

LITTLE ROCK BOARD OF ADJUSTMENT

SUMMARY OF MINUTES

JANUARY 26, 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 November 24, 2008 meeting were approved as mailed by unanimous vote.

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

Members Absent: None

City Attorney Present: Debra Weldon

LITTLE ROCK BOARD OF ADJUSTMENT

AGENDA

JANUARY 26, 2009

2:00 P.M.

I. OLD BUSINESS:

- | | | |
|----|----------|-----------------------|
| A. | Z-8392 | 1114 Jefferson Street |
| B. | Z-5246-A | 7524 Baseline Road |

II. NEW BUSINESS:

- | | | |
|----|----------|---|
| 1. | Z-4017-A | 5018 Kavanaugh Blvd. |
| 2. | Z-6957-M | West side of Talley Road
1000' South of Colonel Glenn Road |
| 3. | Z-8422 | 1620 N. Polk Street |
| 4. | Z-8423 | 1821 N. Beechwood Street |
| 5. | Z-8424 | 1218 Center Street |

JANUARY 26, 2009

ITEM NO.: A

File No.: Z-8392

Owner: Derotha Webb

Applicant: Ron Woods

Address: 1114 Jefferson Street

Description: Part of Lot 6, Block 29, Cunningham's Addition

Zoned: C-3

Variance Requested: A variance is requested from the parking provisions of Section 36-502 to allow the use of an existing commercial building with no off-street parking.

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

Present Use of Property: Vacant Commercial Building

Proposed Use of Property: Neighborhood Resource Center

STAFF REPORT

A. Public Works Issues:

No Comments

B. Staff Analysis:

The C-3 zoned property at 1114 Jefferson Street is occupied by a one-story commercial building. The building is approximately 1,512 square feet in area and occupies almost the entire 49 foot by 50 foot commercial lot. The property is comprised of the north 49 feet of Lot 6, Block 29, Cunningham's Addition, and has a separate owner than the remainder of the lot. The building has a history of use as some form of commercial business (not a restaurant or similar type use). The property has no off-street parking. On-street parking is allowed in the area.

The applicant is proposing to use the existing building as an "event/meeting center". Section 36-502(b)(3)c. of the City's Zoning Ordinance would require a minimum of 15 off-street parking spaces for this type use (1 space per 100 square feet of gross floor area).

Therefore, the applicant is requesting a variance from this ordinance requirement for use of the building with no off-street parking.

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ITEM NO.: A (CON'T.)

Staff is not supportive of the requested parking variance and proposed use of the property. The applicant is proposing a use which requires the highest level of off-street parking. Office use of the property would require three (3) off-street parking spaces and retail commercial uses would require five (5) spaces. Staff could support a parking variance to allow office or retail use of the building, but not a use which requires one (1) space per 100 square feet of gross floor area. The use of the building as proposed by the applicant could create a large amount of after-hours parking which would encroach into the single family neighborhood to the north. Office or retail use of the property would require a much smaller parking demand and would typically be day time uses. Staff believes use of the building as proposed with no off-street parking would have an adverse impact on the adjacent properties and neighborhood to the north.

C. Staff Recommendation:

Staff recommends denial of the requested parking variance, as filed.

BOARD OF ADJUSTMENT: (SEPTEMBER 29, 2008)

Staff informed the Board that the application needed to be deferred to the October 27, 2008 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 October 27, 2008 Agenda as recommended by staff with a vote of 5 ayes and 0 nays.

BOARD OF ADJUSTMENT: (OCTOBER 27, 2008)

Staff informed the Board that the applicant requested the application be deferred to the November 24, 2008 Agenda. Staff supported the deferral request.

The item was placed on the Consent Agenda and deferred to the November 24, 2008 Agenda as recommended by staff with a vote of 4 ayes, 0 nays and 1 absent.

Staff Update:

The applicant submitted additional information to staff on November 6, 2008. The applicant notes that approval has been received from the adjacent owner of 4700/4710 W. 12th Street (Ugly Mike's Records) to use the 26 existing parking spaces on that site. The site is located immediately west of and adjacent to the property in question (1114 Jefferson Street).

The applicant notes that the business at 4700/4710 W. 12th Street will close at 5:00 P.M. daily and that there will be no use of the building at 1114 Jefferson Street before 5:00 P.M. daily. According to the applicant there will be no simultaneous use of the two (2) properties, freeing all 26 parking spaces at

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ITEM NO.: A (CON'T.)

4700/4710 W. 12th Street for use by the owner of 1114 Jefferson Street. The applicant has submitted a copy of a lease agreement between the two (2) property owners for the parking spaces. The lease agreement does not specify a length of time for the parking use.

Staff continues to have reservations regarding the proposed use of the commercial building at 1114 Jefferson Street. Staff believes it would be very difficult to police (by the property owner or City Staff) parking for this commercial use, assuring that the adjacent parking lot at 4700/4710 W. 12th Street is utilized. Staff continues to believe that after-hours parking could very easily encroach into the single family neighborhood to the north. As of this writing, staff's recommendation of denial of the requested parking variance remains unchanged. Staff has also received letters of opposition from several nearby residents. The letters are attached for Board review.

BOARD OF ADJUSTMENT:

(NOVEMBER 24, 2008)

Ron Woods and Derotha Webb were present, representing the application. There were no objectors present. Staff presented the application with a recommendation of denial.

Ron Woods addressed the Board in support of the application. He presented the Board with a site plan and a floor plan for the project. He explained that the area of the building left for events was very small, after construction of a kitchen, bathroom and office space. He noted that would be a paved walkway from the adjacent parking at 4700/4710 W. 12th Street to the building at 1114 Jefferson Street.

Derotha Webb also addressed the Board in support of the application. She described the use of the building as a "resource center" for the community. She explained that the building had been upgraded with a new roof, windows and doors. She further described who will use the building.

Chairman Burruss noted that the use of the building was described as an "event center" on the application form. This issue was briefly discussed.

Scott Smith asked about the floor plan as presented by the applicant. He noted that the plan showed a full-service, restaurant-style kitchen. Ms. Webb explained that she wanted to provide meals to persons using the facility.

The issue of parking was discussed with relation to the use of the adjacent buildings.

James Van Dover asked about funding for the project. Ms. Webb explained that it was a non-profit venture.

The use of the building was discussed further.

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Staff suggested the application be deferred in order to clarify use of the building and possible conditions to be placed on the property. The need for a deferral was discussed. The applicants indicated that a deferral would be acceptable.

There was a motion to defer the application to the January 26, 2009 agenda. The motion passed by a vote of 4 ayes, 0 nays and 1 absent.

Staff Update:

Staff met with the applicants, Ron Woods and Derotha Webb, on January 14, 2009 and discussed the proposed use of the property/building at 1114 Jefferson Street. The applicant notes that the building will be utilized as a "neighborhood resource center" (non-profit organization) to serve the community. The resource center will have programs designed to aid youth (tutoring, summer programs, programs for youth with behavioral problems, etc.), parents (single parents, low income parents, parenting classes, etc.), senior citizens and church groups. The applicant notes that the resource center will be working/partnering with other organizations in the area such as Stop the Violence and the Black Community Developers.

There will typically be two (2) volunteer staff persons at the resource center. The staff will help individuals in the area who have certain problems find the appropriate program(s) to suit their needs. The center will typically open at 3:00 p.m. and extend not past 10:00 p.m., Monday through Friday. The center will be open most of the day on Saturdays, extending not past 10:00 p.m. The center will be used on Sundays only on an as needed basis.

The applicant also notes that the building at 1114 Jefferson Street will only be used by the resource center. It will not be rented to individuals for special events. The resource center may occasionally host a special event (fish fry, etc.) to raise money for this non-profit organization.

As noted previously, the applicant has permission from the adjacent property owner (to the west) at 4700/4710 W. 12th Street to use the existing 26 parking spaces on that site. The applicant has noted that the spaces can be used by the resource center at any time. The applicant also notes that there will be a pedestrian walkway between the adjacent parking and resource center.

With respect to the Kitchen area shown by the applicant on a proposed floor plan, the applicant notes that the kitchen will only be used to serve meals to persons involved in classes, programs, etc. at the resource center. The kitchen may be used on occasion (for example Thanksgiving or Christmas) to take meals to persons in the area who are in need. The applicant notes that the kitchen will not be used for a commercial restaurant.

Staff is now supportive of the requested parking variance in conjunction with the proposed use of the building at 1114 Jefferson Street as described in this "staff update." With operation of the neighborhood resource center as described by

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ITEM NO.: A (CON'T.)

the applicant, and adhering to the conditions as noted in the next paragraph (Revised Staff Recommendation), Staff believes the use of the property with a parking variance will have no adverse impact on the adjacent properties or the general area. Clarifying the use of the property as described by the applicant eliminates Staff's original concern related to after-hours use of the property and parking extending into the residential neighborhood to the north.

Revised Staff Recommendation:

Staff recommends approval of the requested parking variance in conjunction with the operation of a "neighborhood resource center" at 1114 Jefferson Street, subject to the following conditions:

1. Use of the property is limited to a "neighborhood resource center" as described by the applicant
2. The building cannot be rented or loaned to any other individual, group or organization for special events.
3. The applicant must encourage patrons of the center to park in the adjacent lot at 4700/4710 W. 12th Street. Sign(s) should be placed in front of the building (east side) at 1114 Jefferson Street directing patrons to the parking lot.
4. The pedestrian walkway along the south side of the building at 1114 Jefferson Street must be connected to the adjacent parking lot to the west.
5. The kitchen facility within the building at 1114 Jefferson Street shall only be used to serve the resource center use. The kitchen facility shall not be used in conjunction with a restaurant, take-out or catering use.
6. Activities of the resource center must conclude by 10:00 p.m. daily.

BOARD OF ADJUSTMENT:

(JANUARY 26, 2009)

The applicant was present. There were no objectors present. Staff presented the item and 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.: B

File No.: Z-5246-A

Owner: Baseline Realty, LLC

Applicant: Ana Arias

Address: 7524 Baseline Road

Description: Northeast corner of Baseline and Chicot Roads

Zoned: C-3

Variance Requested: A variance is requested from the parking provisions of Section 36-502 to allow use of an existing commercial building with reduced parking.

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

Present Use of Property: Vacant Commercial Building

Proposed Use of Property: Pool Hall

STAFF REPORT

A. Public Works Issues:

No Comments

B. Staff Analysis:

The C-3 zoned property at 7524 Baseline Road is occupied by a one-story commercial building. The property is located at the northeast corner of Baseline Road and Chicot Road. There is paved parking on the south and west sides of the building. Access drives from Baseline and Chicot Roads serve the property. The building was previously used as a dry cleaning business. There is a total of 23 paved parking spaces on the site. The commercial building is currently vacant, and has 3,920 square feet of gross floor area.

The applicant is proposing to convert the use of the building to a pool hall with bar service. Section 36-502(b)(3)c. of the City's Zoning Ordinance requires a minimum of 39 off-street parking spaces for this type use within the existing 3,920 square foot building (1 parking space per 100 square feet of gross floor area). Therefore, the applicant is requesting a variance from this ordinance

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ITEM NO.: B (CON'T.)

standard to allow use of the building as a pool hall with bar service with 23 off-street parking spaces. The applicant has submitted a written lease agreement for the eight (8) parking spaces on the property immediately to the east at 7510 Baseline Road.

Staff is not supportive of the requested parking variance. Staff does not feel there is adequate parking on the site to support the use as proposed, requiring one (1) parking space for each 100 square feet of gross floor area. The existing parking on the site is only 58 percent of the minimum parking requirement. Additionally, there are no additional parking spaces on the site immediately to the east (7510 Baseline Road), which are not spaces needed toward meeting the minimum parking for that property. Therefore, staff feels the lease of these parking spaces should not be considered. Staff believes the building at 7524 Baseline Road should be used for commercial or office purposes requiring no more than 23 off-street parking spaces. The proposed use of the property could generate an amount of traffic and parking which this site is not capable of handling.

C. Staff Recommendation:

Staff recommends denial of the requested parking variance.

BOARD OF ADJUSTMENT: (OCTOBER 27, 2008)

Staff informed the Board that the application needed to be deferred to the November 24, 2008 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 November 24, 2008 Agenda as recommended by staff with a vote of 4 ayes, 0 nays and 1 absent.

Staff Update:

Staff has made numerous attempts to contact the applicant (phone messages and meeting follow-up letters) since before the October 27, 2008 hearing. The applicant has not contacted staff nor submitted proof of notification of surrounding property owners. Therefore, staff recommends this application be withdrawn, as it appears to have been abandoned by the applicant.

BOARD OF ADJUSTMENT: (JANUARY 26, 2009)

Staff informed the Board that the application needed to be withdrawn without prejudice, based on the fact that the applicant, in staff's opinion, had abandoned the application.

The item was placed on the Consent Agenda and withdrawn, without prejudice, as recommended by staff with a vote of 5 ayes and 0 nays.

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ITEM NO.: 1

File No.: Z-4017-A

Owner: Country Club Station Realty Company

Applicant: Ellen Golden, DIFA, LLC

Address: 5018 Kavanaugh Blvd.

Description: Lots 1-7, Lots E and F and part of Lots A & B,
All in Shadowlawn 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 and rear setbacks and reduced parking.

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

Present Use of Property: Grocery Store

Proposed Use of Property: Grocery Store and Restaurant

STAFF REPORT

A. Public Works Issues:

No Comments

B. Landscape and Buffer Issues:

Site plan must comply with the cities minimal landscape and buffer ordinance requirements.

Street trees along both Club Road and Kavanaugh Boulevard are needed.

A franchise agreement with City of Little Rock is required in conjunction with the street trees.

C. Staff Analysis:

The C-3 zoned property at 5018 Kavanaugh Blvd. is occupied by two (2) one-story commercial buildings and associated parking areas. The northernmost building (7,750 square feet) contains Terry's Finer Foods Grocery Store and another retail use with the south building (3,375 square feet) containing a liquor store. There is a driveway from Kavanaugh Blvd. between the two (2) buildings and a paved alley along the rear (east) property line. There is paved parking located between the two (2) buildings and along the east side of the southernmost building. There is also a small amount of parking (4 spaces) at the northeast corner of the northern building along the alley. There is additional parking along the west side of the north building which is mostly in the right-of-way. There are 33 parking spaces devoted to this development. There is also on-street parking in the area. The existing development requires a minimum of 36 parking spaces as per current ordinance requirements.

The applicant is proposing a two-phase project for the overall property. The first phase involves utilizing approximately 554 square feet of the north building (at its southwest corner) as a restaurant use in conjunction with the existing grocery store use. Section 36-502(b)(3)c. of the City's Zoning Ordinance requires four (4) additional off-street parking spaces for the proposed restaurant use. The applicant is requesting a variance from this ordinance requirement for Phase I.

Phase II of the proposed project involves the following:

1. A second floor addition above the Phase I restaurant use, spanning over the covered parking at the south end of the building.
2. A 300 square foot excavated wine cellar/dining area.
3. Reconstruction of the concrete block building section at the southwest corner of the overall building (Phase I restaurant area).
4. The east 10'-2" portion of the second floor addition will include ground floor construction for a stairway/egress area.

The overall restaurant area will be approximately 2,715 square feet after Phase II construction. A front setback of approximately 16.5 feet is proposed from the west (front) property line of approximately 1.5 feet. The existing building is located approximately 16.5 feet from the front (west) property line, with a portion of the structure being located on the rear (east) property line. This proposed addition will be for the expansion of the Phase I restaurant use.

Section 36-301(e)(1) of the City's Zoning Ordinance requires a minimum front setback of 25 feet for this C-3 zoned property. Section 36-301(e)(3) requires a minimum rear setback of 25 feet. Section 36-502(b)(3)c. will require 22 additional off-street parking spaces for the restaurant expansion. The

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ITEM NO.: 1 (CON'T.)

applicant is requesting variances from these ordinance requirements to allow the building addition with reduced front and rear setbacks and providing no additional off-street parking spaces for the proposed Phase II project.

Staff is supportive of the requested variances for the Phase I and Phase II project. Staff views the request as reasonable. With respect to the requested variances for reduced building setbacks, the proposed addition will be mostly a second level addition, maintaining the same setbacks as the existing commercial building. The proposed building addition is only 18 feet-8 inches in width. Staff also supports the requested parking variance. As noted previously, this development currently has 33 parking spaces. Eight (8) of the spaces (along the west side of the north building) are partially on this property and partially in the right-of-way of Kavanaugh Blvd. The applicant is proposing no reduction in the current number of parking spaces with this project. This property has more off-street parking than most other businesses located along Kavanaugh Blvd., between this site and N. University Avenue. Additionally, much of the time when the restaurant will be in operation, the grocery and retail uses within the north building will be closed. Staff feels that the proposed phased project to add a restaurant use to this commercial site will be compatible with the neighborhood, and have no adverse impact on the adjacent properties or the general area. Staff believes the restaurant use will be a quality addition to this east leg of Kavanaugh Blvd., north of Cantrell Road.

D. Staff Recommendation:

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

1. The building addition must be constructed to match the existing commercial building.
2. None of the existing parking is to be eliminated with the proposed construction.
3. Compliance with the Landscape and Buffer requirements as noted in paragraph B. of the staff report.

BOARD OF ADJUSTMENT:

(JANUARY 26, 2009)

The applicant was present. There were no objectors present. Staff presented the item and 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-6957-M

Owner: PB AGRI Holdings, LLC

Applicant: Pat McGetrick

Address: West side of Talley Road, approximately 1,000 feet south of Colonel Glenn Road

Description: Lot 21, Colonel Glenn Centre Addition

Zoned: C-4

Variance Requested: A variance is requested from the development criteria of Section 36-302 to allow unscreened outdoor display of merchandise.

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

Present Use of Property: Undeveloped

Proposed Use of Property: Lawn and Garden Center

STAFF REPORT

A. Public Works Issues:

1. Since the western driveway is a shared access easement and/or the main entrance to the development, vehicles are not allowed to back into the shared access easement and/or main entrance in the parking lot of the development. Please revise parking lot plans.

B. Landscape and Buffer Issues:

Site plan must comply with the City's minimal landscape and buffer ordinance requirements.

The landscape ordinance requires a nine foot wide (9') landscape strip around the site's entirety. A variance from the minimal requirement must be obtained from the City Beautiful Commission prior to the issuance of a building permit.

Currently, there is parking, curb, and gutter shown on a different piece of property; not allowed; revise.

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ITEM NO.: 2 (CON'T.)

The landscape ordinance requires a minimum of eight percent (8%) of the interior parking area be green space. Currently, the areas appear deficient. The areas next to the trailer parking can easily be additional green space and is currently, dead space.

An automatic irrigation system is required.

The parking aisle along the eastern property line is located on adjoining property which is not allowed. This site requires twenty-six (26) parking spaces and reflects sixty-seven (67) spaces; therefore, this entire aisle can easily be eliminated.

Recommend the redesign of the parking lot; including the required landscape perimeter strips; which will also help with the traffic circulation and safety.

Prior to the issuance of a building permit, it will be necessary to provide an approved landscape plan stamped with the seal of a Registered Landscape Architect.

C. Staff Analysis:

The C-4 zoned property located along the west side of Talley Road, approximately 1,000 feet south of Colonel Glenn Road is currently undeveloped. The property is Lot 21 of the Colonel Glenn Centre Addition. The subdivision extends north, south and west of this lot, with a stormwater detention area (separate tract) immediately to the east along Talley Road. The lot is oriented front to back running north to south and has frontage on an interior subdivision private access road along the north (front) property line.

The applicant is proposing to develop the lot for a lawn and garden center type use. A one-story commercial building is proposed within the south half of the lot as noted on the attached site plan. The proposed building will include an outdoor garden center area along its east side. Access drives will be located along the north property line from the subdivision access road. Paved parking will be located between the proposed building and the subdivision access road (north side of building). An asphalt service drive will be located on the west and south sides of the proposed building. The building is proposed to be set back approximately 260 feet from the front (north) property line, 87 feet from the rear (south) property line and 25 feet from the east side property line. The building is proposed to have no setback from the west side property line. On November 24, 2008 the Board of Adjustment approved a variance for a reduced building setback along the west property line.

In conjunction with the proposed project, the applicant has identified three (3) areas on the site plan where outdoor display of merchandise is proposed. The first, and largest, area of outdoor display is located along the east side of the proposed building. This area is approximately 18,000 square feet in area and will be enclosed with a coated chain link fence. The second area will be along

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ITEM NO.: 2 (CON'T.)

the sidewalk area in front (north side) of the store building. The final area will be located near the front property line, along the north end of the parking area. This area will be for larger items (equipment, tractor attachments, etc.).

Section 36-302(b)(4) of the City's Zoning Ordinance reads as follows:

- (4) No article or material stored or offered for sale in connection with the permitted or conditional uses listed herein shall be stored or displayed outside the confines of a building unless it is so screened by a permanent opaque screening fence or wall so that it cannot be seen from an adjoining lot. The following screening and display criteria shall apply to uses located in the C-4 open display district:
 - a. Automobile, truck, tractor, mobile home, boat or motorcycle sales areas are not required to screen fully assembled merchandise which is ready for sale.
 - b. No permanent open display will be permitted on sidewalks or public right-of-way.
 - c. Automobile service stations shall be permitted open display of merchandise commonly sold by such operations as long as the area of said display is not taller than the building nor larger than an area equal to one-half of the façade area of the front of the building.
 - d. Automobile service stations may be used for the storage of rental trucks or trailers, provided however, the storage space shall be paved, shall not exceed four thousand (4,000) square feet in area and the above screening requirements are met.

Therefore, the applicant is requesting a variance from this ordinance requirement to allow the area of outdoor display of merchandise with no opaque screening.

Staff is supportive of the requested variance for unscreened display of merchandise. Staff views the request as reasonable. Although the "development criteria" section of 36-302 does require screening around outdoor display of certain merchandise, the "purpose and intent" section (36-302(a)) notes that "The C-4 district is also intended to provide a location for the limited amount of merchandise, equipment and material being offered for retail sale that, because of the type of material or transportation requirements, is suitable for display and storage outside the confines of an enclosed building." Staff believes that the type of merchandise that will be offered by this business falls under this category and is suitable for display without screening. Additionally, there are other C-4 uses in the area which offer open display. There is undeveloped C-4 zoned property immediately to the west, with the undeveloped property immediately east across Talley Road being designated

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ITEM NO.: 2 (CON'T.)

as Light Industrial on the City's future Land Use Plan. Staff believes that the proposed area of unscreened outdoor display will have no adverse impact on the adjacent properties or the general area, as long as the display areas are maintained in a neat and orderly fashion.

D. Staff Recommendation:

Staff recommends approval of the requested variance to allow unscreened outdoor display of merchandise, subject to the following conditions:

1. Compliance with the Landscape and Buffer requirements as noted paragraph B. of the staff report. The site plan and landscape plan submitted for building permit must reflect these requirements.
2. The areas of outdoor display must be maintained in a neat and orderly fashion.
3. Compliance with the Public Works requirement as noted in paragraph A. of the staff report.

BOARD OF ADJUSTMENT:

(JANUARY 26, 2009)

The applicant was present. There were no objectors present. Staff presented the item and 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.: 3

File No.: Z-8422

Owner: Jacob White Construction Company

Applicant: Jacob White

Address: 1620 N. Polk Street

Description: Lot 2, Block 29, Mountain Park 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 1620 N. Polk Street is occupied by a two-story frame single family residence which was recently constructed. There is a paved alley along the rear (west) property line. A two-car wide driveway leads from the alley to a garage on the rear of the residence. There is an uncovered/unenclosed deck along the south side of the residence which is approximately three (3) feet above grade. In association with the new home construction, the applicant constructed an eight (8) foot high wood fence along the south side property line, as noted on the attached site plan. A six (6) foot wood fence is located along the rear (west) property line.

Section 36-516(e)(1)a. of the City's Zoning Ordinance allows a maximum fence height of six (6) feet for residential fences located along interior lot lines. Therefore, the applicant is requesting a variance to allow the eight (8) foot high fence located along the south side property line. The applicant is requesting

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ITEM NO.: 3 (CON'T.)

the increased fence height to provide privacy for the rear yard area, primarily for the elevated deck structure.

Staff is supportive of the requested fence height variance. Staff views the request as reasonable. Staff typically supports this type of fence variance (8 foot fence along an interior property line) for residential properties. Staff feels the eight (8) foot high fence is compatible with the neighborhood and will provided the desired privacy for the property owners on either side of the fence. The property to the south also has a patio area adjacent to the new fence. Staff believes the proposed fence will have no adverse impact on the adjacent properties or the general area.

C. Staff Recommendation:

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

BOARD OF ADJUSTMENT:

(JANUARY 26, 2009)

Jacob White was present, representing the application. There were no objectors present. Staff presented the item with a recommendation of approval.

Jacob White addressed the Board in support of the application. He explained the reason for the fence height with relation to the deck at 1620 N. Polk Street and the property immediately to the south.

Scott Smith asked Mr. White what triggered the request for a variance. Mr. White noted that the fence height was flagged when the certificate of occupancy inspection was made by the City. Scott Smith questioned the need for the variance. Mr. White explained that the deck overlooked the property to the south. He noted that the deck could have been constructed at grade, but it would have been smaller.

James Van Dover asked Mr. White if he was aware of the six (6) foot maximum fence height requirement when he constructed the fence. Mr. White explained that he was not aware of the requirement. The issue was briefly discussed. Mr. White explained that the property owner immediately to the south and the other surrounding owners were supportive of the fence.

There was a motion to approve the requested fence height variance, as recommended by staff. The motion passed by a vote of 4 ayes and 1 nay. The application was approved.

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ITEM NO.: 4

File No.: Z-8423

Owner: Rick Fleetwood

Applicant: Ron Head

Address: 1821 N. Beechwood Street

Description: East side of Beechwood Street, north of Cantrell Road

Zoned: R-2

Variance Requested: A variance is requested from the easement provisions of Section 36-11 to allow a building addition 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:

No Comments

B. Utility Comments:

Little Rock Wastewater – Little Rock Wastewater will agree to the variance request when the following conditions are met:

- Plans for Relocation of the existing sewer main have been submitted to LRW according to LRW's Specifications.
- Upon Approval of the plans the sewer main will be relocated as shown on the approved plans.
- All final paperwork has been submitted to LRW as required in LRW's Specification including an easement for the relocated sewer main.
- LRW Accepts the Relocation as part of the LRW System and an acceptance letter is issued.

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ITEM NO.: 4 (CON'T.)

LRW cannot approve this variance until the project is complete and an acceptance letter has been issued. Any construction work over the existing line prior to that time could cause damage to the existing sewer main.

Central Arkansas Water – No objection to easement encroachment.

Center Point Energy – No objection to easement encroachment.

Entergy – No objection to easement encroachment.

AT&T – No objection to easement encroachment.

C. Staff Analysis:

The R-2 zoned property at 1821 N. Beechwood Street is occupied by a three-story brick single family residence. The property slopes downward from front to back (west to east), with the residence being three (3) stories on the rear. There is a one-car wide driveway from Beechwood Street which serves as access to the property. There is a concrete parking pad at the northwest corner of the residence.

The applicant proposes to construct a one-story garage addition at the northwest corner of the residence, over a portion of the existing parking pad, as noted on the attached site plan. The proposed garage addition will be 22 feet by 30 feet in area. It will be located approximately 43 feet back from the front (west) property line and 10 to 12 feet back from the north side property line. The proposed garage addition will extend approximately three (3) feet into a utility easement which runs along the north side property line. The applicant has also noted that the sidewalk (steps) located in the front yard area will be removed, and that the existing driveway from Beechwood Street will be widened slightly to the north with the proposed garage project.

Section 36-11(f) of the City's Zoning Ordinance requires that any building encroachments into utility easements be reviewed and approved by the Board of Adjustment. Therefore, the applicant is requesting a variance to allow the easement encroachment. The proposed garage addition exceeds the minimum ordinance required setbacks from property lines.

Staff is supportive of the requested easement encroachment variance. As noted in paragraph B. of the Staff Report, all of the utility companies agree to the proposed easement encroachment, with the exception of Little Rock Wastewater. Little Rock Wastewater notes agreement with the easement encroachment only when certain conditions have been met by the applicant, as noted in paragraph B. Staff's support of the easement encroachment is based on the Little Rock Wastewater's condition being met as noted in paragraph B., prior to a building permit being issued for the garage addition. Otherwise, staff feels the proposed garage addition will have no adverse impact on the adjacent properties or the general area.

JANUARY 26, 2009

ITEM NO.: 4 (CON'T.)

D. Staff Recommendation:

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

1. No building permit will be issued for the garage addition until the existing sewer main has been relocated and an acceptance letter has been issued by Little Rock Wastewater and submitted to staff.
2. The garage addition must match the existing residence.

BOARD OF ADJUSTMENT:

(JANUARY 26, 2009)

The applicant was present. There were no objectors present. Staff presented the item and 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.

JANUARY 26, 2009

ITEM NO.: 5

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.

JANUARY 26, 2009

ITEM NO.: 5 (CON'T.)

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.

January 26, 2009

There being no further business before the Board, the meeting was adjourned at 2:18 p.m.

Date: _____

Chairman

Secretary