



CITY OF FRANKLIN

DEPARTMENT OF PLANNING & ENGINEERING

70 E. MONROE STREET › FRANKLIN, INDIANA 46131 › 877.736.3631 › FAX 317.736.5310 › www.franklin.in.gov/planning

BZA Staff Report

To: Board of Zoning Appeals Members

From: Alex Getchell, AICP, Senior Planner

Date: August 27, 2020

Re: Cases ZB 2020-12 (V) | Candice Buck | 1590 Thornburg Ln

REQUESTS:

Case ZB 2020-12 (V)...1590 Thornburg Ln. A request for consideration of a development standards variance from the City of Franklin Zoning Ordinance, Article 7, Chapter 15, to allow a fence eight (8) feet in height, in the RSN: Residential, Traditional Neighborhood zoning district. The property is located at 1590 Thornburg Lane, which backs-up to E King St, ~300' east of the Eastview roundabout.

PURPOSE OF STANDARD:

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.

ZONING:

Surrounding Zoning:

North: RM, Residential: Multi-family
South: RSN, Residential: Suburban Neighborhood
East: RSN, Residential: Suburban Neighborhood
West: RSN, Residential: Suburban Neighborhood

Surrounding Land Use:

North: Church of Jesus Christ of Latter-Day Saints
South: Single-family Residential
East: Single-family Residential
West: Single-family Residential

CONSIDERATIONS:

Variance Request

1. Candice Buck, Petitioner, is requesting approval to install a fence, eight (8) feet in height along her north property line, which abuts the right-of-way of E. King St. [[Exhibit A: Proposed Fence Map](#)]
2. Petitioner’s property is a double-frontage lot, with primary frontage along Thornburg Lane, and is located on the south side of E. King St., approximately 300 feet east of the Eastview-King St roundabout. The public pedestrian trail is situated between King St. and petitioner’s north property line.
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.”

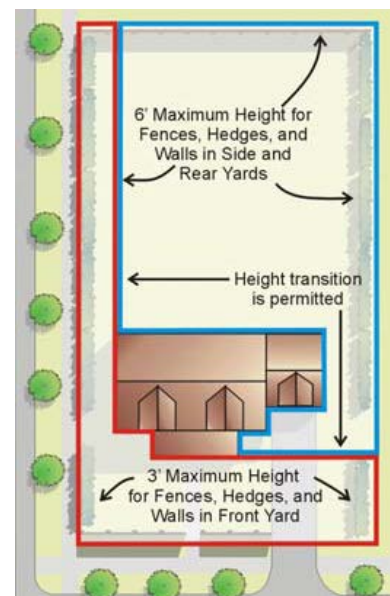


Figure 1: Fence Heights

4. The subject property is Lot 92 in the Jefferson Meadows Subdivision, Section 3. According to the recorded plat, along the rear of Lot 92 there are the following easements: 20' Telephone Easement; 20' Gas Line Easement, 30' Drainage Utility & Sewer Easement. [See [Exhibit B: Recorded Plat](#)]
5. Per City policy, fences are permitted to be placed within drainage and utility easements; the City recommends against fences in easements, but the City does not prohibit them, as long as they are not obstructing drainage or damaging to the utilities.
6. Variance Request: *Petitioner is proposing to construct a fence eight (8) feet in height along the north property line, and only the north property line, in order to provide additional privacy from the pedestrian trail and E. King St. traffic.*

Comprehensive Plan & Zoning Ordinance

7. The 2013 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."
8. The 2013 Franklin Comprehensive Plan, Land Use Plan, also addresses the land use relationships for Large-lot suburban residential areas: "Large-lot suburban residential neighborhoods should be located in primarily residential areas, within reasonable proximity of neighborhood activity centers and other locations where residents can obtain convenience goods. Access to nearby churches and schools is also encouraged. Access to these other land uses should be provided for both vehicles and pedestrians. These types of developments should have street systems which connect them to adjacent residential areas, as well as any nearby institutional centers or commercial developments. These types of neighborhoods should be protected from incompatible industrial developments, regional activity centers, and high-density residential developments (such as multi-family and manufactured home community neighborhoods)."
9. 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.
10. 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.

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:

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 eight (8) feet in height along E. King St., will not be injurious to the public health, safety or general welfare of the community, as the proposed fence meets the development standards outlined by the Zoning Ordinance, with the exception of the proposed height. Moreover, other residences located along Thornburg Lane, backing up to E. King St., have privacy fences along their north property lines and approval of this request will not crowd, obstruct, or create a safety issue with the pedestrian trail nor the King Street roadway.

- 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 other residences located along Thornburg Lane, backing up to E. King St., have privacy fences along their north property lines. Moreover, petitioner's request for additional fence height is limited to only the north property line along E. King St. and does not include either side property line or other location on the 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:

Staff finds the strict application of the ordinance will result in a practical difficulty in the use of the property, due to the existing change of grade between the rear property line and the pedestrian trail & E. King Street roadway. The roadway and pedestrian trail grade is 2-4 feet higher than the grade at the rear property line. The strict application of the fence height standards would result in a practical difficulty in providing privacy along the back of petitioner's double-frontage lot.

STAFF RECOMMENDATION – DEVELOPMENT STANDARDS VARIANCES

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

- A fence eight (8) feet in height shall be permitted up to the north property line of 1590 Thornburg Ln.
- All parts of the fence construction must be located completely on private property and not within the public right-of-way.
- Approval is limited to a wood, or similar material, privacy fence line running in an east-west direction and presenting the non-structural face to the north for the width of the subject property, between the residence and the right-of-way of E. King Street.
- Chainlink, chainlink with slats, wrought-iron, or similar non-opaque fence types are not included in the fence height variance approval.
- Approval does not supersede the rights of utilities and/or easement holders along the north end of the subject property.