



CITY OF FRANKLIN

DEPARTMENT OF PLANNING & ENGINEERING

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BZA Staff Report

To: Board of Zoning Appeals Members

From: Alex Getchell, AICP, Senior Planner

Date: October 30, 2019

Re: Cases ZB 2019-15 (V) | Haedyn Scgalski | 40 W. Adams St.

REQUESTS:

Case ZB 2019-15 (V)...40 W. Adams St. A request for consideration of a development standards variance from the City of Franklin Zoning Ordinance, Article 7, Chapter 15, to allow a fence six feet in height in a front yard, in the RTN: Residential, Traditional Neighborhood zoning district. The property is located at 40 W. Adams Street, which is on the northwest corner of N. Main Street and 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 the Zoning Ordinance (May 10, 2004). This district should be used to maintain contextually appropriate setbacks and standards in its traditional neighborhoods.

CONSIDERATIONS:

Variance Request

1. Jennifer Haedyn Scgalski, Petitioner, is requesting approval to install a fence, six (6) feet in height, in a front yard, approximately 30 feet from the property / right-of-way line. [\[Exhibit A: Proposed Fence Map\]](#)
2. Petitioner's property is a corner lot located on the northwest corner of N. Main St. and W. Adams St. Petitioner's home is situated all the way to the west on the property, with approx. 80+ feet of property between the house and the public sidewalk of N. Main St.
3. According to the City of Franklin Zoning Ordinance, Article 7, Chapter 15, [\[Figure 1: Fence Heights\]](#) residential fences are permitted up to three (3) feet in height in any front yard, and up to six (6) feet in height in any side or rear yard. For the purposes of the fence height requirement, the front yard is defined as "the area located between an adjacent street and the wall of the primary structure that faces it." Corner lots have two "front yards."
4. Variance Request: *Petitioner is proposing to enclose an area approximately 50 feet by 39 feet in size, in the area considered to be "front yard" between the house and N. Main St.* [\[Exhibit B: Petitioner Letter\]](#)

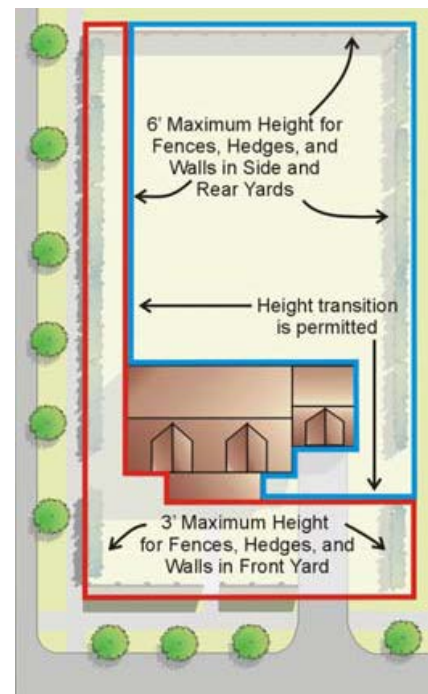


Figure 1: Fence Heights

Comprehensive Plan & Zoning Ordinance

5. The 2013 Franklin Comprehensive Plan, Land Use Plan, identifies this area as Core Residential. “The core residential areas of Franklin are those which are immediately adjacent to the downtown. These neighborhoods feature a majority of Franklin’s historically significant homes. Land uses in these areas should be dominated by a diversity of single-family homes, and also include neighborhood-scale churches and schools. Historically significant duplexes, multi-family dwellings, and accessory residences which contribute to the character of the area should be maintained and enhanced. The conversion of homes to apartments and businesses should be generally prohibited and otherwise strictly regulated.”
6. The 2013 Franklin Comprehensive Plan, Land Use Plan, also addresses the land use relationships for Core Residential areas: “The most significant land use relationships in this area are between the area’s residential and non-residential uses, and between the area as a whole and the downtown. The area’s mixed uses should continue to support the human-scale features and walkability of the neighborhood. Uses of all types should be of a scale and setback that contribute positively to the character of the area. The strong pedestrian connections to the downtown provided by the area’s sidewalks should be maintained and enhanced. Any redevelopment, infill construction, or renovation in these areas should respect and support their unique character. Elements of that character include vehicle access provided by alleys, front porches and small front yard setbacks, street trees, and a diversity of housing styles and sizes.”
7. 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.
8. According to Article 2.5: A special exception or variance ceases to be authorized and is expired if the obtaining of an Improvement Location Permit, or the execution of the approval has not been completed within 1 year of the date the variance or special exception is granted. The variance or special exception shall also expire if the approved construction has not been completed and approved by the Planning Director as being consistent with all written commitments or conditions, the requirements of this Ordinance, and all applicable permits within 2 years of the date the approval is granted.
9. The surrounding zoning and land uses are as follows:

Surrounding Zoning:	Surrounding Land Use:
North: RTN: Residential, Traditional Neighborhood	North: Single-family Residential
South: RTN: Residential, Traditional Neighborhood	South: Two-family Residential
East: RTN: Residential, Traditional Neighborhood	East: Single-family Residential
West: RTN: Residential, Traditional Neighborhood	West: Single-family Residential

CRITERIA FOR DECISIONS – DEVELOPMENT STANDARDS VARIANCE:

(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:

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DECISION CRITERIA – DEVELOPMENT STANDARDS VARIANCES

- 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:

Staff finds the approval of the proposed variance, to allow a fence six (6) feet in height in the front yard along N. Main St., will not be injurious to the public health, safety or general welfare of the community. Petitioner is proposing the fence to be constructed approximately 30 feet from both the N. Main St. and W. Adams St. rights-of-way; therefore, the fence will not obstruct the visibility of motorists navigating the Adams Street / N. Main Street intersection. Moreover, the proposed fence would not crowd any pedestrian walkway or adjacent property.

- 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:

Staff finds that the use and value of adjacent properties will not be affected in a substantially adverse manner, as petitioner proposes for the fence to be located approximately 30 feet from the right-of-way of N. Main St. The proposed fence would be located approximately 20 feet behind the front setback of all the other homes on the same block of N. Main St., including the home adjacent to the north; therefore, the character and development pattern of the general vicinity will not be affected. Approval of the fence in the proposed location will not have an adverse effect on the use or value of adjacent properties.

- 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 the strict application of the ordinance will result in a practical difficulty. The home on the subject property is situated along the west property line, with the front of the house oriented to face south (W. Adams Street), which creates a large yard to the east of the home, approximately 80-85 feet in width. By definition, the area east of the home is a front yard; however, for all practical purposes, this area is the only usable outdoor space on the property. Staff finds the strict application of the ordinance will result in a practical difficulty, as the proposed fence would be constructed 20 farther from N. Main St. than all other homes on the same block. Additionally, since the fence would not crowd or obstruct the use of any adjoining property, sidewalk, or street, it is not practical to strictly require the fence be three (3) feet in height or have no fence at all.

STAFF RECOMMENDATION – DEVELOPMENT STANDARDS VARIANCES

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

- a. A fence six (6) feet in height shall be permitted no closer than 30 feet from the right-of-way of N. Main Street, as shown on the site plan dated October 29, 2019.
- b. The fence must be constructed to present the non-structural face outward.