

**BOARD OF ZONING APPEALS
MUNICIPAL CENTER COUNCIL CHAMBERS
February 14, 2012
6:00 p.m.**

COMMISSION PRESENT:

Mr. Henry Evans; Ms. Elizabeth Boyd; Mr. David Klevan; Mr. Tony Salvaggio; Alderman; Frank Uhlhorn

DEVELOPMENT STAFF PRESENT:

Mr. Wade Morgan, Chief Planner; Mr. Alan Strain, Attorney; Ms. Carmen Richardson, Secretary

Interested Individual(s) present:

Mr. Ben Granger – 7519 Parker Circle, Germantown, TN 38138

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

ROLL CALL: – Ms. Boyd – present; Alderman Palazzolo – absent; Mr. Salvaggio – absent; Ms. Sherman – absent; Mr. Klevan – present; Mr. Uhlhorn – present; Chairman Evans – present

Chairman Evans 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. He 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. He then swore in the staff.

Chairman Evans stated that he would like to make note that the motions made in all meetings are of an affirmative nature. He 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 January 10, 2012 Minutes

Dave Klevan made a motion to approve the minutes from the January 10, 2012, meeting that was seconded by Frank Uhlhorn.

ROLL CALL: Ms. Boyd – abstain; Mr. Klevan – yes; Mr. Uhlhorn – yes; Mr. Salvaggio – absent; Alderman Palazzolo – absent; Ms. Sherman – absent; Chairman Evans – yes

MOTION PASSED

SUBJECT: 7519 Parker Circle – Request a Variance to Allow Fencing to Exceed Six Feet in Height in an “R” Residential zoning district

BACKGROUND:

DATE SUBDIVISION APPROVED: Lot 9 in the Germantown Heights Subdivision was approved by the Germantown Planning Commission in 1959.

DATE PRINCIPLE STRUCTURE APPROVED/BUILT: The principal structure was built in 1959.

PREVIOUS VARIANCES: None

DISCUSSION:

NATURE OF VARIANCE REQUESTED: The applicant is requesting approval of approximately 27 feet of existing fence that exceeds the 6 ft. maximum height limit. The homeowner removed the section of fence along the east property line, from the rear corner of his dwelling to the front corner of his dwelling, and replaced it with an 8 ft. tall fence. An 8 ft. fence was also constructed from the east property line to the dwelling, along the front building line. The fence is a wood stockade fence.

The homeowner was notified of the violation by Code Compliance staff on December 19, 2011, and filed a variance application on January 3, 2012. 7519 Parker Circle Board of Zoning Appeals – February 14, 2012
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SPECIFIC SECTIONS OF ZONING ORDINANCE: The specific request is a variance from §6-102(a) of the Code of Ordinances, which states, “the maximum height of any fence shall be six (6) feet.”

APPLICANT’S JUSTIFICATION: The applicant bases the variance request on the exceptional topographic conditions of his lot. He states (our) “house is elevated compared to neighbor’s garage, which is only approximately 15 ft. away from two bedroom windows....Two windows on east side of house are practically unusable.” He notes that the two bedroom windows are approximately 5.5 feet off the ground and “our neighbor’s garage looks right into these two windows and a standard 6 foot fence offers no privacy.”

STAFF COMMENTS:

1. The homeowner constructed the section of fence in question. Photos of the fence are attached and the homeowner has included a sketch of the fence with his application.

Benjamin J. Granger, Applicant
7519 Parker Circle
Germantown, TN 38138

Mr. Granger advised that he built the fence because of the two bedroom windows which are elevated approximately five and a half feet off of the ground. Per Mr. Granger s a six foot fence did not provide much privacy. Mr. Granger said not getting a permit for the additional section was an oversight on his part.

Ms. Boyd asked Mr. Granger how long has he been at this address. Mr. Granger said five years now. Ms. Boyd then asked what prompted the building of the fence. Mr. Granger said that he and family had wanted to erect the fence for a while and finally found the time to do it.

Mr. Klevan asked Mr. Granger if he built the fence himself. Mr. Granger replied “yes”, he did.

Chairman Evans asked Mr. Granger if he was aware that he was supposed to secure a permit. Mr. Granger stated that he was not. Chairman Evans then asked Mr. Granger would a person be able to see inside his bedroom windows if he was standing in the next door neighbor’s carport. Mr. Granger said yes. Chairman Evans explained that he has a six foot fence in his backyard and he is not able to see over it, although he stands six feet tall. Per Chairman Evans, he would only be able to see the top part of the window, not actually into the window itself.

Chairman Evans stated to Mr. Granger that he has a problem in that he did not secure a permit. He said that he has consistently voted against items that have come before us for that very reason. Chairman Evans further stated that we [Board] are obligated to assure that there is a hardship that necessitates a fence being eight feet in height. He said at this time, he is not convinced that Mr. Granger has a hardship, especially since he has lived in the house for five years. Mr. Granger stated that it is nice to use the two windows that are in the bedroom by not having to keep the blinds closed all of the time.

Chairman Evans advised Mr. Granger that if the Board puts this to a vote tonight, and it is denied, he would be at that point required to take down the entire fence. He further advised that if Mr. Granger withdraws the variance tonight, opts to take the fence down to six feet and secures a permit, there would be no reason to come before the Board again on this matter. With that Mr. Granger withdrew his request.

ITEM WITHDRAWN

Meeting Adjourned at 6:12 p.m.