

LITTLE ROCK BOARD OF ADJUSTMENT

SUMMARY OF MINUTES

APRIL 27, 2009

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 30, 2009 meeting were approved as mailed by unanimous vote.

III. Members Present: David Wilbourn, Chairman
Robert Winchester, Vice Chairman
Leslie Greenwood
Scott Smith
James Van Dover

Members Absent: None

City Attorney Present: Debra Weldon

LITTLE ROCK BOARD OF ADJUSTMENT

AGENDA

APRIL 27, 2009

2:00 P.M.

I. OLD BUSINESS:

- | | | |
|----|--------|-----------------------|
| A. | Z-8424 | 1218 Center Street |
| B. | Z-8435 | 11103 Chicot Road |
| C. | Z-8437 | 12005 Westhaven Drive |
| D. | Z-8438 | 5 Cadron Cove |

II. NEW BUSINESS:

- | | | |
|----|--------|------------------------|
| 1. | Z-8447 | 13908 Fern Valley Lane |
| 2. | Z-8448 | 40 Woodberry Road |
| 3. | Z-8449 | 6515 Sandpiper Drive |
| 4. | Z-8450 | 3421 Buckhorn Trail |

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ITEM NO.: A

File No.: Z-8424

Owner: Craig and Natalie Weatherly

Applicant: Craig Weatherly

Address: 1218 Center Street

Description: Lot 8, Block 195, Original City of Little Rock

Zoned: UU

Variance Requested: A variances 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 UU zoned property at 1218 Center Street is occupied by a two-story frame single-family residence which is in the process of being remodeled. There is a one-story accessory building in the rear yard area, near the southwest corner of the property. There is a paved alley along the rear (west) property line. There is a new wood fence which is located along the front (east), side (north) and rear (west) property lines. The new fence is six (6) feet in height running along the front and rear property lines. The majority of the fence along the north side property line is six (6) feet in height, with the exception of an eight (8) foot high section which runs for approximately the depth of the residence (approximately 52 feet). The fence transitions upward from the six (6) foot sections to the eight (8) foot section. There is an existing rock wall and fence located along a portion of the south side property line.

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Section 36-516(e)(1)a. of the City's Zoning Ordinance allows a maximum fence height of four (4) feet for fences located between a front building setback line and a street right-of-way. Fences located along interior lot lines are allowed to have a maximum height of six (6) feet. Therefore, the applicant is requesting a variance to allow the six (6) foot high fence along the front property line and east 25 feet of the north side property line, and the eight (8) foot section (with transition) along the north side property line. The applicant has noted that the fence was constructed for security purposes while the house is being remodeled, and requests the variance for the portion along the front (east) property line for only one (1) year from the Board's meeting date. He has plans to replace it with a four (4) foot high wrought iron fence. The fence along the north (side) property line would remain as constructed.

Staff does not support the fence variance as requested. Although staff has no problem with the requested variance for the fence along the front property line (temporary) and the eight (8) foot section along the north property line, staff believes the east 18 feet of the fence located along the north property line should also be reduced to a height of four (4) feet within one (1) year. There is a residence located immediately to the north, and staff feels that reducing the fence height within the front yard area, at least to the front porch (18 feet from front property line), would help maintain the residential appearance for the front yard areas. If the applicant were willing to revise the application to include this 18 foot section, staff would support the application, subject to the following conditions:

1. The temporary portion of the fence located along the front and north side (east 18 feet) property lines be reduced to four (4) feet within one (1) year.
2. A building permit must be obtained for the fence construction.

C. Staff Recommendation:

Staff recommends denial of the fence height variance, as requested.

BOARD OF ADJUSTMENT:

(JANUARY 26, 2009)

Staff informed the Board that the application needed to be deferred to the February 23, 2009 Agenda based on the fact that the applicant failed to complete the notifications to surrounding property owners as required.

The item was placed on the Consent Agenda and deferred to the February 23, 2009 Agenda as recommended by staff with a vote of 5 ayes and 0 nays.

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BOARD OF ADJUSTMENT:

(FEBRUARY 23, 2009)

Staff informed the Board that the application needed to be deferred to the March 30, 2009 Agenda based on the fact that the applicant failed to complete the notifications to surrounding property owners as required.

The item was placed on the Consent Agenda and deferred to the March 30, 2009 Agenda as recommended by staff with a vote of 5 ayes and 0 nays.

Staff Update:

The applicant submitted a letter to staff, revising the application as suggested by staff in paragraph B. of the agenda report. The applicant notes that the east 18 feet of the fence along the north property line will be reduced to a four (4) foot height within one (1) year, as will the fence along the front (east) property line. Therefore, staff now supports the application.

Revised Staff Recommendation:

Staff recommends approval of the revised application, subject to the following conditions:

1. The temporary portion of the fence located along the front and north side (east 18 feet) property lines be reduced to four (4) feet within one (1) year.
2. A building permit must be obtained for the fence construction.

BOARD OF ADJUSTMENT:

(MARCH 30, 2009)

The applicant was not present. Staff recommended the application be deferred to the April 27, 2009 agenda.

The item was placed on the Consent Agenda and deferred to the April 27, 2009 Agenda, as recommended by staff, with a vote of 4 ayes, 0 nays and 1 absent.

BOARD OF ADJUSTMENT:

(APRIL 27, 2009)

Craig Weatherly was present, representing the application. There were no objectors present. Staff presented the item with a recommendation of approval of the application as revised by the applicant.

Scott Smith asked why the eight (8) foot high fence section was needed along the north property line. Mr. Weatherly explained that it was to alleviate the noise from the adjacent property to the north. Mr. Smith asked why the eight (8) foot high

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section did not extend to the west to the rear property line. Mr. Weatherly noted that the additional fence height was only needed adjacent to the structure next door.

There was a brief discussion related to the transitioning heights of the fence along the north property line.

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

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ITEM NO.: B

File No.: Z-8435

Owner: Genaro Rosales

Applicant: Michael F. Jones

Address: 11103 Chicot Road

Description: East side of Chicot Road, South of Mabelvale Cut-Off-Road

Zoned: R-2

Variance Requested: An interpretative issue/ruling is requested regarding Section 36-516 of the Code and the use of barbed wire fencing.

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, with addition of garden and animals

STAFF REPORT

A. Public Works Issues:

No Comments

B. Staff Analysis:

The R-2 zoned property at 11103 Chicot Road is comprised of approximately 9.16 acres of land. There is a one-story single-family residence within the west half of the property, fronting Chicot Road. The property is approximately 333 feet wide and 1,340 feet deep. The middle portion of the property is grass covered, with the rear portion being mostly tree-covered.

The property owner recently constructed a livestock-type fence, including barbed wire, around the perimeter of the property. Portions of the fence are poultry-type mesh with barbed wire, and portions have six (6) strands of barbed wire. Small tree trunk sections have been used as fence posts. It is the applicant's intent to keep livestock (horses, cows and goats) on the property and also have a garden area.

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ITEM NO.: B (CON'T.)

The City's Zoning enforcement staff received an anonymous complaint stating the property owner was constructing a barbed wire fence in a residential zone. On February 4, 2009, an inspection of the property revealed the newly constructed barbed wire fence. The property owner was issued a Courtesy Notice to remove the barbed wire, as per Section 36-516(d) of the City's Zoning Ordinance, which reads as follows:

“(d) [*Use of materials intended to inflict injury.*] For purposes of this section the use of barbed, concertina wire or other types of wire specifically designed to inflict injury upon human contact is prohibited except when used at the top of fences at least six (6) feet above grade enclosing business or manufacturing premises. When such wire is used, it shall not extend outside the vertical plane of the enclosed property. Electrically charged fences are prohibited.”

The applicant has also removed a number of trees from the rear portion of the property. The applicant has filed a variance from the Land Alteration Ordinance for the tree removal. The variance will be reviewed by the Planning Commission.

Additionally, according to the City's Animal Control division, Section 6-43 of the Code prohibits the keeping of livestock within 300 feet of any residence, not including the residence on the subject property. Section 6-43 reads as follows:

“It shall be unlawful to keep cows, goats, horses, or other hooved animals in a pen or lot within three hundred (300) feet of any residence other than the residence of the livestock owner or business establishment.”

An attached sketch shows the area of the overall property which is 300 feet away from any residence. It represents only a small area (less than one (1) acre) near the center of the property. Section 6-43 of the code has no appeal process.

Given the fact that Section 36-516(d) “prohibits” the use of barbed wire fencing, the applicant cannot request a variance to allow its use. Therefore, the applicant is asking the Board of Adjustment to interpret the Ordinance and determine if the use of barbed wire fencing is appropriate in a residential zone in conjunction with the keeping of livestock.

The Board of Adjustment is asked to rule on the following interpretative issue related to Section 36-516(d) of the City's Zoning Ordinance.

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Is it appropriate to allow use of barbed wire in conjunction with livestock fencing in the specific circumstance of someone owning/keeping livestock for personal interest/use, by right, regardless of the property's zoning?

It is staff's opinion that the only area considered for the use of barbed wire fencing should be the area of the property where it is lawful to keep livestock according to Section 6-43 of the Code.

BOARD OF ADJUSTMENT:

(MARCH 30, 2009)

The applicant was present. There were eleven (11) persons present in opposition. Staff informed the Board that the application needed to be deferred to the April 27, 2009 agenda, as the City Attorney's office needed additional time to review the issue and determine whether or not the Board had authority to act.

The item was placed on the Consent Agenda and deferred to the April 27, 2009 Agenda, as recommended by staff, with a vote of 4 ayes, 0 nays and 1 absent.

Staff Update:

On April 16, 2009 the City Attorney's Office submitted a letter to staff, informing staff that this item needed to be withdrawn from the Board of Adjustment Agenda. The City Attorney has determined that the Board of Adjustment does not have the jurisdiction to deal with the issue at hand. Staff recommends the item be withdrawn.

BOARD OF ADJUSTMENT:

(APRIL 27, 2009)

Staff explained that the application needed to be withdrawn at the direction of the City Attorney's office.

The item was placed on the Consent Agenda and withdrawn, as recommended by staff, with a vote of 5 ayes and 0 nays.

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ITEM NO.: C

File No.: Z-8437
Owner: Tommy Hilburn
Applicant: Greg Criner, Lamar Outdoor Advertising
Address: 12005 Westhaven Drive
Description: Lot 4, Parkway West Addition
Zoned: C-3

Variance Requested: A variance is requested from the sign provisions of Section 36-556 to allow a billboard with a reduced setback from right-of-way.

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

Present Use of Property: Restaurant.

Proposed Use of Property: Restaurant with billboard site.

STAFF REPORT

A. Public Works Issues:

No Comments

B. Staff Analysis:

The C-3 zoned property at 12005 Westhaven Drive is occupied by a Corky's Restaurant development. The property is located at the southwest corner of Westhaven Drive and Bowman Road. The existing restaurant building is located within the south half of the property, with paved parking on the north, east and west sides of the building. An access drive from Westhaven Drive serves as access.

The applicant is proposing to locate an off-premise sign (billboard) along the north property line of the site, as noted on the attached site plan. The sign is to be located within a landscaped island on the east side of the entry drive, near the northeast corner of the property. The sign will be 10 feet by 36 feet in area and approximately 35 feet in height. The sign will be located five (5) feet back from the north property line (along Westhaven Drive) and over 40 feet back

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from the east (Bowman Road) property line. The applicant notes that the sign will be orientated to traffic along Bowman Road, running perpendicular to Bowman Road. Additionally, the proposed billboard will be located 661' back from the Chenal Parkway right-of-way.

Section 36-556(a)(1) of the City's Zoning Ordinance requires that a billboard be located at least 25 feet back from a public right-of-way in C-3 zoning. Therefore, the applicant is requesting a variance to allow the off-premise sign (billboard) with a reduced setback from the north side property line, along the Westhaven Drive right-of-way. The proposed off-premise sign will comply with all other ordinance standards.

Staff is supportive of the requested setback variance associated with the proposed off-premise sign. Staff views the request as reasonable. The applicant is locating the sign along the north property line, and not the south interior lot line, in order to comply with the required minimum 660 foot setback from Chenal Parkway right-of-way, a scenic corridor. The proposed billboard meets the setbacks for an on-premise sign. There are a number of large commercial signs in this general area. Staff does not feel that the addition of the billboard in this commercial area along Bowman Road will have an adverse impact on the adjacent properties or the general area.

C. Staff Recommendation:

Staff recommends approval of the requested off-premise sign variance, subject to a permit being obtained for the sign.

BOARD OF ADJUSTMENT:

(MARCH 30, 2009)

Greg Criner was present, representing the application. There were no objectors present. Staff presented the application with a recommendation of approval. Mr. Criner added no information to the staff report.

Terry Burruss noted that the proposed billboard met the setback requirement from Bowman Road. Scott Smith explained that the billboard could not be located on the site and meet both the minimum setbacks from both Westhaven Drive and Chenal Parkway. Mr. Criner explained that the main intent in locating the billboard was to comply with the minimum setback from Chenal Parkway, a scenic corridor.

There was additional discussion related to the proposed location of the billboard.

There was a motion to approve the application, as recommended by staff. The vote was 2 ayes, 2 nays and 1 absent. The application was automatically deferred to the April 27, 2009 Agenda for failing to receive three (3) votes for approval or denial.

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BOARD OF ADJUSTMENT:

(APRIL 27, 2009)

Greg Criner and Debbie Morales were present, representing the application. There were no objectors present. Staff presented the application with a recommendation of approval.

Greg Criner, of Lamar Outdoor Advertising, addressed the Board in support of the application. He explained that the billboard location was chosen in order to meet the minimum setback from Chenal Parkway. He explained the topography of the property.

Debbie Morales, also of Lamar, addressed the Board in support. She explained how Lamar uses billboards for non-profit organizations when they are not rented to commercial customers.

Scott Smith referred to a photo of the proposed billboard as submitted by the applicant. He noted that it appeared the billboard would be very close to the existing restaurant sign. Mr. Criner explained that the billboard would be much further back from Bowman Road than the restaurant sign. He also explained that the proposed billboard is much smaller than the typical billboard. There was a brief discussion concerning on-premise and off-premise signs.

There was also discussion about the visibility of the proposed billboard from Chenal Parkway. Mr. Criner noted that the billboard would probably not be visible from Chenal Parkway.

James Van Dover explained when the Board could grant variances. He expressed a problem with determining a hardship in this case.

There was a brief discussion related to the placement of the sign on the property.

Dana Carney, Planning staff, addressed the Board. He explained that staff did not support setback variances from scenic corridors. He also explained that there was another billboard at W. Markham Street and Bowman Road, and the 1,000 foot spacing requirement between billboards.

There was a motion to approve the application, as recommended by staff. The motion passed by a vote of 3 ayes and 2 nays. The application was approved.

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ITEM NO.: D

File No.: Z-8438

Owner: Doug Hunnicut

Applicant: Pat McGetrick

Address: 5 Cadron Cove

Description: Lot 26, Phase I, Waters Edge 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 construction of a new residence 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: Vacant Lot

Proposed Use of Property: Single Family Residential

STAFF REPORT

A. Public Works Issues:

No Comments

B. Staff Analysis:

The R-2 zoned property at 5 Cadron Cove is currently an undeveloped, grass-covered single family lot. The lot is located at the east end of a cul-de-sac and backs up to a small lake. As noted on the attached site plan, the lot has a 25 foot front platted building line, a 25 foot wide utility easement along the rear (east) property line and 7.5 foot wide easement along the south side property line.

The applicant is proposing to construct a new two-story single family residence on the property, also noted on the attached site plan. The proposed residence will comply with all minimum setbacks from property lines, with exception of a portion of the front of the structure. The southwest corner of the garage portion of the structure will cross the 25 foot front platted building line by approximately

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three (3) feet, resulting in a 22 foot front setback. The remainder of the front of the structure will be located behind the front platted building line. There will be a two-car wide driveway from Cadron Cove leading to the garage area. The proposed residence is located on the 25 foot rear setback, utility easement line. The applicant has noted that the structure cannot extend into the easement as there is a sewer main within the west portion of the easement, near the 25 foot setback line.

Section 36-254(d)(1) of the City's Zoning Ordinance requires a minimum front 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 new residence with reduced front setback and which crosses a front platted building line.

Staff is supportive of the requested front setback and building line variances. Staff views the request as a very minor issue, as only approximately 15 square feet of the proposed residence encroaches across the 25 foot front platted building line and into the minimum front building setback. As noted previously, there is a 25 foot utility easement located along the rear (east) property line. The applicant has met with a representative from Little Rock Wastewater. He was informed that there is a sewer main located just inside (west portion) the 25 foot wide utility easement, and that Wastewater would allow no encroachment into the easement. Typically, staff would support a reduced rear setback in this case, if it were an option. Additionally, with the curvature of the cul-de-sac in front of the proposed structure, the structure encroaching across the front building line will not have the appearance of being out of alignment with future residences on the adjacent lots. Staff believes the proposed residence crossing the front platted building line, as proposed, 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 new residence. 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 completion of a one-lot replat reflecting the change in the front platted building line as approved by the Board.

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BOARD OF ADJUSTMENT:

(MARCH 30, 2009)

Pat McGetrick was present, representing the application. There were no objectors present. Staff presented the application with a recommendation of approval. Mr. McGetrick noted that he was present to answer any questions.

Scott Smith asked if the house could be three (3) feet shorter, in order to comply with all setback requirements. Mr. McGetrick noted that the property owner desired a minimum amount of floor area. The design of the house was discussed. Mr. Smith made additional comments relating to the size of the house.

Staff explained that if the 25 foot wide utility easement, with sewer main, were not present the issue could possibly have been handled at staff level. Vice-Chair Winchester noted that the house was pushed forward on the lot because of the sewer main. Mr. McGetrick confirmed.

There was a motion to approve the application, as recommended by staff. The vote was 2 ayes, 2 nays and 1 absent. The application was automatically deferred to the April 27, 2009 Agenda for failing to receive three (3) votes for approval or denial.

BOARD OF ADJUSTMENT:

(APRIL 27, 2009)

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

Pat McGetrick addressed the Board in support of the application. Mr. McGetrick explained that the plan as presented had been reduced as much as the future homeowner would allow.

Scott Smith questioned the need for the variances. He noted that the house should be redesigned to meet the required setbacks. Mr. McGetrick explained that the proposed foot print of the house was what was desired by the owner. There was a brief discussion regarding who owns the lot and who is developing the lot.

There was a motion to approve the application, as recommended by staff. The motion failed by a vote of 2 ayes and 3 nays. The application was denied.

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ITEM NO.: 1

File No.: Z-8447

Owner/Applicant: Alvin and Gail Weintraub

Address: 13908 Fern Valley Lane

Description: Lot 24, Block 13, Woodland's Edge Addition

Zoned: R-2

Variance Requested: A variances is requested from the area provisions of Section 36-254 to allow a new residence with a reduced rear yard setback.

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

Present Use of Property: Vacant Lot

Proposed Use of Property: Single Family Residential

STAFF REPORT

A. Public Works Issues:

No Comments

B. Staff Analysis:

The R-2 zoned lot at 13908 Fern Valley Lane is currently undeveloped and mostly grass covered. The property slopes upward slightly from front to back (north to south) and side to side (west to east). The rear of the property slopes downward to a large acreage tract which contains a residence and small lake.

The property owner is proposing to construct a new one-story single family residence on the property, as noted on the attached site plan. The residence will be located behind the 25 foot front platted building line, and 10 to 32 feet from the side property lines. The residence has a proposed rear setback ranging from 15.5 feet to 18.5 feet. There is a 15 foot wide utility easement along the rear (south) property line.

Section 36-254(d)(3) of the City's Zoning Ordinance requires a minimum rear setback of 25 feet for this R-2 zoned lot. Therefore, the applicant is requesting a variance to allow the new single family home with a reduced rear setback. All

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other setbacks conform to ordinance standards. The applicant notes that the rear setback is requested for the following reasons:

1. The relatively shallow lot depth (averaging approximately 130 feet).
2. Construction of a one-story residence on the lot which meets the subdivision's minimum square footage requirement.
3. Design of the residence to include a side-loading garage as required by the subdivision.

Staff is supportive of the requested rear setback variance. Staff believes the request for reduced rear setback is reasonable and the applicant has adequate justification in making the request. The average lot depth in this subdivision is less than other single family subdivisions in this general area. The developer of Woodland's Edge has worked to maintain a large amount of protected buffer areas throughout the subdivision. There have been a number of lots within this subdivision which have been granted reduced rear setbacks because they back up to protected buffer areas. Although this lot does not back up to a protected buffer area, it does have a shallow lot depth similar to those lots that do back up to the buffers. This lot does however back up to a large acreage tract which has not been platted into single family lots. Staff believes the requested reduced rear setback will have no adverse impact on the adjacent properties or the general area.

C. Staff Recommendation:

Staff recommends approval of the requested rear setback variance, subject to the applicant submitting a letter from Rocket Properties, the subdivision developer, approving the reduced rear setback.

BOARD OF ADJUSTMENT:

(APRIL 27, 2009)

The applicant was present. There were no objectors present. Staff presented the application with a recommendation of approval.

The applicant offered no additional comments.

The item was placed on the Consent Agenda and approved as recommended by staff with a vote of 5 ayes and 0 nays.

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ITEM NO.: 2

File No.: Z-8448

Owner/Applicant: Gregory and Danielle Taylor

Address: 40 Woodberry Road

Description: Lot 159, Longlea 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 step structure with a 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 40 Woodberry Road is occupied by a one-story brick and frame single family residence. There is a two-car wide driveway from Woodberry Road at the northeast corner of the lot. The drive leads to a garage on the east end of the residence. The lot contains a 25 foot platted building line.

The applicant recently removed an 8 foot by 8 foot front porch and step structure from the front of the residence and replaced it with a newly constructed 10 foot by 24 foot porch, as noted on the attached site plan. The front porch is located at the 25 foot front setback, with the porch floor being approximately four (4) feet above grade. The applicant is proposing to construct an uncovered, unenclosed step structure on the front of the porch structure, extending approximately six (6) feet across the 25 foot front platted building line and into the minimum required front setback. The applicant is

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proposing to have the new step structure connect to the existing sidewalk from Woodberry Road. The applicant notes that an error was made when measuring the front setback, as the measurement was taken from the street curb line and not the front property line.

Section 36-254(d)(1) of the City's Zoning Ordinance requires a minimum front 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 porch addition with a reduced front setback and which crosses a front platted building line.

Staff is supportive of the requested variances. Staff views the request as reasonable, as the property owner committed an honest mistake in measuring the front setback from the street curb-line and not the front property line. The main house structure, including covered porch, is located behind the front building setback and platted building line. The applicant is only requesting a variance for the uncovered, unenclosed step structure, which will represent an area of only approximately 36 square feet. Woodberry Road has a slight curvature moving to the west from this lot, which will lessen the visual impact of the proposed step structure, as compared to the fronts of the residences further west between this lot and Hinson Road. Staff believes the proposed step structure 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 front steps. 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 step structure must remain uncovered and unenclosed.

BOARD OF ADJUSTMENT:

(APRIL 27, 2009)

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

Scott Smith asked about locating the steps at the east end of the porch, running along the front of the house. Mr. Taylor explained that the front step/porch structure

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was designed to be the focal point of the front of the residence. He explained that steps on the east end of the porch would seem out of place, and steps in the center of the porch would be more balanced.

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

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ITEM NO.: 3

File No.: Z-8449

Owner/Applicant: Alberto Alcazar

Address: 6515 Sandpiper Drive

Description: Lot 121, Cardinal Heights Addition

Zoned: R-2

Variance Requested: A variances is requested from the area provisions of Section 36-254 to allow a building addition with a reduced rear yard 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:

1. Measures to control an increase in stormwater drainage should be implemented to not cause damage onto adjacent property from the increased impervious area.

B. Staff Analysis:

The R-2 zoned property at 6515 Sandpiper Drive is occupied by a one-story brick and frame single family residence. There is a one-car wide driveway from Sandpiper Drive at the northeast corner of the lot. The lot contains a 25 foot front platted building line.

The property owner recently began construction of building addition on the rear (south side) of the structure, as noted on the attached site plan. The existing roof line was extended to the south, toward the rear property line, approximately 28 feet. The room addition is 20.8 feet by 28 feet in area and constructed over an existing concrete patio area. The floor of the addition is approximately three (3) feet above grade. The addition is located approximately 12 feet back from the rear (south) property line. The

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construction was initiated without a building permit, and the City recently issued a "stop-work order" to the property owner.

Section 36-254(d)(3) of the City's Zoning Ordinance requires a minimum rear setback of 25 feet for this R-2 zoned lot. Therefore, the applicant is requesting a variance to allow the room addition with a reduced rear setback. The applicant has described the addition as a "covered patio". However, after inspection of the property, staff views it as a room addition. The east, west and south walls contain studs at approximately 16 inch centers, with some exterior siding being installed prior to the stop-work order.

Staff does not support the rear yard variance, as requested. Although the lot has a relatively shallow depth, staff feels that the enclosed addition extends too close to the rear property line and neighboring house to the south, and is not characteristic of the rear setbacks for the residences in this area. Staff's opposition is based on the fact that the addition is enclosed. If the applicant were willing to make that portion of the addition which extends into the 25 foot rear setback completely unenclosed (covered deck only), staff could support the rear setback variance. Approximately the rear (south) 13 feet of the addition extends into the rear 25 feet of the lot. If this rear portion were maintained as an open deck, with support poles and no siding, staff believes it would have no adverse impact on the adjacent properties or the general area. The residence immediately to the west has a nonconforming covered deck (unenclosed) which extends into the rear yard area.

C. Staff Recommendation:

Staff recommends denial of the requested rear setback variance, as filed.

BOARD OF ADJUSTMENT:

(APRIL 27, 2009)

Alberto Alcazar and Zuguey Lopez were present, representing the application. There were no objectors present. Staff presented the application with a recommendation of denial, as filed.

Ms. Lopez addressed the Board in support of the application. She described the rear addition as a patio area. James Van Dover referenced the wall studs on all walls, which represented closed walls. Ms. Lopez explained that the top half of the walls would be screened in and not enclosed. This issue was discussed further.

There was a motion to defer the application to the May 18, 2009 Agenda so that staff and the applicant could meet and determine exactly what the proposed addition involved.

There was additional discussion related to the structure being screened in. Scott Smith noted that he did not want this case to set precedence.

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Deborah Weldon, City Attorney, explained that no case sets a precedence for future cases. The issue was discussed.

The Chairman called for a vote on the motion to defer to May 18, 2009. The motion passed by a vote of 5 ayes and 0 nays. The application was deferred.

APRIL 27, 2009

ITEM NO.: 4

File No.: Z-8450

Owner: HRH Builders, Inc.

Applicant: William Darby

Address: 3421 Buckhorn Trail

Description: Lot 110, Block 12, Woodland's Edge Addition

Zoned: R-2

Variance Requested: A variances is requested from the area provisions of Section 36-254 to allow a stair/landing structure with a reduced rear yard setback.

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

Present Use of Property: Single Family Residence-Under Construction

Proposed Use of Property: Single Family Residential

STAFF REPORT

A. Public Works Issues:

No Comments

B. Staff Analysis:

The R-2 zoned property at 3421 Buckhorn Trail currently contains a one-story single family residence which is under construction. There will be a two-car wide driveway from Buckhorn Trail at the southwest corner of the lot. The lot contains a 25 foot front platted building line. The lot is in a section of the Woodland's Edge Subdivision which has minimum rear setbacks of 15 feet, instead of the typical minimum 25 foot requirement. The 15 foot rear setbacks were allowed for lots backing up to platted green belts, as is the case with this lot. Additionally, the lot has excessive slope, with the rear northeast corner of the lot being 40 feet lower than the front southwest corner. The applicant received an administrative sign-off for a 13.5 foot rear setback (10 percent as allowed by ordinance) at the time of building permit issuance.

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ITEM NO.: 4 (CON'T.)

The applicant is proposing to construct a step/landing structure for the deck on the rear of the residence, as noted on the attached site plan. The applicant is proposing to bring the deck out four (4) additional feet, with a rear setback of 9.5 feet, and construct a step/landing structure on the west end of the deck. The step/landing structure will be seven (7) feet wide, resulting in a rear setback of 6.5 feet. The deck bump-out and step/landing structure will be uncovered and unenclosed.

Section 36-254(d)(3) of the City's Zoning Ordinance typically requires a minimum rear setback of 25 feet for R-2 zoned lots. The approved plat of this lot included a minimum 15 foot rear setback. Therefore, the applicant is requesting a variance from this requirement to allow the deck bump-out and step/landing structure with a reduced rear setback.

Staff is supportive of the requested variance. Staff believes the request is reasonable and the applicant has adequate justification in requesting the reduced rear setback. The excessive slope of the lot has caused the rear deck area to be approximately 20 feet above grade. This requires a substantial step structure to provide a rear exit for the residence. Additionally, the lot has a very shallow lot depth (105 feet) as compared to a more typical single family lot depth of 150 or so feet. The shallow lot depths within this subdivision were established in order to maintain protected greenbelt buffers throughout. As noted previously, this lot backs up to one of the green belts, and as such, no residence will be constructed immediately north of this lot. Given this, staff believes the requested reduced rear setback will have no adverse impact on the adjacent properties or the general area.

C. Staff Recommendation:

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

1. The porch "bump-out " and step/landing structure must remain uncovered and unenclosed.
2. The applicant must submit a letter from Rocket Properties, the subdivision developer, approving the reduced rear setback.

BOARD OF ADJUSTMENT:

(APRIL 27, 2009)

The applicant was present. There were no objectors present. Staff presented the application with a recommendation of approval.

The applicant offered no additional comments.

The item was placed on the Consent Agenda and approved as recommended by staff with a vote of 5 ayes and 0 nays.

April 27, 2009

There being no further business before the Board, the meeting was adjourned at 3:12 p.m.

Date: _____

Chairman

Secretary