unreasonably increase the congestion of public streets, 3) increase the danger of fire and endanger public safety; 4) or in any other way impair the public health, safety, comfort or welfare of the inhabitants of the city. Further consideration may relate to screening, landscaping, location or other conditions necessary to protect property in the vicinity of the subject site.

APPLICANT’S JUSTIFICATION: See the included application and proposed site plan for additional information.

STAFF COMMENTS:

1. The proposed site is located on a major road, Forest Hill Irene Road, which is to be improved by the City to urban standards prior to the opening of the new school. The school site has an existing lake near the Forest Hill Irene Road frontage and heavy vegetation through-out the property. The proposed school campus has been designed with a deep setback and around the existing trees, so as to retain as much of the natural landscaping as possible.
2. If the Use on Appeal is approved, the applicant shall apply to the City of Germantown Planning Commission for site plan approval and then to the Design Review Commission for landscape, fence and lighting plan approval.

PROPOSED MOTION: To approve a Use on Appeal for a new GMSD Public Elementary School, located at 3366 Forest Hill Irene Road, subject to the Board’s discussion, staff comments and the site plan submitted with the application.

BOARD DISCUSSION:

Mr. David Smith w/A2H Engineers Architects Planners and Josh Cathey w/ Germantown Municipal School District presented the request and answered the Board’s questions. The applicant clarified that details of the project, including traffic impacts, would be discussed and considered as

Mr. Brian Curry spoke in favor of the item. However, he mentioned that he had contacted the city’s traffic engineer and had never heard back from him concerning the Forest Hill Irene Road traffic disaster.

After brief discussion, Chairman Sisson called for a vote.

Alderman Gibson moved to approve a Use on Appeal for a new GMSD Public Elementary School, located at 3366 Forest Hill Irene Road, subject to the Board’s discussion, staff comments and the site plan submitted with the application Ms. Hicks.

ROLL CALL: Mr. Harless – Yes; Ms. Hicks – Yes; Mr. Browndyke – Yes; Alderman Gibson – Yes; Chairman Sisson - Yes

MOTION PASSED

ADJOURNMENT

There being no further business, comments, or questions by the Commission, the Chairman adjourned the meeting at 6:39 p.m.