

LITTLE ROCK BOARD OF ADJUSTMENT

SUMMARY OF MINUTES

SEPTEMBER 28, 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 August 31, 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

SEPTEMBER 28, 2009

2:00 P.M.

I. OLD BUSINESS:

A. Z-8492 11518 Ponderosa Drive

II. NEW BUSINESS:

1. Z-4325-A 9125 Stagecoach Road
2. Z-8495 4919 Stonewall Road
3. Z-8496 4405 Montgomery Road
4. Z-8497 21 Hickory Pointe Cove

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ITEM NO.: A

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.

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- 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.
 - 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.

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11. Engine or motor repair shops.

12. Paint shops.

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.

BOARD OF ADJUSTMENT:

(AUGUST 31, 2009)

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.

Staff Update:

The City Attorney's office has reviewed this issue and determined that it is not an issue for the Board of Adjustment, and should be handled at the administrative level. Therefore, staff recommends the application be withdrawn.

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BOARD OF ADJUSTMENT:

(SEPTEMBER 28, 2009)

The applicant was not present. There were no objectors present. Staff informed the Board that the City Attorney's office had determined that the appeal was not an issue for the Board of Adjustment, and recommended the application be withdrawn. There was no further discussion.

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.: 1

File No.: Z-4325-A

Owner: PB General Holdings, LLC

Applicant: Tim Noonan

Address: 9125 Stagecoach Road

Description: Lot 1, Stagecoach Crossing Subdivision

Zoned: C-3

Variance Requested: A variance is requested from the buffer provisions of Section 36-522 to allow a new commercial development with a reduced undisturbed land use buffer.

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

Present Use of Property: Undeveloped

Proposed Use of Property: Retail Commercial

STAFF REPORT

A. Public Works Issues:

No Comments.

B. Landscape and Buffer Issues:

Project has been reviewed for building permit. Area set aside for landscaping and buffers comply with ordinance requirements.

C. Staff Analysis:

The C-3 zoned property at 9125 Stagecoach Road is located on the east side of Stagecoach Road, south of Baseline Road. A one-story commercial building which will house a Dollar General Store is in the process of being constructed on the site. The building will be located near the southeast corner of the property, as noted on the attached site plan. Parking will be located on the north and west sides of the building. An access drive from Stagecoach Road

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will be located at the northwest corner of the property. Retaining walls will be located along portions of the north, south and east property lines.

The applicant is requesting one (1) variance with the proposed construction. Section 36-522(b)(3)a. of the City's Zoning Ordinance requires land use buffers (6 percent of average width and depth of lot) along the east and south property lines because the adjacent properties to the east and south are zoned R-2 residential. Section 36-521(f) requires that a minimum of 70 percent of land use buffers remain undisturbed. Adequate buffer areas have been provided along both the east and south property lines. However, the applicant has disturbed 100 percent of these buffers by way of removing all the undergrowth. The applicant has preserved all the mature trees within the buffers and will be planting ground cover in these areas.

Staff is supportive of the requested buffer variance. Staff views the request as reasonable. Although the property to the south is zoned R-2, it is designated on the City's Future Land Use Plan as Commercial and will be developed as such in the future. Once developed, no land use buffer will be required along the south property line of the Dollar General Store property. Also, wooded floodway is located east of the property. The floodway is zoned R-2 but will never be developed. Staff believes the disturbance of the buffers along the south and east property lines will have no adverse impact on the adjacent properties or the general area.

D. Staff Recommendation:

Staff recommends approval of the requested buffer variance, as filed.

BOARD OF ADJUSTMENT:

(SEPTEMBER 28, 2009)

The applicant was not present. There were no objectors present. Staff presented the application with 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 nays.

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ITEM NO.: 2

File No.: Z-8495

Owner: Ron and Nancy Hughes

Applicant: Tom Fennell, Fennell Purifoy Architects

Address: 4919 Stonewall Road

Description: Lots 1 and 2, and part of Lot 3, Block 28, Newton's Addition

Zoned: R-2

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

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

Present Use of Property: Undeveloped

Proposed Use of Property: Single Family Residence

STAFF REPORT

A. Public Works Issues:

1. Measures to control the increase in stormwater runoff from the increased impervious surface should be implemented to not damage adjacent property.

B. Staff Analysis:

The R-2 zoned property at 4919 Stonewall Road is currently undeveloped and mostly grass covered. There are a few mature trees on the site, primarily in the rear yard area. The property slopes downward slightly from side to side (west to east) and back to front.

The applicant is proposing to construct a new single family residence on the property, as noted on the attached site plan. The front (north) half of the residence will be two (2) stories in height, with the rear half being one (1) story construction. A circular driveway will be located in the front yard area, with a drive extending along the east side property line to a garage at the southeast corner of the residence.

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The applicant is requesting one (1) variance for the proposed residential construction. Section 36-254(d)(3) of the City's Zoning Ordinance requires a minimum rear yard setback of 25 feet for R-2 zoned lots. The garage portion of the proposed residence is located 12.9 feet back from the rear (south) property line. All other building setbacks conform to ordinance standards. The front steps which extend across the front setback line will be uncovered and less than one (1) foot above the finished grade of the front yard area.

Staff is supportive of the requested rear setback variance. Staff views the request as reasonable, as it is compatible with the rear setbacks of other new homes and home additions in the Heights neighborhood area. The portion of the residence located within the rear yard setback is only approximately 324 square feet. An 818 square foot accessory (detached) building would be allowed within this rear yard area (rear 25 feet of the lot). Additionally, the portion of the residence which extends into the rear yard setback represents only a 27 foot building width, with the overall property width being 109 feet. Staff believes the requested reduced rear setback will have no adverse impact on the adjacent properties or the general area. Ample separation will exist between the proposed residence and the residences to the south.

C. Staff Recommendation:

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

1. Any future accessory (detached) structure(s) located within the rear yard area must not exceed a coverage of 30 percent (of the rear 25 feet of the lot) when combined with that portion of the residence which extends into the rear setback area.
2. The front step structure must be uncovered and located less than one (1) foot above the finished grade of the front yard area.
3. Compliance with the Public Works comment as noted in paragraph A. of the staff report.

BOARD OF ADJUSTMENT:

(SEPTEMBER 28, 2009)

The applicant was not present. There were no objectors present. Staff presented the application with 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 nays.

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ITEM NO.: 3

File No.: Z-8496
Owner: Dorothy and Lawrence Moffett
Applicant: Dorothy Moffett
Address: 4405 Montgomery Road
Description: Lot 1, Pennwyck Subdivision
Zoned: R-2

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

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

Present Use of Property: Undeveloped

Proposed Use of Property: Single Family Residence

STAFF REPORT

A. Public Works Issues:

1. No objections to encroachment on City easement.

B. Utility Comments:

- Little Rock Wastewater – No objection to easement encroachment.
- Central Arkansas Water – No objection to easement encroachment.
- AT&T/SWB – Approval of easement reduction
- Entergy – No objection to encroach three (3) feet into easement.
- Centerpoint Energy – No objection to reduction of easement

C. Staff Analysis:

The R-2 zoned property at 4405 Montgomery Road is currently an undeveloped, grass covered lot. The property is located on the east side of Montgomery Road, south of Taylor Loop Road. The front portion of the property slopes upward from Montgomery Road. The property is located approximately three (3) feet above the street grade. The lot contains a 25 foot

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front platted building line, a 10 foot wide utility easement along the north property line and a 5 foot wide easement along the east property line.

The applicant proposes to construct a single family residence on the lot within the footprint noted on the attached site plan. The residence will be located behind the front 25 foot building line and approximately 28 feet back from the rear (east) property line. Seven (7) foot side (north or south) setbacks are proposed. The house will encroach three (3) feet into the utility easement located along the north side property line.

Section 36-11 (f) of the City's Zoning Ordinance requires encroachments into utility easements be reviewed and approved by the Board of Adjustment. Therefore, the applicant is requesting a variance to allow construction of the residence encroaching three (3) feet into the utility easement along the north property line.

Staff is supportive of the requested easement encroachment. Staff views the request as a relatively minor issue. As noted in paragraphs A and B of the Staff report, Public Works and all of the public utilities approve of the easement encroachment. The proposed residence will comply with ordinance setback requirements. Additionally, the property owner also owns the residential lot immediately to the north at the corner of Montgomery Road and Taylor Loop Road. Staff believes the proposed residence with easement encroachment will have no adverse impact on the adjacent properties or general area.

D. Staff Recommendation:

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

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(SEPTEMBER 28, 2009)

The applicant was present. There were no objectors present. Staff presented the application with 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 nays.

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ITEM NO.: 4

File No.: Z-8497
Owner: Jonathan and Hollie Oliver
Applicant: Jonathan Oliver
Address: 21 Hickory Pointe Cove
Description: Lot 15, Hickory Pointe Addition
Zoned: R-2

Variance Requested: A variance is requested from the area provisions of Section 36-156 to allow construction of a swimming pool with reduced street/rear setback.

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

Present Use of Property: Undeveloped

Proposed Use of Property: Single Family Residence

STAFF REPORT

A. Public Works Issues:

1. Chlorinated swimming pool water is not allowed to enter the City's stormwater drainage system.
2. Measures to control the increase in stormwater runoff from the increased impervious surface should be implemented to not damage adjacent property.

B. Staff Analysis:

The R-2 zoned property at 21 Hickory Pointe Cove is currently undeveloped. The lot is a double frontage lot, with Hickory Pointe Cove located along the front (east) property line and Charleston Lane along the rear (west) property line. Some site work is taking place in preparation of construction of a new single family home, as noted on the attached site plan. The property slopes downward from side to side (south to north) and front to back. A retaining wall will be constructed within the southeast portion of the lot. The rear yard area will be located below the grade of Hickory Pointe Cove. A swimming pool and retaining walls will be located within the rear yard area, also noted on the attached site plan. The pool will be located approximately 26 feet back from

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the rear (west) property line. The front step structure for the residence will be uncovered and located less than one (1) foot above the finished grade of the front yard area.

The applicant is requesting one (1) variance with the proposed lot development. According to Section 36-156(a)(2)c. of the City's Zoning Ordinance, an accessory structure (including pools) must have a minimum setback of 60 feet from both street fronting property lines or double frontage lots. Therefore, the applicant is requesting a variance to allow the pool with a 26 foot setback from the rear street fronting property line.

Staff is supportive of the requested variance. Staff views the request as reasonable. There is a solid brick wall (enclosing the subdivision) located along the rear (west) property line. The wall is approximately six (6) feet in height, and when added to the slope down to Charleston Lane, sits approximately 10 feet in height above the grade of Charleston Lane. The pool will be located below the grade of the lot, with retaining walls on its north and south sides. Therefore, the pool area will not be visible from the properties along the west side of Charleston Lane. The pool complies with all other setback requirements. Staff believes the pool with reduced street setback will have no adverse impact on the adjacent properties or general area.

C. Staff Recommendation:

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

1. Compliance with the Public Works comments as noted in paragraph A. of the staff report.
2. The front step structure must be uncovered and no more than one (1) foot above the finished grade of the front yard area.

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The applicant was present. There were no objectors present. Staff presented the application with 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 nays.

September 28, 2009

There being no further business before the Board, the meeting was adjourned at 2:06 p.m.

Date: _____

Chairman

Secretary