



CITY OF FRANKLIN

DEPARTMENT OF PLANNING & ECONOMIC DEVELOPMENT › DEPARTMENT OF ENGINEERING
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BZA Staff Report

To: Board of Zoning Appeals Members

From: Joanna Myers, Senior Planner

Date: June 27, 2011

Re: Case ZB 2011-07 (V)

REQUEST:

Case ZB 2011-07 (V)...Allen Paris. A request for a variance from the City of Franklin Zoning Ordinance, Article 7, Chapter 15, to allow a 6 ft. fence to be located within the front yard in the RS-1 and RSN zoning districts. The property is located at 4001 E. CR. 100 N. (south of Upper Shelbyville Road, immediately west of Paris Estates).

PURPOSE OF STANDARD:

The "RS-1", Residential: Suburban One zoning district is established to provide suburban style, medium to low density single-family residential development along with contributing infrastructure and other necessary features.

The "RSN", Residential: Suburban Neighborhood zoning district is intended to ensure the continued viability of suburban-style lots in existence on the effective date of this Ordinance. This district should only be used to maintain established setbacks and standards in suburban neighborhoods.

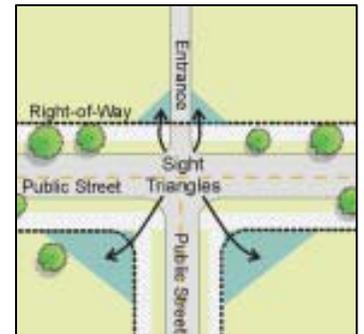
CONSIDERATIONS:

1. The petitioner is requesting approval to allow a 6 ft. fence to be installed within the front yard of County Road 100 N and Putter Drive at 4001 E. CR. 100 N. (See the attached site plan.)
2. Article 7.15 of the Zoning Ordinance states "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" and "all fences, hedges, and walls may be permitted up to any property line. No fence, hedge or wall may be placed in any right-of-way or required sight visibility triangle."
3. The residence is located approximately 600 feet south of the edge of pavement along CR 100 N.
4. The front yard setback is any setback from the right-of-way. The subject property fronts on two rights-of-way: CR 100 N along the north and Putter Drive along the east.
5. CR 100 N is classified as a Primary Collector Street and Putter Drive is classified as a Local Street per the City of Franklin Thoroughfare Plan.

6. The west portion of the subject property is zoned RS-1. The lot standards for the RS-1 zoning district indicate that the front yard setback for properties adjacent to a Collector Street is 30 feet and 20 feet when adjacent to a Local Street.
7. The east portion of the subject property is zoned RSN. The lot standards for the RSN zoning district indicate that the front yard setback is as shown on the approved preliminary plat on the effective date of the Zoning Ordinance. However, the property is not contained within an approved preliminary plat.
8. CR 100 N is maintained by Johnson County and not the City of Franklin.
9. According to the Johnson County Highway Department, the right-of-way for CR 100 N is an apparent right-of-way. The specifics on what is included within the apparent right-of-way and how it impacts the subject property have been discussed on a number of occasions. A final determination to the exact location of the right-of-way of CR 100 N has not been made.
10. There are existing poles and overhead lines located along the frontage of CR 100 N. The north sides of the poles are located approximately 8 feet from the edge of pavement.

11. According to Article 7.13: “All properties shall maintain an area (the “sight visibility triangle”) at every intersection of an adjoining street with other streets and entrance drives. The sight visibility triangle shall be free of structures, vegetation, signs (other than street signs), and other opaque or partially opaque objects between a height of 2 ½ and 12 feet measured from the nearest top-of-curb (or edge of pavement where curbs are not present).

The Sight Visibility Triangle shall be established by connecting points located along the intersecting rights-of-way (or edge of pavement in the case of entrances) at the distances from the point of intersection required by the Sight Visibility Requirement Table. (Collector = 30 ft. & Entrance = 10 ft)



12. 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.
13. The 2002 Franklin Comprehensive Plan, Land Use Plan, identifies this area as Large-Lot Suburban Residential. “Large-lot suburban residential areas are intended to include primarily single family detached residences. Other uses in small-lot suburban neighborhoods may include neighborhood and community parks and neighborhood-scale churches and schools. These neighborhoods are distinguished from small-lot suburban residential areas by their comparatively larger lot size and setbacks and lower density. A diversity of home sizes and designs is encouraged in these areas. Also encouraged is the occasional incorporation of accessory residences. In all cases, the design features of each home should provide materials, a scale, and other design elements that promote consistency in the neighborhood.”

The surrounding zoning and land uses are as follows:

Surrounding Zoning:

North: RSN & RR, Rural: Residential
South: RSN, Residential: Suburban Neighborhood
East: RSN, Residential: Suburban Neighborhood
West: RS-1, Residential: Suburban One

Surrounding Land Use:

North: Residential
South: Residential & Golf Course
East: Residential
West: Agriculture

CRITERIA FOR DECISIONS:

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

In taking action on all 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 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:

- 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 petition will not be injurious to the public health, safety, morals or general welfare of the community as the proposed fence meets the development standards outlined in the Zoning Ordinance, with the exclusion of the proposed height and could be located as proposed but at 3 feet in height.

- 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:

Adjacent properties to the subject property will not be affected in a substantially adverse manner as the adjacent property owners to the east and south are allowed to install 6 ft. tall fences as proposed by the petitioner, with the exception of the two properties at the end of Putter Drive. A small portion of the proposed 6 ft. fence would not be permitted by Ordinance on their property; however, it would be permitted on the subject property with the exception of the red highlighted portion at the end of Putter Drive.

- 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:

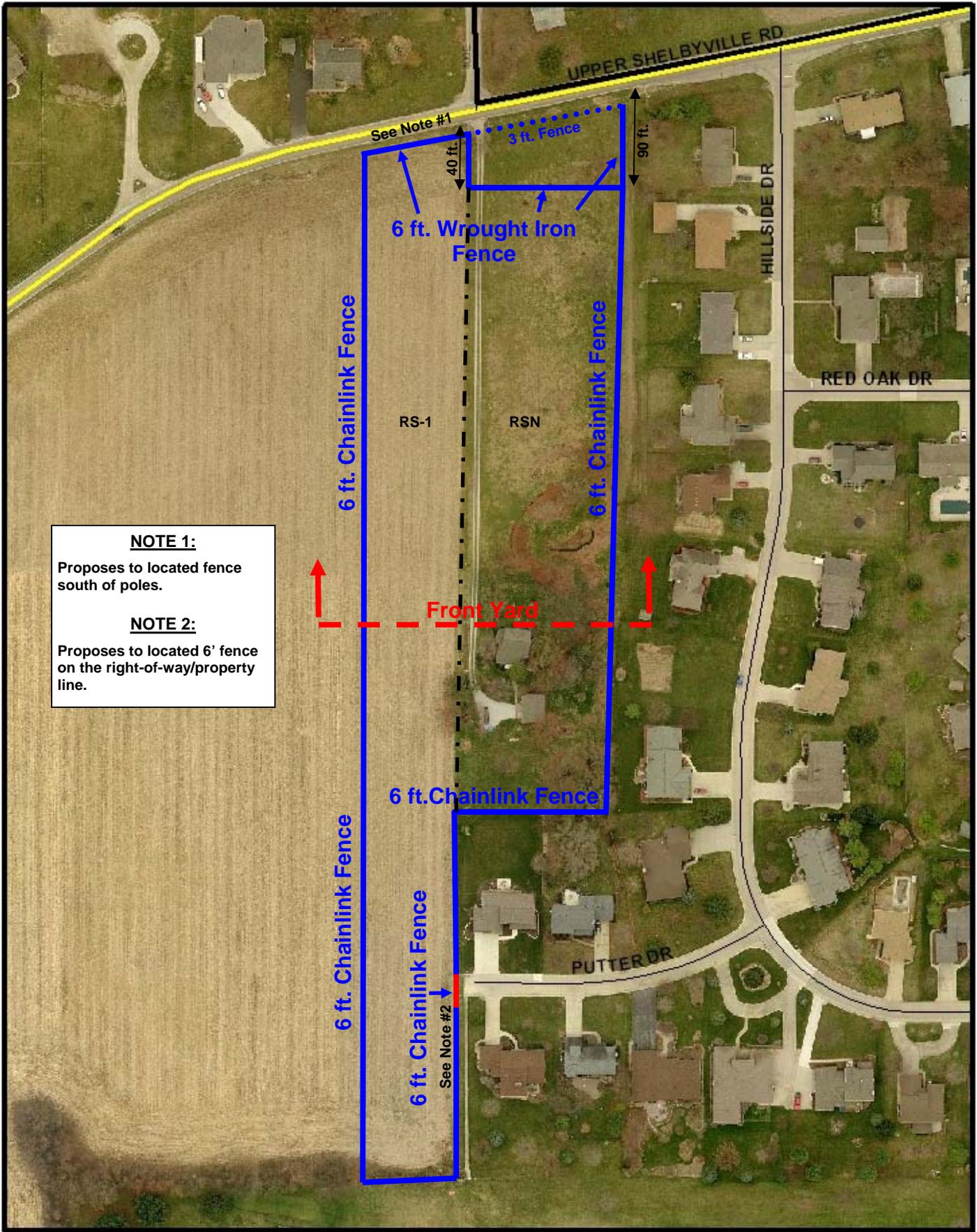
Staff finds that a practical difficulty in the use of the property does exist as the residence is located approximately 600 feet from CR 100 N and the structure does not face Putter Drive. If the structure was located on the setback line, a 6 ft. fence could be installed south of this setback line. The difference between building on the 30 ft. setback line and as it currently exists is approximately 570 ft of fence.

Please Note: The City of Franklin Board of Zoning Appeals may impose reasonable conditions as part of its approval per Amended IC 36-7-4-918.5 [EFFECTIVE JULY 1, 2011].

STAFF RECOMMENDATION

Based on the written findings above, staff recommends **approval with the following conditions:**

1. The 6 ft. fence shall be located at least 30 feet south of the edge of pavement.
2. The proposed fence shall not impede drainage.



ZB 2011-07 (V)
Allen Paris