

LITTLE ROCK BOARD OF ADJUSTMENT

SUMMARY OF MINUTES

APRIL 26, 2010

2:00 P.M.

I. Roll Call and Finding of a Quorum

A Quorum was present being five (5) in number.

II. Approval of the Minutes of the Previous Meetings

The Minutes of the March 29, 2010 meeting were approved as mailed by unanimous vote.

III. Members Present:            Robert Winchester, Chairman  
   Scott Smith, Vice Chairman  
   Leslie Greenwood  
   Rajesh Mehta  
   Brad Wingfield

Members Absent:                None

City Attorney Present:        Debra Weldon

LITTLE ROCK BOARD OF ADJUSTMENT

AGENDA

APRIL 26, 2010

2:00 P.M.

I. OLD BUSINESS:

A.        Z-8520                    49 DuClair Court

II. NEW BUSINESS:

1.        Z-6459-A                    5923 Kavanaugh Blvd.
2.        Z-7407-B                    9211 Chicot Road
3.        Z-8537                        4712 Kavanaugh Blvd.
4.        Z-8538                        5224 Country Club Blvd.
5.        Z-8539                        8617 Crofton Circle
6.        Z-8540                        5909 N. Country Club Blvd.
7.        Z-8541                        11024 Shenandoah Drive
8.        Z-8542                        32-50 Tournay Circle
9.        Z-8543                        4213 Wait Street

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ITEM NO.: A

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File No.: Z-8520

Owner/Applicant: Turag Ronaghi

Address: 49 DuClair Court

Description: Lot 11, Block 4, Chenal Valley Addition

Zoned: R-2

Variance Requested: A variance is requested from the fence provisions of Section 36-516 to allow a fence which exceeds the maximum height allowed.

Justification: The applicant's justification is presented in an attached letter.

Present Use of Property: Single Family Residential

Proposed Use of Property: Single Family Residential

#### STAFF REPORT

A. Public Works Issues:

No Comments.

B. Staff Analysis:

The R-2 zoned property at 49 Duclair Court is occupied by a one-story brick single family residence. There is a paved alley located along the rear property line. A driveway from the alley serves as access to a garage on the rear of the residence.

The applicant recently began construction of a six (6) foot – nine (9) inch tall wood fence to enclose a portion of the rear yard area, as noted on the attached site plan. The new fence consists of standard six (6) foot high (1 inch by 4 inch) wood pickets (dog-eased), on top of two (2) 2 X 6 timbers running horizontally on end. A portion of the fence along the south property line has not been completed, as the applicant stopped work when he was informed of the need for a variance.

Section 36-516(e)(1)a. of the City's Zoning Ordinance allows a maximum fence height of six (6) feet for fences in R-2 zoned areas. Therefore, the applicant is requesting a variance to allow the newly constructed fence with an overall height of approximately six (6) feet – nine (9) inches.

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Staff is supportive of the requested fence variance. Staff views the issue as a relatively minor increase in fence height. There are several six (6) foot tall fences located along the alley. Several of the fences have decorative posts with heights near seven (7) feet. When viewing the new fence from one end of the alley or the other, it does not have the appearance of being out of character, height-wise, with the other fences along the alley. Staff believes the fence, as constructed, will have no negative impact on the adjacent properties or the general area. The applicant should be aware that there may be an architectural review committee for this neighborhood which could include fence construction.

C. Staff Recommendation:

Staff recommends approval of the requested fence height variance, as filed.

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BOARD OF ADJUSTMENT: (FEBRUARY 22, 2010)

The applicant was present. There were no objectors present. Staff presented the item and informed the Board that the item needed to be deferred to the March 29, 2010 Agenda. There was no further discussion. The item was placed on the consent agenda and deferred to the March 29, 2010 meeting by a vote of 5 ayes, 0 noes and 0 absent.

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BOARD OF ADJUSTMENT: (MARCH 29, 2010)

The applicant was not present. There were no objectors present. Staff presented the item and informed the Board that the item needed to be deferred to the April 26, 2010 Agenda. There was no further discussion. The item was placed on the consent agenda and deferred to the April 26, 2010 meeting by a vote of 4 ayes, 0 noes and 1 absent.

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BOARD OF ADJUSTMENT: (APRIL 26, 2010)

Turag Ronaghi was present, representing the application. There was one (1) registered objector present. Staff presented the application with a recommendation of approval. Staff noted that the recommendation of approval included the condition that a permit be obtained for the fence construction.

Turag Ronaghi addressed the Board in support of the application. He noted that his neighbors had no problem with his fence, other than one (1) neighbor. He explained that the fence enhanced the neighborhood.

Melanie Orintas addressed the Board in opposition. She noted that there was an architectural review committee for the neighborhood which reviewed fence construction. She stated that the quality of the fence is not the same as other fences

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in the neighborhood. She presented photos of other properties in the neighborhood. She also stated that the neighborhood association president was opposed to the proposed fence.

There was a brief discussion of the issue of bills of assurance and architectural review committees.

Mr. Ronaghi explained that the horizontal lumber at the base of the fence was installed because of water run-off which would rot the fence pickets if they were on the ground.

There was a motion to approve the fence variance as recommended by staff. The motion passed by a vote of 5 ayes, 0 nays and 0 absent. The application was approved.

APRIL 26, 2010

ITEM NO.: 1

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File No.: 6459-A  
Owner: Satellite Heights Real Estate, LLC  
Applicant: Jennifer Herron, Herron Horton Architects  
Address: 5923 Kavanaugh Blvd.  
Description: Part of Lots 10-12, Block 8, Mountain Park Addition  
Zoned: C-3

Variance Requested: Variances are requested from the area provisions of Section 36-301 and the parking provisions of Section 36-502 to allow a building addition with reduced front setback and a reduced number of parking spaces.

Justification: The applicant's justification is presented in an attached letter.

Present Use of Property: Restaurant

Proposed Use of Property: Restaurant

#### STAFF REPORT

A. Public Works Issues:

No Comments.

B. Staff Analysis:

The C-3 zoned property at 5923 Kavanaugh Blvd. is currently occupied by a split level brick commercial building which is currently vacant. The property is located at the southeast corner of Kavanaugh Blvd. and University Avenue. There is an access drive from University Avenue, with paved parking on the south and east sides of the building. There are ten (10) parking spaces on the site, with an exit drive onto Kavanaugh Blvd. at the northeast corner of the property. There is an existing outdoor restaurant seating area (with three foot high railing) on the north side of the building, between the building and the sidewalk along Kavanaugh Blvd.

On March 9, 1998 the Board of Adjustment approved a parking variance to allow a restaurant, Satellite Café, to occupy the building. Satellite Café recently closed in order to remodel the building and re-open. As part of the remodeling project, the applicant proposes to add a nine (9) foot by ten (10) foot entry area on the north side of the building and an additional 342 square feet of outdoor seating area at the northwest corner of the building, both noted on the attached site plan.

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The applicant is requesting two (2) variances with the proposed remodeling project. The proposed front entry addition will be located 9.8 feet back from the front (north) property line. Section 36-301(e)(1) of the City's Zoning Ordinance requires a minimum front setback of 25 feet for C-3 zoned property. Therefore, the applicant is requesting a variance to allow the proposed 9.8 foot front setback.

Section 36-502(b)(3)c. requires a minimum of three (3) additional off-street parking spaces for the 342 square feet of additional outdoor dining space as proposed. Therefore, the applicant is requesting a variance from this requirement also. There are ten (10) paved parking spaces on the site. The restaurant use which occupied and will re-occupy the building would typically be required a minimum of 36 off-street parking spaces.

Staff is supportive of the requested setback and parking variances. Staff views the request as reasonable. With respect to the front setback variance, most of the other commercial buildings, along the south side of Kavanaugh Blvd., to the east are located on their front property lines adjacent to the sidewalk along Kavanaugh Blvd. The requested front setback for the new front entry area will not be out of character with other commercial buildings to the east. Additionally, staff views the parking variance as a minor issue. The remodeling of the existing restaurant space will not change the amount of available seating for the restaurant use, with the exception of the new 342 square feet outdoor seating area. This is a very small area of additional seating which requires an additional three (3) off-street parking spaces. As noted previously, the site contains ten (10) existing off-street parking spaces. The majority of the commercial uses along the south side of Kavanaugh Blvd. have no off-street parking spaces. Therefore, this site has a slight parking advantage over those other commercial uses, including other restaurants. Staff believes there is ample parking, including on-street parking, in this general area and that the requested variances will have no adverse impact on the adjacent properties or the general area.

C. Staff Recommendation:

Staff recommends approval of the requested setback and parking variances, subject to providing railing to delineate the area of outdoor seating.

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BOARD OF ADJUSTMENT:

(APRIL 26, 2010)

The applicant was not present. There were no objectors present. Staff presented the item and informed the Board that the item needed to be deferred to the May 24, 2010 Agenda. There was no further discussion. The item was placed on the consent agenda and deferred to the May 24, 2010 meeting by a vote of 5 ayes, 0 noes and 0 absent.

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ITEM NO.: 2

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File No.: Z-7407-B  
Owner: Kil Joone Kim  
Applicant: Andrew Hicks  
Address: 9211 Chicot Road  
Description: Northeast Corner of Chicot Road and Preston Drive  
(recently changed to Vernon Estates Drive)  
Zoned: C-3

Variance Requested: Variances are requested from the area provisions of Section 36-301 to allow construction of a new building with reduced side and rear setbacks.

Justification: The applicant's justification is presented in an attached letter.

Present Use of Property: Undeveloped

Proposed Use of Property: Neighborhood Grocery/Takeout Restaurant

#### STAFF REPORT

A. Public Works Issues:

No Comments.

B. Landscape and Buffer Issues:

The proposed site plan must comply with the City's Landscape and Buffer Ordinances.

C. Staff Analysis:

The C-3 zoned property at 9211 Chicot Road is currently undeveloped. The property is located at the northeast corner of Chicot Road and Preston Drive. Existing driveways from Chicot Road and Preston Drive serve the property. Portions of the property are paved, with the remainder being grass-covered. There is a 40 foot platted building line along both street frontages.

The applicant proposes to construct a 4,620 square foot (one-story) commercial building near the northeast corner of the property, as noted on the attached site plan. Driveways will be located at the northwest (from Chicot Road) and southeast (from Preston Drive) corners of the site. A total of 20 paved parking spaces will be

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located on the south and west sides of the proposed building. The building will be located ten (10) feet back from the east side and rear (north) property lines, with a setback of 60 feet from the front (south) property line and 68 feet from the west street side property line. The applicant notes that 3,318 square feet of the proposed structure will be used for a grocery, with 1,302 square feet being a takeout restaurant. Wood screening fences will be located along the east side and rear (north) property lines.

Section 36-301(e)(2) of the City's Zoning Ordinance requires a minimum side setback of 15 feet along the east side property line. Section 36-301(e)(3) also requires a 15 foot minimum setback along the north (rear) property line. Therefore, the applicant is requesting variances from these ordinance standards to allow the new commercial building with an east side setback of 10 feet and a rear (north) setback of 10 feet.

Staff is supportive of the requested setback variances. On July 31, 2006, the Board of Adjustment approved similar 10 foot side and rear setbacks for a proposed convenience store with gas pumps, as well as front and street side building line variances. The convenience store development never materialized. Staff feels the request is reasonable, and the proposed commercial building will represent a quality in-fill development within this area of Southwest Little Rock. With respect to the reduced side and rear setbacks for the commercial building, the property abuts commercial developments to the north and east which are still zoned R-2. If the adjacent property were zoned commercial to recognize the existing use, no side setback would be required. Therefore, staff views these requested variances as very minor issues. Staff believes the proposed commercial building with reduced side and rear setbacks will have no adverse impact on the adjacent properties or the general area.

D. Staff Recommendation:

Staff recommends approval of the requested setback variances, subject to no portion of the new building be utilized as a full service restaurant.

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BOARD OF ADJUSTMENT:

(APRIL 26, 2010)

The applicant was present. There were no objectors present. Staff presented the item and a recommendation of approval as noted in the "staff recommendation" above. There was no further discussion. The item was placed on the consent agenda and approved as recommended by staff. The vote was 5 ayes, 0 noes and 0 absent.

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ITEM NO.: 3

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File No.: Z-8537  
Owner: Jeffrey and Susan Harner  
Applicant: Carolyn Lindsey, Yeary Lindsey Architects  
Address: 4712 Kavanaugh Blvd.  
Description: Lot 81, Cliffewood Addition  
Zoned: R-2

Variance Requested: A variance is requested from the area provisions of Section 36-156 to allow construction of an accessory carport/storage structure with reduced side setback.

Justification: The applicant's justification is presented in an attached letter.

Present Use of Property: Single Family Residential

Proposed Use of Property: Single Family Residential

#### STAFF REPORT

A. Public Works Issues:

No Comments.

B. Staff Analysis:

The R-2 zoned property at 4712 Kavanaugh Blvd. is occupied by a one-story brick and frame single family residence. There is a one-car wide driveway from Kavanaugh Blvd. which runs along the south side of the residence to a garage/storage accessory building within the rear yard area. There is a parking pad in the front yard area for three (3) cars. The existing accessory structure is 487 square feet in area, and is a one-story structure. The structure is located 1.3 feet from the south side property line.

The applicant is proposing to remove the existing accessory structure and replace it with a new carport/storage structure. The new structure will be one-story in height and 510 square feet in area. The carport portion of the structure will occupy 360 square feet, with the remaining 150 square feet being a work shop/storage area. The new structure will maintain the same 1.3 foot south side setback as the previous structure, and will be located three (3) feet from the rear (east) property line. It will have six (6) inch overhangs and guttering. The carport portion of the structure will be unenclosed.

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ITEM NO.: 3 (Con't.)

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Section 36-156(a)(2)f. of the City's Zoning Ordinance requires a minimum side setback of three (3) feet for accessory structures in R-2 zoning. Therefore, the applicant is requesting a variance to allow the new accessory structure to maintain the same 1.3 foot side (south) setback on the existing accessory structure.

Staff is supportive of the requested variance. Staff views the request as reasonable, given the fact that the lot width narrows from front to back, with the rear property line being 43.6 feet. This reduces the amount of buildable space within the rear yard area. Additionally, the new structure being mostly unenclosed carport space will have a lesser visual impact on the surrounding properties than the existing structure. The proposed accessory building will not be out of character (size or setbacks) with other accessory structures in this general area. Staff believes the new accessory carport structure will have no adverse impact on the adjacent properties or the general area.

C. Staff Recommendation:

Staff recommends approval of the requested side setback variance, subject to the following conditions:

1. Guttering must be provided to prevent water run-off onto the adjacent property to the south.
2. The accessory structure must be constructed to match the existing residence.

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BOARD OF ADJUSTMENT:

(APRIL 26, 2010)

The applicant was present. There were no objectors present. Staff presented the item and a recommendation of approval as noted in the "staff recommendation" above. There was no further discussion. The item was placed on the consent agenda and approved as recommended by staff. The vote was 5 ayes, 0 noes and 0 absent.

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ITEM NO.: 4

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File No.: Z-8538  
Owner: Chris and Julie Keller  
Applicant: Frank Riggins  
Address: 5224 Country Club Blvd.  
Description: Lot 7, Block 11, Newton's Addition  
Zoned: R-2

Variance Requested: A variance is requested from the fence provisions of Section 36-516 to allow a fence which exceeds the maximum height allowed.

Justification: The applicant's justification is presented in an attached letter.

Present Use of Property: Single Family Residential

Proposed Use of Property: Single Family Residential

#### STAFF REPORT

A. Public Works Issues:

No Comments.

B. Staff Analysis:

The R-2 zoned property at 5224 Country Club Blvd. is occupied by a two-story brick, rock and frame single family residence which is in the process of being remodeled. The property is located at the northeast corner of Country Club Blvd. and Harrison Street. There is a two-car wide driveway from Harrison Street which serves as access to a garage on the west side of the residence. The rear yard area is in the process of being landscaped.

As part of the landscaping project, the applicant proposes to construct an eight (8) foot high fence/wall along a portion of the east (side) property line, as noted on the attached site plan. The fence/wall will run for approximately 60 feet and be constructed of stone and wood. The fence/wall will have stone columns and a stone base, with wood panels between the stone columns. The applicant notes that the eight (8) foot high fence is needed to provide adequate privacy, due to the change in grade between the property at 5224 Country Club Blvd. and the property immediately to the east.

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ITEM NO.: 4 (Con't.)

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Section 36-516(e)(1)a. of the City's Zoning Ordinance allows a maximum fence/wall height of six (6) feet for single family properties. Therefore, the applicant is requesting a variance to allow the fence/wall with a height of eight (8) feet.

Staff is supportive of the fence height variance. Staff views the request as reasonable. The proposed eight (8) foot high fence will not be out of character with other residential fences in this neighborhood. As noted previously, the applicant is requesting the eight (8) foot tall fence due to the difference in grade between the two properties. The proposed fence/wall will run for only approximately 60 feet within the rear yard area, and staff believes it will have no adverse impact on the adjacent properties or general area.

C. Staff Recommendation:

Staff recommends approval of the requested fence variance, subject to a permit being obtained for the fence construction.

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BOARD OF ADJUSTMENT:

(APRIL 26, 2010)

The applicant was present. There were no objectors present. Staff presented the item and a recommendation of approval as noted in the "staff recommendation" above. There was no further discussion. The item was placed on the consent agenda and approved as recommended by staff. The vote was 5 ayes, 0 noes and 0 absent.

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ITEM NO.: 5

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File No.: Z-8539  
Owner/Applicant: Jane S. Harrison  
Address: 8617 Crofton Circle  
Description: Lot 116, Merrivale Addition  
Zoned: R-2

Variance Requested: Variances are requested from the area provisions of Section 36-254 and the building line provisions of Section 31-12 to allow enclosure of a carport with reduced front setback and which crosses a platted building line.

Justification: The applicant's justification is presented in an attached letter.

Present Use of Property: Single Family Residential

Proposed Use of Property: Single Family Residential

#### STAFF REPORT

A. Public Works Issues:

No Comments.

B. Staff Analysis:

The R-2 zoned property at 8617 Crofton Circle is occupied by a one-story brick and frame single family residence. The property is located at the southeast corner of Crofton Circle and Crofton Drive. A two-car wide driveway from Crofton Circle serves as access to the property. A 25 foot platted building line is located along both street frontages. A carport which existed at the northwest corner of the residence was recently removed due to damage by heavy ice accumulation over the winter. The carport extended approximately 20.6 feet across the front (west) platted building line, with a 4.4 foot setback from the front (west) property line. An enclosed storage portion of the carport structure still exists, as noted on the attached site plan.

The applicant proposes to construct a garage addition to replace the carport which was damaged and removed. The garage addition would occupy the same foot print as the previous carport, extending across the front (west) building line by 20.6 feet with a 4.4 foot front setback. The applicant, Jane Harrison, is requesting the garage addition for security reasons, as she lives alone at the residence and has medical conditions.

Section 36-254(d)(1) of the City's Zoning Ordinance requires a minimum front (west) setback of 25 feet for this R-2 zoned lot. Section 31-12(c) of the Subdivision Ordinance requires that building line encroachments be reviewed and approved by the Board of Adjustment. Therefore, the applicant is requesting variances from these

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ordinance standards to allow the garage addition with a reduced front setback and which crosses a platted building line.

Staff is supportive of the requested variances. Staff views the request as reasonable, as the applicant is proposing to replace a carport structure which existed on the site for a number of years with a garage with the same building foot print. The proposed front setback for the garage will not be totally out of character with the neighborhood,. The residence directly across Crofton Circle to the north has a similar setback from its front (west) property line, with a building foot print which is almost a mirror image of the residence in question. As noted previously, the applicant is requesting the garage addition for security reasons which staff is sensitive to. Staff believes the proposed garage addition will have no adverse impact on the adjacent properties or the general area.

If the Board approves the building line variance, the applicant will have to complete a one-lot replat reflecting the change in the platted front building line for the garage addition. The applicant should review the filing procedure with the Circuit Clerk's office to determine if the replat requires a revised Bill of Assurance.

C. Staff Recommendation:

Staff recommends approval of the requested setback and building line variances, subject to the following conditions:

1. Completion of a one-lot replat reflecting the change in the front platted building line as approved by the Board.
2. The building addition must be constructed to match the existing residence.

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BOARD OF ADJUSTMENT:

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Jane Harrison was present, representing the application. There were no objectors present. Staff presented the application with a recommendation of approval.

Scott Smith asked Ms. Harrison what her need was for a two-car garage as opposed to a one-car garage. Ms. Harrison explained that she needed the two-car garage for added security and that she had medical reasons. She stated that she just wanted to replace the carport structure which was damaged by an ice storm. She explained that the proposed garage addition would occupy the same footprint as the carport which was removed.

There was a motion to approve the application as recommended by staff. The motion passed by a vote of 5 ayes, 0 nays and 0 absent. The application was approved.

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ITEM NO.: 6

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File No.: Z-8540  
Owner: Michael and Leah Wachowaik  
Applicant: Chris Milligan  
Address: 5909 N. Country Club Blvd.  
Description: Lot 74, Forest Heights Place Addition  
Zoned: R-2

Variance Requested: Variances are requested from the area provisions of Section 36-254 and the building line provisions of Section 31-12 to allow a porch/stoop addition with reduced front setback and which crosses a platted building line.

Justification: The applicant's justification is presented in an attached letter.

Present Use of Property: Single Family Residential

Proposed Use of Property: Single Family Residential

#### STAFF REPORT

A. Public Works Issues:

No Comments.

B. Staff Analysis:

The R-2 zoned property at 5909 N. Country Club Blvd. is occupied by a one-story brick and frame single family residence. The house is in the process of being remodeled, including the addition of a second floor over a portion of the structure. There is a three (3) car parking pad in the front yard area accessed from N. Country Blvd. The lot has a 25 foot front platted building line.

As part of the construction project, the applicant plans to enclose the existing porch area at the northwest corner of the residence and construct a three (3) foot by six (6) foot covered porch/stoop on the front of the residence, as noted on the attached site plan. The covered porch/stoop will be unenclosed and extend across the front platted building line by two (2) to 2.5 feet, with a front setback of 22.5 to 23 feet.

Section 36-254(d)(1) of the City's Zoning Ordinance requires a minimum front setback of 25 feet for this R-2 zoned lot. Section 31-12(c) of the Subdivision Ordinance requires that building line encroachments be reviewed and approved by

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the Board of Adjustment. Therefore, the applicant is requesting variances from these ordinance standards to allow the porch/stoop addition with a reduced front setback and which crosses the front platted building line.

Staff supports the requested front setback and building line variances. Staff views the proposed front porch/stoop as a relatively minor issue. If the lot did not contain a front building line, staff could approve the 22.5 to 23 foot front setback administratively. The front porch/stoop will not be out of character with other similar structural "bump-outs" in this general area. The house immediately to the east has a front porch/stoop with a front setback similar to the one in question. The proposed front porch/stoop will not have the appearance of being out of alignment with the other houses along the south side of N. Country Club Blvd. Staff believes the proposed porch/stoop addition will have no adverse impact on the adjacent properties or general area.

If the Board approves the building line variance, the applicant will have to complete a one-lot replat reflecting the change in the platted front building line for the porch/stoop addition. The applicant should review the filing procedure with the Circuit Clerk's office to determine if the replat requires a revised Bill of Assurance.

C. Staff Recommendation:

Staff recommends approval of the requested setback and building line variances, subject to the following conditions:

1. Completion of a one-lot replat reflecting the change in the front platted building line as approved by the Board.
2. The front porch/stoop addition must be constructed to match the existing residence and remain unenclosed.

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BOARD OF ADJUSTMENT:

(APRIL 26, 2010)

The applicant was present. There were no objectors present. Staff presented the item and a recommendation of approval as noted in the "staff recommendation" above. There was no further discussion. The item was placed on the consent agenda and approved as recommended by staff. The vote was 5 ayes, 0 noes and 0 absent.

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ITEM NO.: 7

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File No.: Z-8541  
Owner: R.L. Jones Construction Co.  
Applicant: Rick Jones  
Address: 11024 Shenandoah Drive  
Description: Lot 15, Shenandoah Addition, Phase II  
Zoned: R-2

Variance Requested: Variances are requested from the area provisions of Section 36-254 and the building line provisions of Section 31-12 to allow porch and deck additions with reduced front and rear setbacks and a porch/step addition which crosses a platted building line.

Justification: The applicant's justification is presented in an attached letter.

Present Use of Property: Single Family Residential

Proposed Use of Property: Single Family Residential

#### STAFF REPORT

A. Public Works Issues:

No Comments.

B. Staff Analysis:

The R-2 zoned property at 11024 Shenandoah Drive is occupied by a two-story brick and frame single family residence which was recently constructed. There is a two-car wide driveway from Shenandoah Drive which serves as access. The lot contains a 25 foot front platted building line.

When the house was constructed, the two-story front porch/balcony portion of the structure was built approximately three (3) feet across the front platted building line, with a front setback of approximately 22 feet. The porch/balcony portion is covered and unenclosed. An uncovered/unenclosed step structure extends from the porch, with a front setback of approximately 18 feet. There is also a small six (6) foot wide wood deck (uncovered and unenclosed) which is located approximately 19 feet back from the rear (west) property line. The deck structure is approximately two (2) feet above grade. The rear wall of the house is 25 feet back from the rear property line.

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Section 36-254(d)(1) and (3) of the City's Zoning Ordinance requires a minimum front setback of 25 feet and a minimum rear setback of 25 feet. Section 31-12(c) of the Subdivision Ordinance requires that building line encroachments be reviewed and approved by the Board of Adjustment. Therefore, the applicant is requesting variances from these ordinance standards to allow the wood deck with a reduced rear setback and the front porch/balcony with a reduced front setback and which crosses the platted building line. The applicant, Rick Jones, notes that the property had been foreclosed on, and that he purchased the property from the bank unaware of the existing encroachments.

Staff is supportive of the requested variances. Staff views the request as relatively minor. The front encroachment is minimal enough that the structure does not have the appearance of being that much out of alignment with the fronts of other structures along Shenandoah Drive to the north. The lots immediately to the south are undeveloped. The deck on the rear of the house is a small structure (6 feet by 11 feet) which is not visible from the adjacent property to the west due to a screening fence. Both structures are unenclosed which will help lessen the impact of the encroachments on adjacent properties. Staff believes the existing encroachments will have no adverse impact on the adjacent properties or the general area.

If the Board approves the building line variance, the applicant will have to complete a one-lot replat reflecting the change in the platted front building line for the porch/balcony addition. The applicant should review the filing procedure with the Circuit Clerk's office to determine if the replat requires a revised Bill of Assurance.

C. Staff Recommendation:

Staff recommends approval of the requested setback and building line variances, subject to the following conditions:

1. Completion of a one-lot replat reflecting the change in the front platted building line as approved by the Board.
2. The front porch/balcony section of the residence must remain unenclosed.
3. The rear deck section of the residence must remain uncovered and unenclosed.

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BOARD OF ADJUSTMENT:

(APRIL 26, 2010)

The applicant was present. There were no objectors present. Staff presented the item and a recommendation of approval as noted in the "staff recommendation" above. There was no further discussion. The item was placed on the consent agenda and approved as recommended by staff. The vote was 5 ayes, 0 noes and 0 absent.

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ITEM NO.: 8

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File No.: Z-8542  
Owner: Deltic Timber Corporation  
Applicant: Tim Daters, White-Daters and Associates  
Address: 32-50 Tournay Circle  
Description: Lots 15-23, Block 82, Chenal Valley Addition  
Zoned: R-2

Variance Requested: A variance is requested from the fence provisions of Section 36-516 to allow a fence which exceeds the maximum height allowed.

Justification: The applicant's justification is presented in an attached letter.

Present Use of Property: Undeveloped

Proposed Use of Property: Single Family Residential

#### STAFF REPORT

A. Public Works Issues:

No Comments.

B. Staff Analysis:

The R-2 zoned property at 32-50 Tournay Circle is currently undeveloped and tree covered. The property is comprised of nine (9) platted single family lots. The property slopes generally downward from south to north, and front to back (west to east). The single family lots back up to the Joe T. Robinson school campus. The westernmost school building is located approximately 70 feet back from the rear lot lines of the single family lots. Drives, parking and loading areas are located on the west end of the school building.

The applicant is proposing to construct an 8.5 foot high wood fence, with 9.5 foot columns, along the rear (east) property line of the nine (9) single family lots, as noted on the attached site plan. The applicant notes that the fences are needed to provide screening of the school building to the east.

Section 36-516(e)(1) of the City's Zoning Ordinance allows a maximum fence height of six (6) feet for fences in R-2 zoning. Therefore, the applicant is requesting a variance to allow the taller fence construction. The applicant notes

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ITEM: NO.: 8 (Con't.)

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that a six (6) foot high fence would not adequately screen the single family lots from the school property due to the downward slope from front to back of the residential lots.

Staff is supportive of the requested fence variance. Staff views the request as reasonable. Staff agrees with the applicant that a taller fence is needed to provide additional screening of the school facilities, which are in relatively close proximity to the rear property lines of the single family lots. Due to the slope of the property, the new single family homes, when constructed, will be at a slightly higher elevation than the rear property line where the fence will be located. Additionally, the proposed fence height will not be out of character with other subdivision fences (in the 8 foot tall range) in this general area. Staff believes the increased fence height will have no adverse impact on the adjacent properties or the general area.

C. Staff Recommendation:

Staff recommends approval of the requested fence variance, subject to a building permit being obtained for the fence construction.

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BOARD OF ADJUSTMENT:

(APRIL 26, 2010)

The applicant was present. There were no objectors present. Staff presented the item and a recommendation of approval as noted in the "staff recommendation" above. There was no further discussion. The item was placed on the consent agenda and approved as recommended by staff. The vote was 5 ayes, 0 noes and 0 absent.

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ITEM NO.: 9

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File No.: Z-8543

Owner/Applicant: Radhakrishnan Nagarajan

Address: 4213 Wait Street

Description: Lot 11, Block 23, Hillcrest Addition

Zoned: R-2

Variance Requested: A variance is requested from the fence provisions of Section 36-516 to allow a fence which exceeds the maximum height allowed.

Justification: The applicant's justification is presented in an attached letter.

Present Use of Property: Single Family Residential

Proposed Use of Property: Single Family Residential

#### STAFF REPORT

A. Public Works Issues:

No Comments.

B. Staff Analysis:

The R-2 zoned property at 4213 Wait Street is occupied by a two-story frame single family residence. There is a two-car wide driveway from Wait Street which serves as access to the property. The property slopes downward from back to front. A paved access drive is located within an access/utility easement along the rear (east) property line.

The applicant recently constructed new wood fencing along the north and south side property lines and near the rear (east) property line. The new fence along the north side property line steps down from back to front with the slope of the property. It ranges in height from 5.5 feet to eight (8) feet. The top two (2) feet of the fence is lattice/trim. The fence along the south side property line within the front yard area is approximately 6.5 feet in height and solid wood panels. The fence along the south side property line within the rear yard area ranges in height from five (5) feet to eight (8) feet, with the top two (2) feet being lattice/trim. The fence in the rear yard area along the access/utility easement is a four (4) foot high solid wood fence. The applicant notes that the fence was constructed for privacy and security reasons.

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Section 36-516(e)(1)a. of the City's Zoning Ordinance allows a maximum residential fence height of four (4) feet for fences located between a building setback and street property line. Section 36-516(e)(1)a. also allows a maximum fence height of six (6) feet for fences elsewhere on residential property. Therefore, the applicant is requesting a variance to allow sections of the new fence along the north and south side property lines which exceed the maximum heights allowed.

Staff is supportive of the requested fence height variance. Staff's support is based primarily on the fact that this small pocket of residential lots south of S. Lookout Road is very unique in its lot configurations, building orientations and street functions, especially Wait Street. The lot in question at 4213 Wait Street has a platted front property line along Wait Street, but the physical front of the house faces a private drive along its east property line, as do other houses in this area. The west portion of the lot where the majority of the new fence is located functions as a rear yard area. Additionally, Wait Street functions essentially as an alley with most of the homes backing up to the roadway. The homes east and west of the subject property back up to this property and face Fairview Road. Wait Street appears to handle very little traffic. For these reasons and the fact that the highest sections of the fence contain two (2) feet of lattice/trim, staff believes the increased fence height will have no adverse impact on the adjacent properties or the general area. The fence does not have the appearance of overshadowing the adjacent properties. The property owner immediately to the north as well as one (1) other nearby owner have submitted letters of support that are attached for Board review.

C. Staff Recommendation:

Staff recommends approval of the requested fence height variance, subject to the following conditions:

1. A permit must be obtained for the fence construction.
2. The portions of the fence which are constructed of lattice and trim must remain as such.
3. A franchise permit must be obtained for the portions of the fence which extend into the Wait Street right-of-way.

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BOARD OF ADJUSTMENT:

(APRIL 26, 2010)

The applicant was present. There were no objectors present. Staff presented the item and a recommendation of approval as noted in the "staff recommendation" above. There was no further discussion. The item was placed on the consent agenda and approved as recommended by staff. The vote was 5 ayes, 0 noes and 0 absent.

April 26, 2010

There being no further business before the Board, the meeting was adjourned at 2:23 p.m.

Date: \_\_\_\_\_

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Vice-Chairman

\_\_\_\_\_

Secretary