

LITTLE ROCK BOARD OF ADJUSTMENT

SUMMARY OF MINUTES

MARCH 30, 2009

2:00 P.M.

I. Roll Call and Finding of a Quorum

A Quorum was present being four (4) in number.

II. Approval of the Minutes of the Previous Meetings

The Minutes of the February 23, 2009 meeting were approved as mailed by unanimous vote.

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

Members Absent: David Wilbourn, Chairman

City Attorney Present: Debra Weldon

LITTLE ROCK BOARD OF ADJUSTMENT

AGENDA

MARCH 30, 2009

2:00 P.M.

I. OLD BUSINESS:

A. Z-8424 1218 Center Street

II. NEW BUSINESS:

1. Z-8434 8101 Chatham Drive
2. Z-8435 11103 Chicot Road
3. Z-8437 12005 Westhaven Drive
4. Z-8438 5 Cadron Cove
5. Z-8439 2 Duclair Court

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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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ITEM NO.: A (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.

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ITEM NO.: A (CON'T.)

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.

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ITEM NO.: 1

File No.: Z-8434

Owner/Applicant: Cheryl L. Mathis

Address: 8101 Chatham Drive

Description: Lot 1, Sheraton Park Addition

Zoned: R-2

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

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

Present Use of Property: Single Family Residential

Proposed Use of Property: Single Family Residential

STAFF REPORT

A. Public Works Issues:

No Comments

B. Staff Analysis:

The R-2 zoned property located at 8101 Chatham Drive is occupied by a one-story brick and frame single family residence. The property is located at the southwest corner of Chatham Drive and Biscayne Drive. There is a two-car wide driveway from Chatham Drive which serves as access to the property. There is a two-car wide carport at the northwest corner of the house, which is unenclosed on its west and north sides. The lot contains a 25 foot platted building line along the front (north) and street side (east) property line. The existing house extends across the front platted building line by approximately four (4) feet at the structure's northwest corner.

The applicant is proposing to enclose the existing carport area, converting it to a two-car garage. The applicant notes that the garage enclosure will not extend beyond the existing roof line, and that it will have exterior siding to

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match the existing residence. The applicant notes that the garage enclosure is requested to provide additional security and storage space.

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 carport enclosure 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 relatively minor issue. The applicant is requesting to enclose a carport structure of which only a very small portion crosses the front platted building line and encroaches into the minimum required front setback. Only approximately 39 square feet of the carport portion of the residence crosses the 25 foot front platted building line. Additionally, the residence immediately to the west is located approximately 16 feet back from the carport portion of this residence. Staff believes the enclosure of the carport area will have no adverse impact on this adjacent residence 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 carport enclosure. 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 carport enclosure must be constructed to match the existing residence.

BOARD OF ADJUSTMENT:

(MARCH 30, 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 4 ayes, 0 nays and 1 absent.

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ITEM NO.: 2

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

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applicant's intent to keep livestock (horses, cows and goats) on the property and also have a garden area.

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.

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ITEM NO.: 3

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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ITEM NO.: 4

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

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of the structure will cross the 25 foot front platted building line by approximately 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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ITEM NO.: 4 (CON'T.)

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.

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ITEM NO.: 5

File No.: Z-8439

Owner: Russ Harrington

Applicant: Burt Taggart

Address: 2 Duclair Court

Description: Lot 1R,Block 3, Chenal Valley Addition

Zoned: R-2

Variance Requested: A variance is requested from the area provisions of Section 36-254 to allow a building 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 REPORT

A. Public Works Issues:

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

B. Staff Analysis:

The R-2 zoned property at 2 Duclair Court is occupied by a two-story brick single family residence. The property is located on the northwest corner of Duclair Court and Chenal Valley Drive. There is an access drive within an access easement along the rear (west) property line. There is a two-car wide driveway from the access drive to a garage on the west side (rear) of the residence. The access easement is 14 feet wide at the rear of this lot.

The applicant is proposing to construct a one-story addition to the rear (west side) of the structure, as noted on the attached site plan. The addition will be located 15 feet back from the rear (west) property line, 12 feet from the south side property line and approximately 29 feet from the north side property line.

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The applicant notes that the addition will create a first floor bedroom and bathroom for the elderly parents of the property owner who are unable to use the staircase within the existing residence. The room addition will be approximately 450 square feet in area.

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 building addition with a reduced rear setback of 15 feet. All other setbacks will comply with ordinance standards.

Staff is supportive of the requested variance. Staff views the request as reasonable. The residence with addition will not be out of character with other lots within this subdivision with respect to setbacks from access drives and building massing. The residence immediately to the west is located only a foot or two from the access drive (side yard relation). The requested addition with reduced rear setback will have a rear yard relation to the residence to the west across the access drive. The proposed building addition should have no adverse impact on the adjacent properties or the overall neighborhood.

This subdivision is likely covered by an active bill of assurance which may address setback and architectural review issues. The applicant needs to be aware of this and should review the document for compliance.

C. Staff Recommendation:

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

1. The addition must be constructed to match the existing residence.
2. Compliance with the Public Works requirement as noted in paragraph A. of the staff report.

BOARD OF ADJUSTMENT:

(MARCH 30, 2009)

Burt Taggart was present, representing the application. There were no objectors present. Staff presented the application with a recommendation of approval. Mr. Taggart made no additional comments.

Scott Smith asked Mr. Taggart why the variance was needed. Mr. Taggart explained the current floor plan of the house. He explained that the design was to develop a new bedroom with the appearance of a stand-alone structure. He also explained that the roofline of the existing house dictated the design of the proposed addition.

Mr. Smith asked why the enclosed connector was needed. Mr. Taggart noted that with the existing roofline of the house, the addition could not be located much closer

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to the existing structure. Dana Carney, City staff, noted that the single family developments in Chenal were not allowed accessory structures.

Mr. Smith asked what the proposed rear setback was. Mr. Taggart noted that it was 15 feet and explained. He also noted that the adjacent property owners were in support of the proposed addition. He noted that the Public Works requirement would be complied with.

There was a motion to approve the application, as recommended by staff. The motion passed by a vote of 4 ayes, 0 nays and 1 absent. The application was approved.

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There being no further business before the Board, the meeting was adjourned at 2:42 p.m.

Date: _____

Chairman

Secretary