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Board of Zoning Appeals

Docket Date: July 19, 2018

Requests for Variances from the Sidewalk Ordinance

- CASE 2018-343 (Council District – 09)
- CASE 2018-358 (Council District – 03)
- CASE 2018-363 (Council District – 21)
- CASE 2018-366 (Council District – 18)
- CASE 2018-369 (Council District – 05)
- CASE 2018-373 (Council District – 07)

The following are recommendations from the Planning Department to the BZA for applicants for variances from the Sidewalk Ordinance which requires developers to install new sidewalks or make in-lieu fund contributions under certain conditions.

If the BZA applicant agrees with the recommendations of the Planning Department, their case will be eligible to be placed on the consent agenda for the meeting. If there is opposition present to the BZA application at the board meeting, the case will not be eligible for the consent agenda and will be heard in the order it was received.

Some of the BZA cases listed here may be withdrawn or deferred by the applicant prior to the meeting.

PLANNING DEPARTMENT SIDEWALK VARIANCE RECOMMENDATION

BZA Case 2018-343 (222 Myatt Drive)

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|--------------------------|--|
| Metro Standard: | 4' grass strip, 8' sidewalk, as defined by the Major and Collector Street Plan |
| Requested Variance: | Not construct sidewalks, not contribute in-lieu of construction (eligible) |
| Community Plan Policy: | T4 CM (Urban Mixed Use Corridor) |
| MCSP Street Designation: | T4-M-AB4 |
| Transit: | #27 – Old Hickory; #36X – Madison Express |
| Bikeway: | None existing; bike lanes planned |

Planning Staff Recommendation: *Disapprove*

Analysis: The applicant is constructing a new single family structure on the property, and requests not to construct sidewalks or contribute in lieu due to the lack of existing sidewalks in the area. Per the Zoning Ordinance, the applicant is eligible to contribute in lieu of construction. Electing to make the contribution in lieu of construction supplements Metro's annual sidewalk capital program by increasing sidewalk construction funds for areas surrounding this property, which is within one of Metro's sixteen pedestrian benefit zones. Staff finds no unique hardship for the property, as a sidewalk could be constructed on the site.

Given the factors above, staff recommends **disapproval as the applicant has the option to contribute in-lieu of constructing sidewalks.**

PLANNING DEPARTMENT SIDEWALK VARIANCE RECOMMENDATION

BZA Case 2018-358 (500 Hickory Hills Boulevard)

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|--------------------------|--|
| Metro Standard: | Old Hickory Boulevard - 6' grass strip, 8' sidewalk, as defined by the Local Street standard |
| | Hickory Hills Boulevard - 4' grass strip, 5' sidewalk, as defined by the Local Street standard |
| | Hickory Hills Court - 4' grass strip, 5' sidewalk, as defined by the Local Street standard |
| Requested Variance: | Not construct sidewalks; not contribute in lieu of construction (not eligible) |
| Community Plan Policy: | T3 NE (Suburban Neighborhood Evolving) |
| | CO (Conservation: stream buffer across Old Hickory Boulevard frontage; floodplain) |
| MCSP Street Designation: | Old Hickory Boulevard – T3-M-AB5 |
| | Hickory Hills Boulevard – Local Street |
| | Hickory Hills Court – Local Street |
| Transit: | None existing; none planned |
| Bikeway: | Old Hickory Boulevard – Major Protected Bike Lanes planned per WalknBike |
| | Hickory Hills Boulevard – None existing; none planned |
| | Hickory Hills Court – None existing; none planned |

Planning Staff Recommendation: *Approve with conditions*

Analysis: The applicant is constructing a retail addition to an existing gas station with some façade improvements, and requests a variance related to utilities and a stream. Planning evaluated the following factors for the variance request:

- (1) A stream is identified along the north side of Old Hickory Boulevard. The adjacent floodplain is located along this property frontage and portions of Hickory Hills Boulevard. Maintaining the existing drainage ditches is optimal in order to avoid impacts to neighboring properties. The existing stormwater infrastructure on the applicant's property extends across several lots. The construction of curb and gutter with the new sidewalk in this location will require the applicant to upgrade the stormwater drains and impact neighboring properties.
- (2) There are water, sewer, and fiber utilities along Hickory Hills Drive which will require significant relocation across this property. This is extensive given the scale of the commercial addition.
- (3) There are topographic challenges at this location along Hickory Hills Court between the existing street and the driveway access points that are extensive given the scale of the commercial addition.

Given the factors above, staff recommends **approval with conditions:**

1. Prior to the issuance of building permits, dedicate right-of-way along the property frontages to accommodate future sidewalks per the Major and Collector Street Plan and Metro Local Street standards.

PLANNING DEPARTMENT SIDEWALK VARIANCE RECOMMENDATION

BZA Case 2018-363 (1907 A-B 9th Avenue North)

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|--------------------------|--|
| Metro Standard: | 6' grass strip, 6' sidewalk, as defined by the Major and Collector Street Plan |
| Requested Variance: | Not upgrade sidewalks |
| Community Plan Policy: | T3 NE (Suburban Neighborhood Evolving) |
| MCSP Street Designation: | T4-R-CA2 |
| Transit: | 500' from #42 – St Cecilia/Cumberland |
| Bikeway: | None existing; none planned |

Planning Staff Recommendation: *Approve with conditions*

Analysis: The applicant is constructing two new structures on the property replacing the existing home, and requests not to upgrade sidewalks due to existing sidewalks and disruption to the existing sidewalk network. Planning evaluated the following factors for the variance request:

- (1) 8' sidewalks with no grass strip currently exist on the property frontage. This is consistent with the street and block face.
- (2) Ideally, a Collector-Avenue will include a grass strip to accommodate signs, utility poles, and other obstructions. In this instance, the sidewalk design is well-established with adjacent on-street parking, which provides additional buffer for pedestrians in a more urban context. A contribution in-lieu of construction will supplement Metro's annual sidewalk capital program by increasing sidewalk construction funds for areas surrounding this property.

Given the factors above, staff recommends **approval with conditions:**

1. The applicant shall contribute in lieu of construction for the property frontage.

PLANNING DEPARTMENT SIDEWALK VARIANCE RECOMMENDATION

BZA Case 2018-366 (2812 Hillside Drive)

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|--------------------------|--|
| Metro Standard: | 4' grass strip, 5' sidewalk, as defined by the Metro Local Street standard |
| Requested Variance: | Not construct sidewalks |
| Community Plan Policy: | T4 NM (Urban Neighborhood Maintenance) |
| MCSP Street Designation: | Local Street |
| Transit: | None existing; none planned |
| Bikeway: | None existing; none planned |

Planning Staff Recommendation: *Disapprove.*

Analysis: The applicant is constructing a single family dwelling, and requests a variance from constructing sidewalks due to the lack of existing sidewalks along the Hillside Drive block face. Per the Zoning Ordinance, the applicant is eligible to contribute in lieu of construction. Electing to make the contribution in lieu of construction supplements Metro's annual sidewalk capital program by increasing sidewalk construction funds for areas surrounding this property, within one of Metro's sixteen pedestrian benefit zones. Staff finds no unique hardship for the property.

Given the factors above, staff recommends **disapproval as the applicant has the option to contribute in-lieu of construction.** The applicant shall also dedicate right-of-way for future sidewalk construction.

PLANNING DEPARTMENT SIDEWALK VARIANCE RECOMMENDATION

BZA Case 2018-369 (720 McFerrin Avenue)

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|--------------------------|--|
| Metro Standard: | 4' grass strip, 8' sidewalk, as defined by the Major and Collector Street Plan |
| Requested Variance: | Not construct sidewalks; not contribute in lieu of construction (not eligible) |
| Community Plan Policy: | T4 NC (Urban Neighborhood Center) |
| MCSP Street Designation: | T4-M-CA2 |
| Transit: | #30 – McFerrin |
| Bikeway: | Minor Protected Bike Lanes per WalknBike |

Planning Staff Recommendation: *Approval with conditions*

Analysis: The applicant is renovating the existing single family home on the property as a medical office, and constructing a new one-story addition at the rear of the existing building to be used as a duplex, and requests not to upgrade sidewalks due to existing sidewalks the fact that the existing building will remain. Planning evaluated the following factors for the variance request:

- (1) 6' sidewalks with no grass strip currently exist on the property frontage. This is consistent with the street and block face.
- (2) Ideally, a Collector-Avenue will include a grass strip to accommodate signs, utility poles, and other obstructions. In this instance, the sidewalk design is well-established with adjacent on-street parking, which provides additional buffer for pedestrians in a more urban context. A contribution in-lieu of construction will supplement Metro's annual sidewalk capital program by increasing sidewalk construction funds for areas surrounding this property.

Given the factors above, staff recommends **approval with conditions:**

1. The applicant shall contribute in lieu of construction for the property frontage.

PLANNING DEPARTMENT SIDEWALK VARIANCE RECOMMENDATION

BZA Case 2018-373 (1532 Harwood Drive)

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|--------------------------|--|
| Metro Standard: | Porter Road – 6' grass strip, 8' sidewalk, as defined by the Major and Collector Street Plan |
| | Harwood Drive – 4' grass strip, 5' sidewalk, as defined by Metro Local Street standard |
| Requested Variance: | Not build sidewalks; not contribute in-lieu of construction (eligible) |
| Community Plan Policy: | T3 NM (Suburban Neighborhood Maintenance) |
| MCSP Street Designation: | Porter Road – T3-M-CA2 |
| | Harwood Drive – Local Street |
| Transit: | #4 – Shelby |
| Bikeway: | Minor Separated Bikeway planned for Porter Road |

Planning Staff Recommendation: *Approve with conditions*

Analysis: The applicant is constructing a single family dwelling, and requests a variance from constructing sidewalks due to the lack of existing sidewalks along both Porter Road and Harwood Drive.

Planning evaluated the following factors for the variance request:

- (1) There are existing stormwater facilities along Harwood Drive that will require upgraded stormwater infrastructure with sidewalk installation along multiple properties at this location.
- (2) The applicant is eligible to contribute in lieu of construction. In this instance it is an appropriate alternative to elect to make the contribution in lieu of construction along Porter Road. This contribution supplements Metro's annual sidewalk capital program by increasing sidewalk construction funds for areas surrounding this property, within one of Metro's sixteen pedestrian benefit zones. Staff finds no unique hardship for the Porter Road property frontage.

Given the factors above, staff recommends **approval with conditions:**

1. The applicant shall contribute in-lieu of construction for the Porter Road property frontage.
2. Prior to the issuance of building permits, dedicate right-of-way along the property frontages to accommodate future sidewalks per the Major and Collector Street Plan and Metro Local Street standards.

APPENDIX

Sidewalk Guidelines

General Requirements

1. Construction of new sidewalks is required along the entire lot frontage unless, a portion of the frontage abuts a proposed sidewalk segment that Public Works has funded and scheduled for construction.
2. Dimensions shall comply with the Major and Collector Street Plan and Public Works design standards.
3. Obstructions are prohibited within the pedestrian travel way.
4. Driveways, walkways, and other improvements shall be designed to accommodate future sidewalk construction where a planned sidewalk is identified in the Strategic Plan for Sidewalks and Bikeways.
5. Dedication of Rights-of-Way is required as needed:
 - a. with the construction of sidewalks,
 - b. with a contribution in-lieu of construction,
 - c. with permits for one or two family additions, or any renovation with a cost equal to or greater than 25% of the assessed value.

Multi-Family or Non-Residential Properties

Sidewalks are required when lots are:

1. Redeveloped.
2. New Development is on a vacant lot.
3. Renovation Cost is equal to or greater than 50% of the assessed value of all structures on the lot, or the value of multiple renovations during any five-year period equal or greater than 75% of the assessed value of all structures on the lot.
4. Expansion Cost is equal or greater than 25% of the assessed value of all structures on the lot, or the value of multiple expansions during a five- year period is equal to or greater than 50% of the assessed value of all structures on the lot.
5. Expansion Square Foot is equal or greater than 25% of the total square foot of all structures on the lot, or the total square foot of multiple expansions during a five- year period is equal to or greater than 50% of the total square foot of all structures on the lot.

And any of the following are met:

1. The property is within the Urban Services District.
2. Within a Center designated in the General Plan.
3. Within a quarter mile of a Center designated in the General Plan, unless the property is on the opposite side of a river or access controlled highway from a center.
4. On a street in the Major and Collector Street Plan.

New Single Family or Two-family Construction

Sidewalks are required when lots are:

1. Within the Urban Zoning Overlay.
2. Within a Center designated in the General Plan.
3. Within a quarter mile of a Center designated in the General Plan, unless the property is on the opposite side of a river or access controlled highway from a center.
4. On a street in the Major and Collector Street Plan.

In-Lieu Fee is Not Applicable

1. When there is an existing sidewalk in need of repair or replacement.
2. Existing sidewalk present on the same block face.
3. Multi-family or Non-Residential Properties within the Urban Zoning Overlay.
4. Multi-Family or Non-Residential Properties along a street in the Major and Collector Street Plan.
5. If a portion of the proposed sidewalk segment abuts a proposed sidewalk segment that Public Works has funded and scheduled for construction.

For additional information, see Third Substitute Ordinance No. BL2016-493
(http://www.nashville.gov/mc/ordinances/term_2015_2019/bl2016_493.htm)