



CITY OF FRANKLIN

DEPARTMENT OF PLANNING & ENGINEERING

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BZA Staff Report

To: Board of Zoning Appeals Members
From: Alex Getchell, Associate Planner
Date: June 25, 2014
Re: Case ZB 2014-05 (V) 555 E. Adams Street, Patti Paris

REQUEST:

Case ZB 2014-05 (V)...Patti Paris. A request for a variance from the City of Franklin Zoning Ordinance Article 7, Chapter 15 to allow a fence in a front yard to be six (6) feet in height, in the Residential: Traditional Neighborhood (RTN) zoning district. The property is located at 555 E. Adams Street.

PURPOSE OF STANDARD:

The "RTN", Residential: Traditional Neighborhood zoning district is intended to ensure the continued viability of the traditional-style neighborhoods in existence on the effective date of this Ordinance. This district should be used to maintain contextually appropriate setbacks and standards in its traditional neighborhoods.

CONSIDERATIONS:

Proposed Use & Recent History

1. The petitioner is requesting a variance to allow a six (6) foot tall fence placed in the front yard.
2. Petitioner purchased the home in 2012 and has made numerous updates to the property. Petitioner has listed the property for sale, but she has stated there has been trouble attracting buyers. The petitioner believes that's due, in part, to the condition of the neighboring property's front porch.
3. On March 17, 2014, an anonymous complaint was filed with the City of Franklin Department of Planning & Engineering, regarding the placement of a new fence on the east side of the subject property. The complaint alleged a fence was constructed too tall and with the structural side of the fence facing outward.

Fence, Hedge, and Wall Standards

4. According to Article 7, Chapter 15 (Fence Hedge & Wall Standards), Structural Face: All fences and walls shall present the non-structural face outward.
5. According to Article 7, Chapter 15 (Fence Hedge & Wall Standards), Height Requirements: Fences, hedges, and walls shall not exceed 6 feet in height in any side or rear yard or 3 feet in height in any front yard. For the purposes of this requirement, the front yard shall be defined as the area located between an adjacent street and the wall of the primary structure that faces it (see graphic on page 2).

Zoning Violation

6. An inspection by staff confirmed the fence constructed along the east property line was taller than permitted and the structural side of the fence was facing outward; both violations of the Zoning Ordinance Article 7, Chapter 15. A Notice of Violation (ZON 2014-037) was sent to the property owner (petitioner) on March 18, 2014.
7. After receiving the Notice of Violation, Ms. Paris spoke with staff, and then altered the fence to have the structural side facing inward. However, the height of the fence remained at six (6) feet in the front yard (Figure 3, pg. 4). Ms. Paris stated the fence height of six (6) feet is needed to hide the condition of the neighboring property's front porch.
8. Staff has since had multiple conversations with the petitioner regarding the requirements of the ordinance and options for coming into compliance, without the need for a variance. Including, lowering the height to 3 feet, or incorporating a transition in height (Figure 1) in the front yard.
9. The overall length of the fence is approximately 24 feet along the side property line, with approximately half (12 feet) of the fence located within the area designated as front yard by the Zoning Ordinance (Figure 2).

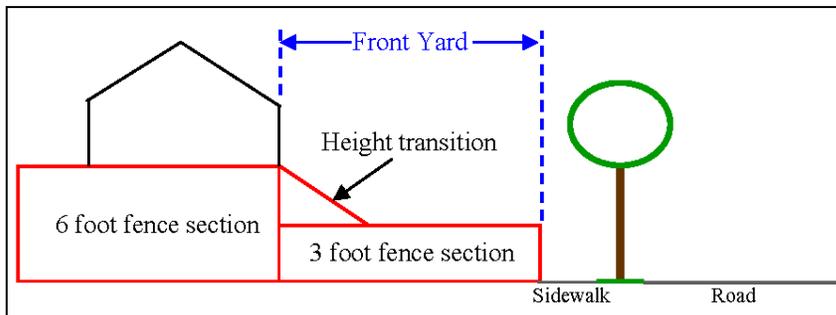


Figure 1: Height Transition Profile

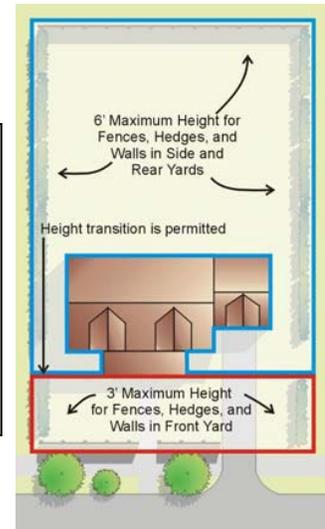


Figure 2: Fence Standards

Comprehensive Plan & Zoning Ordinance

10. The 2013 Franklin Comprehensive Plan, Land Use Plan, identifies this area as Traditional Residential. "Traditional neighborhoods are distinctive in their character and references to historic development patterns in Franklin. Streetscapes are dominated by front porches and small front yard setbacks, garages are located to the rear of the house and generally accessed by alleys. Sidewalks; street trees; a diversity of housing designs, sizes, and styles; and human scale street lighting play important roles in the character of these neighborhoods."
11. The definition of a practical difficulty, according to the 2004 City of Franklin Zoning Ordinance is: A difficulty with regard to one's ability to improve land stemming from regulations of this Ordinance. A practical difficulty is not a "hardship," rather it is a situation where the owner could comply with the regulations within the Zoning Ordinance, but would like a variance from the Developmental Standards to improve his/her site in practical manner. For instance, a person may request a variance from a side yard setback due to a large tree that is blocking the only location that would meet the Development Standards for a new garage location.

Surrounding Zoning:

North: RTN, Residential: Traditional Neighborhood
South: RTN, Residential: Traditional Neighborhood
East: RTN, Residential: Traditional Neighborhood
West: RTN, Residential: Traditional Neighborhood

Surrounding Land Use:

North: Single-family residential
South: Single-family residential
East: Single-family residential
West: Single-family residential

CRITERIA FOR DECISIONS:

(The petitioner will need to address the Criteria for Decisions in their presentation**)**

In taking action on all special exception and variance requests, the Board of Zoning Appeals shall use the following decision criteria, consistent with the requirements of the Indiana Code. The Board may grant a special exception and a variance from development standards and limitations of this Ordinance if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.5) that:

DECISION CRITERIA

- 1. General Welfare: The approval (will or will not) be injurious to the public health, safety, morals, and general welfare of the community.*

Staff Finding:

The approval of the variance will be injurious to the public health, safety, morals, and general welfare of the community. The construction, location, and style of a fence placed on a property is often times replicated by neighboring properties, with the assumption the fence is permitted in that manner and location. When a fence is placed in a manner *not consistent* with the ordinance, the situation becomes difficult to enforce, as permits and notification to the Planning Department are not required for fences. In some instances, a substantial amount of time can pass, and the homeowner’s perceived vested interest in a fence increases, before staff ever has knowledge of the fence violation. Approval of this proposal could result in multiple other fences being constructed which are in violation of the ordinance. The petitioner should explain how approval of this variance will not be injurious to the public health, safety, morals, and general welfare of the community.

- 2. Adjacent Property: The use and value of the area adjacent to the property included in the variance (will or will not) be affected in a substantially adverse manner.*

Staff Finding:

The use and value of adjacent properties will be affected in an adverse manner, as the fence directly blocks the view out of the front porch and side window of the neighboring property. A fence which meets the requirements of the ordinance would not block the view from the neighboring property’s front porch or adversely affect any other property.

- 3. Practical Difficulty: The strict application of the terms of the ordinance (will or will not) result in a practical difficulty in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.*

Staff Finding:

The strict application of the ordinance will not result in a practical difficulty, as a fence three (3) feet in height would be permitted, including the option to utilize a transition in height. The situation may constitute a self-imposed practical difficulty, as the petitioner constructed the fence in violation of the ordinance, and now seeks approval for it to remain. Furthermore, it appears the applicant is basing the practical difficulty on the perceived reduction of economic gain. The petitioner should explain how approval of this variance will result in a practical difficulty in the use of the property.

STAFF RECOMMENDATION

Based on the written findings above, staff recommends **denial** of this petition.

Site Photographs:



Figure 3: Paris fence in front yard (4/17/2014)