

North Little Rock Board of Adjustment

Minutes

September 29, 2016

The meeting of the North Little Rock Board of Adjustment was called to order by Chairman Carl Jackson at 1:35 P.M. in the Planning Office (Conference Room B).

Members Present

Mike Abele
Tom Brown
Steve Sparr
Carl Jackson
Andy Hight

Members Absent

None

Staff Present

Shawn Spencer, Director of Planning
Jimmy Pritchett, City Planner
B.J. Jones, Secretary

Others Present

Paula Jones, City of North Little Rock Legal Department
David Wilson, City of North Little Rock Fire Marshal Office
Adam Melton, 1424 Rockwater Lane, NLR, AR 72114
Wayne Hardy, 1445 Rockwater Lane, NLR, AR 72114
Michele Hardy, 1445 Rockwater Lane, NLR, AR 72114
James C. Yuen, 1516 Rockwater Lane, NLR, AR 72114
David Wilson, 3013 Timber Creek Dr., NLR, AR
John Owens, 1621 Rockwater Lane, NLR, AR
Jim Jackson, 58 Carmel Dr., LR, AR 72212
Lisa Ferrell, 58 Carmel Dr., LR, AR 72212
Lynda Yuen, 3 Bretagne Cir, LR, AR 72223

Approval of Minutes

Mr. Sparr formed a motion to approve minutes from last month's meeting of the Board.

Mr. Hight seconded the motion and there was no dissent.

Old Business

None

New Business

1. BOA Case 2016-8. To allow an 8-foot-tall brick fence in the side yard at an R-2 property located at 1516 Rockwater Lane.

Chairman Jackson swore in the applicant and others in attendance wishing to speak and asked staff to display pictures of the property.

Mr. Pritchett showed pictures of the property and the location of the brick fence which had been installed without a permit.

Chairman Jackson asked the applicant to explain the reason for his request.

Dr. Yuen explained that he needed the additional two feet of brick wall for privacy and security. He added that occupants of nearby apartments on the west have a straight view into his home with a direct view of his kitchen. He added that cars passing by also had a direct view into the home because of the glass windows on that side. He noted that he is coming from Chenal to this location and needs comparable privacy.

Mr. Hight questioned why the applicant seems more concerned with the apartment occupants or passersby than with the closest neighbor's constant visibility.

Dr. Yuen replied that he knew the neighbor from UAMS who is a doctor and professor so he is comfortable with that neighbor unlike the apartments which house all kinds of people, unlike Chenal.

Mr. Hight suggested it sounded like the applicant is discriminating against the apartment occupants though his property is adjacent to a public bike trail with access from the rear or street.

Dr. Yuen repeated that privacy is an issue for him considering the apartments, the traffic on the main road, and the construction people. He added that he planned to add a Jacuzzi on the porch and the extra privacy would be important. The applicant referred to a case from the previous month that was a fire hazard and had been approved. He stated that he is a scientist with confidence in numbers and is not convinced the added two feet will make any difference in fire danger. He asked if the Fire Marshal had numbers to prove the difference in firefighting the two feet would make.

Chairman Jackson reminded the applicant this is a hardship Board and asked the applicant to state his hardship.

The doctor replied that privacy is his hardship and the main issue. He is concerned for all the casual people and athletic people using the area.

Mr. Hight asked the applicant why he seems to discriminate against apartment people or athletic people.

The doctor reiterated that privacy is the issue for him.

Mr. Brown asked the applicant to state a hardship.

Dr. Yuen repeated that privacy is his hardship.

Mr. Brown replied that privacy is not a valid hardship as that issue has been created by the owner himself.

Mr. Spencer added that a house would block the site line of the apartments once the build out is complete. He also noted that the properties are on a private street behind a gate.

Dr. Yuen suggested the location of his requested variance might be considered back yard.

Mr. Spencer explained that the packet received for this meeting had included minutes from the previous meeting and had no bearing on this case. He added that there is no ambiguity in the ordinance for definitions, terms and maps showing front, side, or rear yards.

Chairman Jackson asked the Fire Marshal in attendance for his recommendations.

Captian Wilson responded that the present construction is a formidable obstruction for the fire department. He added that wood fences did not present the obstacle that brick fencing would. He suggested that getting the ladder over a wall of that height for roof access would be difficult.

Mr. Sparr asked what difference there would be between four foot, six foot, or eight-foot fencing.

The fire marshal explained different angles used for ladders to get over obstacles and onto the roof. He explained that normally they might set up on the neighbor's side and get over fences, but the way these homes are so close together, that will prove difficult as well.

Chairman Jackson agreed the property is over built and asked how fire trucks can maneuver there.

The fire marshal responded that firetrucks could not get down the sides of the homes.

Mr. Spencer suggested firetrucks could use the bike trail or middle section of the development.

Mr. Brown asked the applicant if he had gotten a permit to build his brick fence.

The applicant replied in the negative.

Mr. Brown suggested if the applicant had gotten a permit and found out the fence requirements, the variance would not be necessary. He noted the problem is the additional two feet of fencing above what is allowed in a side yard.

Dr. Yuen apologized for using city resources to address the height issue they are obviously so serious about. He explained that his project had gone over budget and he decided to do the fence work separate from the original contractor. He told the Board he was unaware of the regulations, no one had told him the regulations, and that someone of his caliber would not intentionally disregard the regulations. He stated that this is a special neighborhood and there was just a miscommunication.

Mr. Brown asked if the builder is in attendance at today's meeting.

The applicant replied in the negative.

Mr. Hardy asked about measuring the height of a fence.

Mr. Spencer replied that it is measured at the point of dirt.

Lisa Ferrell addressed the Board on behalf of Dr. Yuen's request. She apologized for the unfortunate miscommunication and asked that the applicant not be required to incur the hardship and expense of lowering the fence. She added that no one had erred deliberately and asked the Board to please consider approving the applicant's request.

Mr. Brown asked the Planning Director to read the definition of a hardship.

Mr. Spencer complied, noting a hardship is due to unique circumstances of the property, not created by the owner.

Chairman Jackson swore in four other attendees asking to speak in the case.

Mrs. Yuen noted that the lots are long and narrow.

Chairman Jackson recognized that all the lots had gotten smaller after large houses were placed on them.

John Owens noted that the zero lot line is a unique and unusual dynamic unlike any other in the city. He asked for the staff's direction before installing his own fence.

Chairman Jackson noted that that is exactly the point. If proper permits are obtained, one would be informed of the requirements. He added that it is the responsibility of the owner to do so or see that the contractor has done so.

Mr. Melton added that he has a stop work issued on a fence he has started without a permit and will be coming before this Board next month. His concern is for privacy and security on such a narrow lot.

Jim Jackson stated he is a developer of the properties and is supportive of Dr. Yuen's request. He added that these are stunning homes in a beautiful location with a very small area of fencing.

Chairman Jackson asked for a motion.

Mr. Hight noted that several are here from the applicant's neighborhood and no one has a problem with his request. They all want privacy and security.

Mr. Brown added that the fire marshal's opinions and staff suggestions regarding safety concerns carry more weight with him. He also stated that he does not believe there is a valid hardship.

Mr. Sparr suggested the brick wall poses no more of a problem than landscaping trees would.

The fire marshal disagreed. He stated that he can remove trees but cannot access this roof with the brick wall.

Chairman Jackson asked how long the brick wall is.

The applicant responded that the eight-foot portion of the wall is fourteen and one half feet long.

Mr. Sparr formed a motion to approve the applicant's request.

Mr. Hight seconded the motion.

The applicant’s request was passed with three affirmative votes. Mr. Brown and Mr. Abele cast votes to deny the applicant’s request.

Mr. Spencer advised the Board that they have set a precedent for the neighborhood.

Paula Jones reminded the Board that the applicant must have a valid hardship.

Mr. Spencer cautioned the Board that the houses north of the applicant are even closer together and will be asking for the same variance.

Chairman Jackson replied that each case would be judged on its own merit.

Mr. Spencer replied that is true if the case has a valid hardship, but the Board has approved a variance without a valid hardship.

Lisa Ferrell assured the Board she would personally inform future lot buyers to get all required permits and make them aware of fence height requirements.

Administrative:

None

PUBLIC COMMENT/ADJOURNMENT:

Chairman Jackson moved for the Board to adjourn at 2:10pm.

Mr. Sparr seconded the motion and there was no dissent.

PASSED: _____ RESPECTFULLY SUBMITTED:

CARL JACKSON, CHAIRMAN

SHAWN SPENCER, DIRECTOR