

LITTLE ROCK BOARD OF ADJUSTMENT

SUMMARY OF MINUTES

AUGUST 31, 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 July 27, 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

AUGUST 31, 2009

2:00 P.M.

I. OLD BUSINESS:

No Old Business

II. NEW BUSINESS:

- | | | |
|----|----------|-----------------------|
| 1. | Z-6563-A | 11 Pinnacle View Cove |
| 2. | Z-7385-A | 15 Ranch Valley Road |
| 3. | Z-8491 | 5524 Chevaux Court |
| 4. | Z-8492 | 11518 Ponderosa Drive |

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ITEM NO.: 1

File No.: Z-6563-A

Owner/Applicant: Tracye Smith Thomason

Address: 11 Pinnacle View Cove

Description: Lot 252, Cypress Point Addition (The Ranch)

Zoned: R-2

Variance Requested: A variance is requested from easement provisions of Section 36-11 to allow construction of a swimming pool which encroaches into a utility easement.

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. No objection to encroachment on City easement, however obstructions placed in City maintained easements are subject to removal or damage if maintenance of utilities or stormwater drainage facilities is needed.

B. Staff Analysis:

The R-2 zoned property at 11 Pinnacle View Cove is occupied by a two-story brick single family residence. There is a two-car wide driveway from Pinnacle View Cove which serves as access. The property backs up to a pond area which is back-water from the Little Maumelle River. There is a ten (10) foot wide utility easement which runs along the rear (north) property line.

The applicant proposes to construct a swimming pool at the northwest corner of the property, as noted on the attached site plan. The proposed pool will be located approximately eight (8) feet from the northwest corner of the residential structure, and extend 5 to 6 feet into the rear utility easement. It will be located 4 to 5 feet back from the rear (north) property line and approximately 20 feet

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from the west side property line. The pool will be located in a grass covered area of the rear yard. There are no overhead power lines in the rear yard area.

Section 31-11(f) of the City's Zoning Ordinance requires that encroachments into utility easements be reviewed and approved by the Board of Adjustment. Therefore, the applicant is requesting a variance to allow the swimming pool to encroach 5 to 6 feet into the rear utility easement. None of the public utility companies object to the requested encroachment. The applicant has submitted written sign-offs from all the public utility companies.

Staff is supportive of the requested easement encroachment. Staff views the request as reasonable. The proposed swimming pool meets/exceeds the minimum required setbacks from property lines and separation from the residence. The property was left with a relatively small rear yard area after construction of the residence, due to the irregular "pie shape" of the lot and the need to push the house further back on the lot to achieve the side setbacks and a driveway serving a side-loading garage. As noted previously, all the public utility companies approved the proposed pool placement. Staff believes the proposed pool, with easement encroachment, will have no adverse impact on the adjacent properties or the general area.

C. Staff Recommendation:

Staff recommends approval of the requested easement encroachment, as requested.

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The applicant was not present. There were no objectors present. Staff presented the item and a recommendation of approval. There was no further discussion. The item was placed on the consent agenda and approved by a vote of 5 ayes and 0 noes.

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ITEM NO.: 2

File No.: Z-7385-A

Owner/Applicant: James and Andrea Gary

Address: 15 Ranch Valley Road

Description: Part of Lot 29, Pine Manor Addition

Zoned: R-2

Variance Requested: A time extension is requested for previously approved setback variances associated with a proposed carport addition.

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. Staff Analysis:

On July 30, 2007 the Board of Adjustment approved side and rear setback variances for a proposed carport/covered walkway addition on the east end of the residence located at 15 Ranch Valley Road. The addition was approved with a rear setback of 13.5 to 14.5 feet and side setback of 18 inches minimum (with a maximum overhang of five (5) inches), with the following conditions:

1. Guttering must be provided to prevent water run-off onto the adjacent property to the east.
2. The carport structure must remain unenclosed on the north, south and east side, with the exception of the small enclosed storage room at the southeast corner of the carport structure.
3. The carport must be constructed to match the existing single family residence.

Please see the attached July 30, 2007 Board of Adjustment minute record and applicant letter for more information on the proposed carport project.

On July 22, 2009 the applicant submitted a letter to staff requesting a time extension for the approved variances, as a building permit has not yet been issued/obtained for the proposed construction. A variance approved by the Board is active for two (2) years, within which time the applicant must at least

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obtain the permit for construction. At the time the variances were approved for the carport addition, the applicant was in the process of making additional renovations to the residence. The applicant notes in an attached letter that those projects needed to be completed prior to construction of the carport addition.

Staff is supportive of a one (1) year time extension (from the July 30, 2009 expiration date) for the previously approved variance. Staff believes an additional year will be sufficient time for the applicant to obtain the building permit for the carport project. To staff's knowledge, there have been no changes in circumstances which would change staff's previous recommendation of approval for the project. Also attached is a letter from the property owner immediately to the east supporting the proposed addition.

B. Staff Recommendation:

Staff recommends approval of a one (1) year time extension for the previously approved setback variances. The building permit for the carport addition must be obtained no later than July 30, 2010.

BOARD OF ADJUSTMENT:

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The applicant was not present. There were no objectors present. Staff presented the item and a recommendation of approval subject to compliance with the conditions outlined in the "staff recommendation" above. There was no further discussion. The item was placed on the consent agenda and approved by a vote of 5 ayes and 0 noes.

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ITEM NO.: 3

File No.: Z-8491

Owner: Samuel and Beth Highsmith

Applicant: Greg Conley

Address: 5524 Chevaux Court

Description: Lot 2, Block 3, Chevaux Court Addition

Zoned: R-2

Variance Requested: A variance is requested from the area provisions of Section 36-254 to allow a covered patio addition with a reduced rear 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 NOTE:

The applicant submitted a letter to staff on August 19, 2009 requesting the application be withdrawn. Staff supports the withdrawal request.

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The applicant was not present. Staff informed the Board that the applicant had requested the application be withdrawn. Staff supported the withdrawal request.

The item was placed on the Consent Agenda and withdrawn by a vote of 5 ayes and 0 nays.

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ITEM NO.: 4

File No.: Z-8492

Owner: Andrew and Kathy Gibson

Applicant: Andrew Gibson, JR.

Address: 11518 Ponderosa Drive

Description: West side of Ponderosa Drive, north of Yarberry Lane

Zoned: R-2

Variance Requested: The applicant is requesting an administrative appeal of a denied home occupation/business license.

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 home occupation.

STAFF REPORT

A. Public Works Issues:

No Comments

B. Staff Analysis:

The R-2 zoned property at 11518 Ponderosa Drive is occupied by a one-story brick and frame single family residence. There is a one-car wide driveway from Ponderosa Drive which serves the property. The property is located on the west side of Ponderosa Drive, north of Yarberry Lane (east of Chicot Road)

On June 3, 2009 the applicant submitted an application for a home occupation/business license for the property at 11518 Ponderosa Drive. The request is for a home office for a "mobile auto repair" business. The applicant, Andrew Gibson, JR., lives on the property with his mother. He proposes to utilize approximately 120 square feet (bedroom) of the residence as a home office for the "mobile auto repair" business. He will have one (1) truck, Ford F-150 pick-up, parked on the site. Please see the attached letter from the applicant for a description of the "mobile auto repair" business.

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Staff denied the requested home occupation application based on the fact that the proposed use, "mobile auto repair", is not on the list of permitted home occupations as per Section 36-253(b)(6)b. of the City's Zoning Ordinance. Following are the home occupation standards as per Section 36-253(b)(6) of the code:

- (6) Home occupation.
 - a. Home occupations shall be permitted that will not:
 1. Change the outside appearance of the dwelling or provide product display visible from the street.
 2. Generate traffic, parking, sewage or water use in excess of what is normal in the residential neighborhood.
 3. Create a hazard to persons or property, result in electric interference or become a nuisance.
 4. Result in outside storage or display of any material or product.
 5. Involve accessory buildings.
 6. Result in signage beyond that which may be required by other government agencies.
 7. Limited to five hundred (500) square feet in area, but in no case more than forty-nine (49) percent of the floor area in a dwelling.
 8. Stock in trade shall not exceed ten (10) percent of the floor area of the accessory use.
 9. Require the construction of, or the addition to, the residence of duplicate kitchens.
 10. Requirement or cause the use or consumption on the premises of any food product produced thereon.
 11. Provide medical treatment, therapeutic massage or similar activities.
 - b. The following are permitted home occupations, provided they do not violate any of the provisions of the previous subparagraph a:
 1. Dressmaking, sewing and tailoring.

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2. Painting, sculpturing or writing (artistic endeavors).
 3. Telephone answering service or radio monitoring service.
 4. Home crafts such as model making, rug weaving and lapidary work.
 5. Tutoring limited to two (2) students at a time.
 6. Music instruction limited to two (2) students at a time.
 7. Catering and home cooking.
 8. Computer programming.
 9. Clock or watch repair.
 10. Personal or home care products marketing without stock in trade on premises.
- c. The following are prohibited as home occupations:
1. Barbershops and beauty shops.
 2. Animal hospitals
 3. Dance studios.
 4. Mortuaries.
 5. Nursery schools.
 6. Private clubs.
 7. Small appliance repair shops.
 8. Restaurants.
 9. Stables or kennels.
 10. Animal grooming.
 11. Engine or motor repair shops.
 12. Paint shops.

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- d. Any proposed home occupation that is neither specifically permitted by subparagraph b., nor specifically prohibited by subparagraph c., shall require an accessory use permit and be granted or denied by the city department designated by the city manager upon consideration of those standards contained in this paragraph. Appeals from the administrative judgment of the staff shall be filed with the board of adjustment. The content of the filing shall consist of:
 1. A cover letter addressed to the chairman and members of the board of adjustment setting forth the request;
 2. A copy of all pertinent graphic materials or correspondence. This filing shall occur within thirty (30) calendar days of the action by the staff. No activity which requires an accessory use permit shall be conducted prior to issuance of the permit. Any proposed use requiring employees who are not residents of the dwelling shall be approved by the board of adjustment prior to the issuance of permits.

The applicant is requesting a home occupation use that is not specifically listed as a permitted home occupation use as per Section 36-253(b)(6)b. of the code. Therefore, the Board of Adjustment is being asked to determine whether or not the applicant's proposed use, "mobile auto repair", should be allowed as a home occupation.

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The applicant was not present. Staff noted that the application needed to be deferred to the September 28, 2009 Agenda at the request of staff and the City Attorney's office, to study the issue further.

The item was placed on the Consent Agenda and deferred to the September 28, 2009 Agenda by a vote of 5 ayes and 0 nays.

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There being no further business before the Board, the meeting was adjourned at 2:04 p.m.

Date: _____

Chairman

Secretary