North Little Rock Board of Adjustment

Minutes

June 29, 2017

The meeting of the North Little Rock Board of Adjustment was called to order by Chairman Carl Jackson at 1:30 P.M. in the Planning Office (Conference Room B).

Members Present

Tim Giattina
Steve Sparr
Carl Jackson

Members Absent

Tom Brown (attended via telephone)
Mike Abele

Staff Present

Shawn Spencer, Planning Director
David Forstrom, City Planner
B.J. Jones, Secretary

Others Present

Amy Fields, North Little Rock City Attorney’s office
Todd Robinson, 4116 Glenmere Rd., NLR, AR 72116
Candace Goodwin, 5200 Greenway Dr., NLR, AR 72116
Jennifer Bratton, 5200 Greenway Dr., NLR, AR 72116
Angie Eley, 4405 East Dr., NLR, AR
John Eley, 4405 East Dr., NLR, AR
Laura Wood, 4400 East Dr., NLR, AR
Linda Wehunt, 4406 East Dr., NLR, AR 72118
Brenda Hunt, 4030 Glenmere Rd., NLR, AR 72116
Lisa Hunt, 4030 Glenmere Rd., NLR, AR 72116
Tamera Deaver, 4411 East Dr., NLR, AR
Richard Hunt, 4411 East Dr., NLR, AR
Nels Scott, 128 Maumelle Dr., Maumelle, AR
Jocelyn Scott, 128 Maumelle Dr., Maumelle, AR
Mike Moore, 2400 Flintrock Rd., NLR, AR
Administrative

None

Approval of Minutes

Mr. Sparr formed a motion to approve the minutes from the previous meeting.

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

Old Business

None

New Business

1. **BOA Case 2017-11.** To allow 6' privacy fence in front of abutting property front building line at an R-1 zoned property located at 5200 Greenway Drive.

Chairman Jackson swore in the applicant and asked her to state her hardship.

Ms. Goodwin explained that the existing three and one half foot chain link fence is in need of repair. She explained that it is a high traffic area with kids and bicycles off Arlington having a straight shot toward the pool. For the safety of aforementioned children, she is asking to install a six-foot privacy fence with locks.

Mr. Forstrom suggested that the applicant did not state a true hardship but rather a matter of convenience. He noted the requested fence could easily be located in the rear yard.

The Chairman asked Mr. Forstrom if the safety was not an issue.

Mr. Forstrom agreed safety is an issue but could be remedied by locating the fence in the rear yard.

Mr. Sparr asked if the existing fence is to be removed.

Ms. Goodwin responded that the chain link fence would be taken down to install a six-foot privacy fence.

Mr. Spencer added that the location requested is considered front yard due to the fact it is a corner lot.

Chairman Jackson asked if there was anyone in attendance at today’s meeting with objections to the applicant’s request.
Ms. Goodwin responded that no neighbors had expressed any opposition.

Mr. Forstrom agreed that there had been no objections from anyone and one neighbor was of the opinion it would improve the appearance.

Mr. Brown stated that he still had not heard a valid hardship.

Mr. Sparr expressed his opinion that safety of children is a valid hardship.

Mr. Brown agreed that children’s safety is important but agreed with staff that it is not a valid hardship.

Chairman Jackson asked the building official to state fence requirements for a pool.

Mr. Greene replied that a four foot fence is required and to have a locking gate.

Ms. Goodwin asked the definition of a hardship.

Mr. Forstrom replied that a hardship is unique to the property and not created by the owner.

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

Mr. Giattina seconded the motion and it was passed with three affirmative votes. Tom Brown cast the one dissenting vote.

2. **BOA Case 2017-12.** To allow a 6’ tall side yard chain link fence with 1’ barbed wire (total of 7’ tall) at an I-1 zoned property located at 4109, 4117, 4125, & 4135 Crystal Hill Road.

Chairman Jackson swore in the applicant and asked them to state a hardship.

Mr. Scott explained that they had begun building in June of 2016 and from then until the end of the calendar year they had suffered three break ins with equipment stolen.

Mr. Scott noted that he had met with the Planning Department staff to consider different fence options and had started building fences to improve security. The available options had negative impacts on his tenants. Trucks were unable to turn in the way the fencing was allowed but there were less problems with break-ins. Robberies were down to four from September to January while neighbors were being broken into every week. Still it is difficult to rent space with robbery issues.
Mr. Scott explained that he wants to build additional buildings but security issues are slowing them down. He has installed cameras but keeping perpetrators in jail has proved difficult.

Mr. Giattina asked what kind of equipment has been stolen.

Mr. Scott replied that welders and trailers had been taken. He added that he was surprised by the limitations on fencing. He noted that they had been annexed into the city to be covered by police protection.

Mr. Sparre formed a motion to approve the applicant’s request.

Mr. Giattina seconded the motion and it was passed with a unanimous vote.

3. **BOA Case 2017-13.** To allow a concrete driveway to be located along the side property line at an R-2 zoned property located at 4411 East Drive.

Chairman Jackson swore in those wishing to speak in the case.

Tamara Deaver introduced herself as the attorney for the applicant, Mr. Hunt. She explained the reason for the driveway installation to grant access to the rear yard for the applicant’s boat. She added that neighbors had complained about the boat being stored in the front of the property so the drive was installed in 2014. She noted that the applicant had spoken with a previous City Planner, Wade Dunlap regarding the driveway installation and was told the drive was allowed.

Mr. Spencer interjected that permission was not needed from a City Planner but rather from Public Works for a curb cut permit.

There was additional discussion about the location of the drive right up to the property line and the previous case with the neighbor complaint and request for a wall and fence to separate from the applicant’s annoyances.

Ms. Deaver noted that the drive is three inches from the property line and without it, the applicant would have a land locked backyard.

Chairman Jackson replied that a land locked back yard is not an issue.

Ms. Deaver stated that the contractor is here that installed the drive to address any water run off concerns of the neighbors.

Chairman Jackson asked the applicant if he is willing to amend his request and install a hump to divert rainwater.

Ms. Deaver responded that the applicant is asking that he not be required to make any changes. He is asking for a variance so he can leave the installation as is.
Mr. Sparr questioned what all the neighbors in attendance think about the request.

Chairman Jackson asked how many in attendance wanted to speak and swore them in.

The first neighbor to speak was Angie Eley, who lives at 4405 East Dr.

Mr. Brown interrupted from the speakerphone to say he could not hear.

Ms. Eley stated that she is the neighbor in the previous case with Mr. Hunt that has built the wall after obtaining a waiver.

She noted that Mr. Hunt began building his driveway the day after the case with the Eley family. She added that the contractor should have known the requirements for the driveway installation and suggests that both the contractor and the applicant blatantly went against City requirements. She noted that she had spoken with the contractor herself and asked about installing a lip on the drive or allow a fall for the water run-off. She stated the contractor’s reply was that he is doing what he has been paid to do.

Ms. Eley asks that this not be allowed to stand and set a precedent for the neighborhood. She notes that her family has followed protocols, asked and been granted permission to build their wall to prevent flooding.

Ms. Eley added that the driveway installation is pushing against their existing chain link fence. She claims the applicant installed a footer underground and a City inspector should examine the work. She is asking the applicant be required to install a sump pump under the driveway.

There was additional discussion from other neighbors objecting to the applicant’s drainage on the driveway and noting that their back yards are land locked as well.

Mr. Sparr suggested he has not heard a valid hardship and the applicant’s request is simply a matter on convenience. He added that the applicant should have gotten permission before building the drive.

Ms. Deaver responded that the applicant did not know.

Mr. Sparr asked if she really believed that considering his previous experience with the City processes.

She replied in the affirmative.

Chairman Jackson asked for staff recommendations.
Mr. Spencer replied that staff recommends a compromise to remove one foot from the width of the drive extending from the street to the neighbor’s wall.

Mr. Sparr suggested there would still be a water issue.

Mr. Spencer replied that the solution would include a drainage pipe.

Ms. Deaver asked if the contractor could speak to the matter.

Mr. Sparr asked why water is not coming out of the pipe.

Mr. Hunt responded that it is coming out from under the house.

A neighbor in attendance suggested that is the sump pump.

Mr. Hunt denied the accusation.

The contractor, Todd Robinson, was sworn in to speak.

Mr. Robinson stated there was no need for an edge on the driveway as there is good downhill flow with the proper fall toward the street.

Ms. Deaver asked his opinion on removing one foot of the driveway.

Mr. Robinson replied that it would create more of an issue with the water.

Mr. Forstrom noted that the contractor is not an engineer to verify the questions on water.

Ms. Deaver added that the applicant had been told there was no permit required to pour concrete.

Mr. Spencer agreed.

Mr. Forstrom added that City codes must be followed.

Ms. Fields, from the City Attorney office reiterated that City codes must be followed, and a variance would not change that.

Mr. Sparr asked if the applicant must bring driveway up to code if his request is denied.

Mr. Brown interjected that it should be brought up to code.

Ms. Deaver suggested that would create further chaos with the neighbors.
Mr. Sparr noted that there is already much animosity with sixteen neighbors signing a petition and showing up for today’s meeting.

Chairman Jackson recognized Lisa Hunt to speak. She stated that she lives at 4030 Glenmere. She noted that when she was younger, there had always been flooding in this area, even before any of this situation.

Ms. Deaver again stated that the applicant would not be able to park his truck in the rear without the current drive.

Chairman Jackson disagreed and stated he believed the applicant could get in the rear yard.

Mr. Sparr added the applicant had chosen to locate the drive where it is.

The contractor added that he had done numerous driveways and had no problems.

Chairman Jackson asked for staff input.

Mr. Forstrom reiterated that staff recommended removing one foot from the width of the drive spanning from the street to the wall. Staff further does not see a valid hardship has been raised, only a matter of convenience. He added that this Board could approve the applicant’s request, deny the request, or suggest a compromise with any conditions they desire.

Chairman Jackson asked the applicant if he is willing to meet the suggested conditions by staff.

Mr. Hunt expressed concern at removing a strip of the driveway and replacing with gravel would damage the existing fence.

Chairman Jackson asked if that means he will not agree to the Board’s conditions.

Mr. Sparr reminded the applicant that he does not have a valid hardship.

Ms. Fields outlined the choices for the Board and the applicant.

Mr. Giattina asked the applicant again if he is willing to meet the conditions that have been recommended by staff.

The applicant responded that he believes that will make the situation worse.

Mr. Giattina replied that he is not answering the question.

Mr. Sparr formed a motion to accept the staff recommendations.
Mr. Giattina seconded the motion.

Mr. Brown asked to hear the motion stated.

Mr. Forstrom replied that the applicant must remove a one-foot strip from the existing drive spanning from the street to the existing wall by July 27, 2017 and relocate the drainage.

Mr. Brown asked what would happen if the applicant did not comply.

Ms. Fields responded that such inaction would place the applicant in non-compliance and action would be pursued through Code Enforcement.

The motion was passed with three affirmative votes. Mr. Brown cast the one dissenting vote.

Mr. Brown asked if he was free to hang up his phone from the meeting.

PUBLIC COMMENT/ADJOURNMENT:

Mr. Sparr formed a motion for the Board to adjourn at 2:30pm and there was no dissent.

PASSED: July 27th, 2017

RESPECTFULLY SUBMITTED:

CARL JACKSON, CHAIRMAN