

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

MOTION PASSED

SUBJECT: Lot 22, Forest Bend Acres – Northeast Corner of Forest Hill-Irene Road and Forest Bend Court – Request a variance to allow fencing to exceed 30” in the required front yard setback in the “R-E-1” Residential Estate zoning district.

BACKGROUND:

DATE SUBDIVISION APPROVED: Forest Bend Acres subdivision was approved by the Shelby County Commission on December 19, 1994, and approved by the Memphis City Council on December 20, 1994. On June 6, 2000, the Board of Mayor and Aldermen (BMA) approved on the third reading the annexation of 1,450 acres of land from unincorporated Shelby County into the City of Germantown. The variance request is within the annexation area.

DATE PRINCIPLE STRUCTURE APPROVED/BUILT: Vacant land.

PREVIOUS VARIANCE REQUESTS: None.

DISCUSSION:

NATURE OF VARIANCE REQUESTED: The specific request by the applicant is to allow fencing to exceed 18” above the maximum 30” allowed in the front yard setback. The applicant has an existing 48” wrought iron fence in the front yard that was installed prior to annexation. The adjacent neighbor to the north also has an existing 48” wood fence that was installed prior to annexation. The applicant has recently installed approximately 35’ of new fencing that adjoins the northeast corner of the existing 48” fence on the subject property to the neighbor’s existing 48” fence, with the new addition running perpendicular to Forest Hill-Irene Road.

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 R-E-1 district has a front yard setback of 60’. The fence is 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, she is “finishing the last section of fencing at [the] front boundary of the property.”

STAFF COMMENTS:

1. The applicant is requesting an **eighteen inch (18”) variance** to allow a 48” fence to extend into the required front yard setback.
2. The two sections of fencing parallel to Forest Hill-Irene Road on both the subject property and the adjacent property to the north were built prior to annexation. Both fences are considered legal, nonconforming fences.
3. If approved, the entire 35’ section of fencing perpendicular to Forest Hill-Irene Road shall be removed by the property owner at no cost to the City of Germantown at the time that construction drawings for the improvement of Forest Hill-Irene Road are approved.

4. Should the variance request be granted, the applicant must apply for a fence permit through the Department of Economic and Community Development.

Ms. Cheryl Followell, Applicant
9200 Forest Bend Court
Germantown, TN 38138

Ms. Followell began by thanking Katie Graffam for all of her assistance in applying for this variance. She then stated that she and her husband erected the fence without realizing that they needed a building permit to do so. Once cited by the City of Germantown, they realized that they needed to apply for a variance, which is why they are here tonight. They are trying to finish off the existing fence that corners their property.

Elizabeth Boyd asked Ms. Followell if they had a contractor to build the fence for them. Ms. Followell replied by saying that their caretaker who lives on the property erected the fence. Alderman Hinely asked if Ms. Followell, her husband or the caretaker understood that a request for a variance was needed on the front end. Ms. Followell said that no one knew and that they were totally ignorant to the entire matter.

Ms. Heidi Joyce, Neighbor
3490 Forest Hill-Irene Road
Germantown, TN 38138

She started by saying that the fence itself is not causing the problem, but there is nowhere for people to walk along Forest Hill-Irene. Where the fence connects to their white fence is a pretty deep drainage ditch (approximately 6 inches deep). A year ago, they put in a culvert to help widen it and to also help the water drainage. When you walk in front of their white fence, it goes downward; a kid would have to climb out of this three to four foot deep drainage area and across their culvert to get to the Joyces' driveway. Ms. Joyce then stated that when someone breaks down or needs help, there is no place to go unless they can get through the drainage ditch to get to their driveway. There is no way for kids to safely walk without climbing the fence with the "jaggy" little things on top.

Ron Poe asked what is on the other side of Forest Hill-Irene. Ms. Joyce replied by saying there's about a two foot open area, then a ditch and a privet. Mr. Poe confirmed that Ms. Joyce's primary objection for a variance was the fact that she would like a right of way for pedestrians walking down Forest Hill-Irene. He then advised that the applicant could put up a thirty inch tall fence in the same location. He then asked Ms. Joyce if they would be willing to take down their fence that runs along Forest Hill-Irene and move it back approximately 30 feet. Ms. Joyce responded by saying that they would be willing to relocated the fence at someone else's expense.

Alderman Hinely asked how many pedestrians walk down Forest Hill-Irene. Per Ms. Joyce, approximately seven pedestrians/stranded motorists have stopped within the past three and a half years.

PROPOSED MOTION: To approve a variance on Lot 22 of the Forest Bend Acres Subdivision to allow a fence to exceed thirty inches (30") into the required front yard setback, subject to staff comments and the site plan filed with this application.

Elizabeth Boyd moved to approve a variance on Lot 22 of the Forest Bend Acres Subdivision to allow a fence to exceed thirty inches (30") into the required front yard setback, subject to staff comments and the site plan filed with this application. Patricia Sherman seconded the motion.

ROLL CALL: Mr. Salvaggio – yes; Ms. Sherman – yes; Mr. Klevan – yes; Alderman Hinely – yes; Mr. Poe – yes; Elizabeth Boyd – yes; Chairman Evans – yes

MOTION PASSED

Meeting Adjourned at 6:18 p.m.