

**MINUTES OF A MEETING OF
THE BOARD OF ZONING & APPEALS
THE CITY OF FOREST HILLS**

AUGUST 15, 2008

The Forest Hills Board of Zoning Appeals (herein also the “Board”) held its regular monthly meeting on August 15, 2008 at the City’s Offices, 4012 Hillsboro Road, Nashville, Tennessee, and beginning at 8:00 a.m. Chairperson Janie Rowland presided. Also present were Mr. Tim Douglas, Mr. Jim Littlejohn, City Manager Al Deck, and City Assistant Cynthia Despot. Others present are shown on the attached sign-in sheet. A copy of the Agenda is also attached to these minutes.

1. Approval of the minutes of the July 18, 2008 meeting. Upon a motion by Mr. Jim Littlejohn, which was seconded by Chairperson Janie Rowland, the minutes for the July 18, 2008 meeting were approved.

2. Letters of Credit: no action needed

3. Mr. Ridley Wills, of the Wills Company, represented Mr. Martin Brown, owner of 6231 Hillsboro Road, in requesting a variance to build a wall higher than allowed in the Zoning Ordinance. The Zoning Ordinance states the maximum height of fences and wall at four (4) feet. Mr. Brown wishes to construct a wall at five feet two inches (5’2”), to match an existing wall. Upon motion by Mr. Tim Douglas, which was seconded by Mr. Jim Littlejohn, the Board unanimously voted to approve the variance request to exceed the maximum height of a wall by one foot and two inches (1’2”), due to following conditions: the house and wall are not visible from Hillsboro Pike and cannot

be seen by neighbors. Also consideration was given to matching the existing wall, which was constructed prior the new four foot restrictions

4. Mr. Doug Hale, Attorney represented Mr. William Irby Bright, owner of the property at 1520 Old Hickory Boulevard, in requesting a variance for “Pole” easements, which serve as his access to his lot.

Mr. Bright has a lot without frontage on a public right-of-way, which has twenty-six foot (26) ingress & egress & utility easements on both the east and west sides. Presently only the western easement is developed and used to access the property. The City of Forest Hills Zoning Ordinance, Section 407A, states that a Pole to a flag lot must be owned in fee simple. The “Poles” or access points to Mr. Bright’s property are not owned in fee simple, but are easements. Mr. Hale requested the Board of Zoning Appeals grant a variance allowing the existing easements to be accepted as they exist.

Mr. Hale provided a detailed history of the property and the circumstances which led to the current request. Mr. Hale’s history began with the original Bright family parcel of approximately 18.16 acres, which included the Bright family home. At some point Mr. Bright subdivided the property into Parcel 104 and Parcel 50. Parcel 104, being the portion of the lot which fronts Old Hickory Boulevard, contained the family home and consisted of approximately 11.862+ acres. Parcel 50 was the northern portion of the original property and consisted of approximately 6.298 acres, on which Mr. Bright built a new home. Mr. Bright gave Parcel 104 to his son and daughter-in-law, Matt & Beth Ann Bright. Eventually Parcel 104 was sold by Matt & Beth Ann Bright to the Bichell family. After the sale of Lot 104, the only portion of the original Bright family property, was Lot 50, the 6.298 acre tract. Mr. Hale explained that on approximately July 31, 2006, Mr.

Irby Bright caused 2.006 acres on the eastern portion of Parcel 50 to be surveyed, and gave this property to his son Matt, by Quit Claim Deed, which is recorded as “Lot 135.” This subdivision of Lot 50 left 4.292 acres in that lot. This division of property was never presented to or approved by the City of Forest Hills Planning Commission and constitutes an illegal subdivision. The legal description was recorded by Davidson County, but is not a recorded lot of record with Forest Hills. Shortly after recording “Lot 135,” Matt Bright obtained a mortgage on that parcel and that mortgage is currently in default.

Mr. Hale represented Mr. Irby Bright before the Planning Commission and requested that the Commission formally approve “Lot 135,” which was never reviewed or approved by the City of Forest Hills. During that Planning Commission meeting, City Attorney Matt Foster explained that the Zoning Ordinance requires the “Pole” of a Flag Lot to be owned in fee simple. Since the ingress/egress to both Lot 50 and “Lot 135” are easements, Mr. Foster recommended the Planning Commission deny the subdivision request for failure to comply with Section 407A of the Zoning Ordinance. The Planning Commission subsequently turned down the Bright subdivision application.

After Mr. Hale’s presentation to the Board of Zoning Appeals, the members questioned both Mr. Hale and Mr. Bright about the summarized history of the property. The members discussed many of the points Mr. Hale brought out in his account of the divisions of the original property and the subsequent “Lot 135.” Their questions included the easements, the illegal subdivision of the property and the validity of the deed for “Lot 135.” Following their questions and discussions, Mr. Jim Littlejohn offered a motion, which was seconded by Mr. Tim Douglas, and the Board unanimously voted to deny the

variance request, based on the fact that the Pole is not owned in fee simple, the easements do not comply with the Zoning Ordinance, and the applicant failed to establish that strict application of the Zoning Ordinance will result in peculiar and exceptional difficulties to or exceptional or undue Hardship upon the applicant without substantially impairing the intent and purpose of the Zoning Ordinance.

Upon motion by Mr. Tim Douglas, which was seconded by Chairperson Janie Rowland, the meeting was adjourned.

Recorder

Chairperson