



**MINUTES**  
**REGULAR MEETING OF VILLAGE OF FRANKFORT**  
**PLAN COMMISSION / ZONING BOARD OF APPEALS**  
**JULY 22, 2010 – 6:30 P.M. - FRANKFORT POLICE STATION**  
**20602 LINCOLN WAY LANE (LOWER LEVEL)**

**Call to Order**

Chair Renae Goldie called the meeting to order at 6:30 P.M.

**A. Roll Call**

Commissioners Present: Ken Chemers, Renae Goldie, Jim Matlock, John Newton, Dave Schumpp, Bob Beeson, and Don Schwarz

Commissioners Absent: None

Staff Present: Planning Supervisor Zach Brown and Planning Intern Tim Mulry

Elected Officials Present: Mayor Jim Holland, Liaison to the Village Board Trustee Mike Stevens and Trustee Todd Morgan

**B. Approval of Minutes from July 8, 2010**

Motion (#1) to Approve the minutes from July 8, 2010

Motion by: Schwarz      Seconded by: Schumpp  
Approved (6 to 0)  
Abstain (1)

**C. Public Hearing – Barnard Variances**

Applicant: Gander Builders Inc.

Location: 322 Nebraska Street

Request: Variances for Accessory Structure Setback from 10' to 5.5' and Accessory Structure Separation from 10' to 7.5', Fence Height from 4' to 5' and 5' to 8', Fence Post Height from 4.5' to 6.5' and a Variance to Permit an Accessory Structure in the Front Yard

Planning Supervisor Brown presented the staff report and provided an overview of the request. Steve Lecas was present representing the applicant and discussion ensued.

- Staff presented a letter of support from the property owners to the west.
- Members of the public expressed concern regarding the proposed landscape plantings along the southern property line and possible interference with an existing sewer line.

- The landscape architect was present and noted that the proposed plantings would generate roots that would grow no deeper than 1' below the surface. Mr. Lecas noted that the existing sewer line sits 6' below the surface and that wooded subdivisions like Butternut do not have reoccurring sewer problems.
- The property owner was present and noted that the proposed plantings along the southern property line were intended to soften the appearance of the wall to the property owners to the south and expressed his willingness to remove the plantings should they continue to be a cause for concern. Mr. Lecas noted that the proposed plantings were not required by ordinance.
- The applicant confirmed that he has agreed to provide the Village a security bond to cover any damage to the Village's sewer line resulting from the construction of the proposed wall.
- Mr. Lecas noted that per the Village's request, Mr. Barnard will record a restrictive covenant against the property stating that the Village of Frankfort is not responsible for any damage to the wall or landscaping resulting from maintenance or replacement of the sewer line.
- Members of the public questioned the proposed gate along the southern property wall. Mr. Lecas explained that along with being a decorative feature, the gate would allow the owner access to the remaining 5' of his property for maintenance purposes.
- Members of the audience questioned the proposed 8' wall height. The owner expressed his desire to increase privacy between neighboring properties.
- Discussion ensued regarding the 2' trellis and proposed ivy with adjacent property owners expressing concern that the ivy would grow to cover the space between the top of the wall and the bottom of the trellis creating the appearance of an 8' wall. Mr. Barnard noted that he intended to maintain an opening between the trellis and wall.
- Members of the audience presented an 8' plywood board to illustrate the total height of the proposed wall and trellis.
- Several audience members expressed concern regarding the size of the proposed accessory structures. Staff explained that the proposed structures meet ordinance requirements and do not require variance approval.
- Deborah Hardwick of 110 Kansas Street expressed concern over the "estate feel" of the property, suggesting that the proposed improvements were not consistent with the character of the area.

- Mrs. Hardwick questioned how the requested variances met the standards of variance as enumerated in the zoning ordinance.
- Members of the public questioned the impact of the project on property values in the area.

**Motion (#2):** Close public hearing

Motion by: Chemers Seconded by: Newton

Approved (7 to 0)

During the Plan Commission discussion:

- Commissioners questioned the design of the fence in the front yard. Mr. Lecas confirmed that the fence would be constructed of wrought iron with stone columns and that the two sections on either side of the front walkway would be stone walls with landscape planters.
- Members debated the appropriateness of the 2' trellis atop the 6' wall noting that variances for 6' fences within rear yards had been previously approved and that the applicant could construct a 15' trellis 10' from the southern property line by right.
- Several commissioners expressed concern regarding the wall/trellis height noting that approval of the wall could be precedence setting.
- Members agreed that the proposed trellis was a desirable aesthetic element however questioned its appropriateness atop the 6' wall.
- The applicant confirmed that he would maintain the space between the wall and trellis free from ivy.
- Commissioners noted that the 5' setback of the wall and the proposed landscape plantings could be considered a possible mitigating factor.
- Chair Goldie conducted a straw poll to gauge the commission's support for a 6' wall with no trellis. Members Goldie and Chemers supported the proposed compromise while the remainder of the commission expressed support for the proposal as presented.
- Members weighed the need for additional landscape plantings along the northern property line to screen the proposed play set vs. the desire to maintain visibility of the proposed pond from the public right-of-way. Commissioners ultimately agreed that maintaining visibility of the pond was desirable.

- Commissioners noted that the location of the play set was not precedence setting due to the substantial landscape screening provided and recommended complete screening as a condition of approval.
- Members discussed the setback and separation variances for the existing play house noting that these types of variances are common within the Old Town area.
- The applicant noted that he was aware that residential use of the pool house is prohibited by ordinance.

Staff presented the Standards of Variance and the commission entered the following Findings of Fact into the record;

Fence Height Variance (front yard)

1. *That the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone;*

Pools are common improvements on single-family residential properties. Increased fence and post heights are required to meet minimum pool safety standards. Were the variance denied the applicant could construct an additional fence surrounding the pool however doing so would compromise the utility of the rear yard and reduce the resale value of the property.

2. *That the plight of the owner is due to unique circumstances;*

Village ordinance requires a 5' safety fence surrounding pools. The applicant proposes to construct the safety fence at the perimeter of the property so as to maximize the utility of the rear yard.

3. *That the variation, if granted, will not alter the essential character of the locality.*

Increased front yard fence heights are common in the downtown area. The properties located at 256 Walnut and 200 W. Nebraska have increased fence heights within the front yard.

Fence Post Height Variance (front yard)

1. *That the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone;*

Pools are common improvements on single family residential properties. Increased fence and post heights are required to meet minimum pool safety standards. Were the variance denied the applicant could construct an additional

fence surrounding the pool however doing so would compromise the utility of the rear yard and reduce the resale value of the property.

2. *That the plight of the owner is due to unique circumstances;*

Village ordinance requires a 5' safety fence surrounding pools. Constructing masonry piers at 4.5' would compromise the design of the fence.

3. *That the variation, if granted, will not alter the essential character of the locality.*

The property located at 200 W. Nebraska Street is improved with a wrought iron fence with 5.5' masonry piers.

#### Wall Height Variance (rear yard)

1. *That the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone;*

Privacy screening is common surrounding pools in single family residential areas. Reducing the wall height to meet ordinance requirements would limit the privacy of the pool area and reduce the resale value of the property.

2. *That the plight of the owner is due to unique circumstances;*

The surrounding properties are substandard with respect lot area and as such their outdoor living spaces are closer to the subject property than they would be in a typical single family residential neighborhood. Increased wall height is necessary to provide adequate privacy screening of the applicant's pool.

3. *That the variation, if granted, will not alter the essential character of the locality.*

Increased rear yard fence heights are common within the downtown area. Several variances were approved in the vicinity of the subject property.

#### Accessory Structure Location (play set)

1. *That the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone;*

Children's play sets are common improvements on single family residential lots. Relocating the play set to meet ordinance requirements would compromise the utility of the rear yard and reduce the resale value of the property.

2. *That the plight of the owner is due to unique circumstances;*

Proposed improvements limit the area in which the play set can be located. Locating the play set to meet ordinance requirements would compromise the utility of the rear yard.

3. *That the variation, if granted, will not alter the essential character of the locality.*

The proposed landscaping will completely screen the play set from the public right-of-way and surrounding properties and as such will not alter the character of the area.

#### Accessory Structure Setback (playhouse)

1. *That the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone;*

Children's playhouses are common improvements on single family residential lots. Modifying the existing improvements is cost prohibitive.

2. *That the plight of the owner is due to unique circumstances;*

The applicant was unaware that a building permit was required nor standard setbacks applicable for the construction of a playhouse and as such erected the structure in a manner inconsistent with ordinance requirements.

3. *That the variation, if granted, will not alter the essential character of the locality.*

The majority of the accessory structures in the area were constructed prior to the adoption of current ordinance requirements and as such exhibit similar non-conformities.

#### Accessory Structure Separation (playhouse)

1. *That the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone;*

Children's playhouses are common improvements on single family residential lots. Modifying the existing improvements is cost prohibitive.

2. *That the plight of the owner is due to unique circumstances;*

The applicant was unaware that a building permit was required nor standard structure separation requirements applicable for the construction of a playhouse

and as such erected the structure in a manner inconsistent with ordinance requirements.

3. *That the variation, if granted, will not alter the essential character of the locality.*

The majority of the accessory structures in the area were constructed prior to the adoption of current ordinance requirements and as such exhibit similar non-conformities.

**Motion (#3):** Approve a fence height variance from 4' to 5' to permit the installation of a decorative wrought iron fence in the front yard of the property located at 322 W Nebraska Street in accordance with the reviewed plans and public testimony and condition upon relocating the proposed planters onto private property.

Motion by: Schumpp    Seconded by: Newton  
Approved (7 to 0)

**Motion (#4):** Approve a fence post height variance from 4.5' to 6.5' to permit the installation of a decorative wrought iron fence with stone columns in the front and side yards of the property located at 322 W Nebraska Street in accordance with the reviewed plans and public testimony and conditioned upon relocating the proposed planters onto private property.

Motion by: Schumpp    Seconded by: Beeson  
Approved (7 to 0)

**Motion (#5):** Approve a wall height variance from 5' to 8' to permit the construction of a decorative stone wall with a 2' wooden trellis in the rear yard of the property located at 322 W Nebraska Street in accordance with the reviewed plans and public testimony and conditioned upon provision of a security bond and recordation of a covenant which notes that the Village of Frankfort is not responsible for any damage caused to the wall or landscape plantings which may result due to maintenance or replacement of the sanitary line.

Motion by: Beeson    Seconded by: Schwarz  
Approved (5 to 2)

**Motion (#6):** Approve an accessory structure setback variance from 30' to 15' to permit the relocation of the existing children's play set to the front yard of the property located at 322 W Nebraska Street in accordance with the reviewed plans and public testimony and conditioned upon complete screening of the play set from the public right-of-way.

Motion by: Beeson    Seconded by: Newton  
Approved (7 to 0)

**Motion (#7):** Approve an accessory structure setback variance from 10' to 5.5' along the southern property line to accommodate the existing non-conforming playhouse in accordance with the reviewed plans and public testimony and conditioned upon compliance with all applicable fire safety codes.

Motion by: Matlock    Seconded by: Schwarz  
Approved (7 to 0)

**Motion (#8):** Approve an accessory structure separation variance from 10' to 7.5' to accommodate the existing non-conforming playhouse in accordance with the reviewed plans and conditioned upon compliance with all applicable fire safety codes.

Motion by: Schumpp    Seconded by: Beeson  
Approved (7 to 0)

#### **D. Concept Workshop**

Applicant:    Mike Griffin  
Location:    31 W Nebraska Street  
Request:     Site Plan Discussion

Planning Supervisor Brown presented the staff report and provided an overview of the request. The applicant was present to answer Commissioners questions and discussion ensued.

- Commissioners expressed concern for the proposed site access noting that a one-way drive aisle exiting to an adjacent property without proper access easements could become problematic in the future were the adjacent property to be sold.
- Members noted the proposed plans would further limit access to the rear of the Jenny's Steakhouse building. Staff noted that Mr. Griffin currently leases a portion of the subject property to Jenny's Steakhouse for delivery and trash removal purposes.
- Commissioners encouraged Mr. Griffin to work with the adjacent property owners to develop a comprehensive redevelopment plan for the area addressing access, parking and traffic circulation issues.
- Mr. Griffin questioned why he could not revise his plans to provide parking stalls at a 90° angle and a two-way drive aisle. Staff explained that the width of the subject property is such that the applicant is unable to meet stall depth, drive-aisle width and pavement setback requirements with a two-way drive aisle and 90° parking stalls.

- Members of the public questioned whether or not the owner would consider creating a public plaza as opposed to the proposed parking lot. Mr. Griffin expressed concern regarding parking requirements. Staff explained that parking requirements are often flexible for buildings within the historic district.
- Staff agreed to work with the applicant to explore alternative redevelopment scenarios that would address the concerns of the commission while maximizing the applicant's redevelopment potential.

**E. Other Business**

Staff informed Commissioners that Phillips Chevrolet is proceeding with façade improvements as previously considered and noted several minor deviations from the previously reviewed plans.

**F. Adjournment – 9:00 pm**

**Motion (#9) to Adjourn**

Motion by: Beeson      Seconded by: Newton  
Approved (7 to 0)

APPROVED August 12, 2010

As Presented      X

As Amended \_\_\_\_\_

/s/ Renae Goldie, Chair

/s/ Tim Mulry, Secretary