

# **North Little Rock Board of Adjustment**

## **Minutes**

**January 25, 2018**

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**

Tom Brown  
Mike Abele  
Carl Jackson  
Tim Giattina  
Steve Sparr

### **Members Absent**

None

### **Staff Present**

Shawn Spencer, Planning Director  
David Forstrom, City Planner

### **Others Present**

Daniel McFadden, North Little Rock City Attorney's office  
Gregory Bone, 11013 Hinori Drive, NLR, AR 72117  
La Tonja Jackson, 11013 Hinori Drive, NLR, AR 72117

### **Administrative**

Mr. Brown formed a motion to change the April Board of Adjustment meeting date from April 26<sup>th</sup> to April 19<sup>th</sup>. Mr. Giattina seconded the motion and there was no dissent.

**Approval of Minutes**

Mr. Sparr formed a motion to approve the minutes from the previous meeting in December. Mr. Abel seconded the motion and there was no dissent.

**Old Business**

None

**New Business**

1. **BOA Case 2018-1.** To allow a corner lot side yard fence to extend past the adjacent lot's front building line at an R-2 zoned property located at 11013 Hinori Drive.

Chairman Jackson swore in Gregory Bone to speak on behalf of the applicant La Tonja Jackson who was present and gave Mr. Bone permission to speak on her behalf.

Chairman Jackson asked Mr. Forstrom to provide background on the case.

Mr. Forstrom stated that in August of last year our building inspector was driving in the area and noticed a fence under construction at 11013 Hinori Drive without a permit. The building inspector issued a stop work order and the applicant came in the next day to obtain a fence permit.

Mr. Forstrom stated that during the permit review process the applicant wanted to obtain a permit for the location of the partially installed fence that extended past the adjacent lot's front building line. Mr. Forstrom informed the applicant this could not be permitted without a variance from the BOA.

Mr. Forstrom stated that the applicant submitted a revised site plan showing the fence in conformance with regulations and a fence permit was issued. Mr. Forstrom informed the applicant they either need to move the posts to the fence permit approved site plan location or stop work and apply for a variance.

Mr. Brown asked for the name of the fence company who did the work. Mr. Bone stated it was Belk Fence Company. Mr. Brown stated we need Belk Fence Company's address to write them a letter regarding building a fence without a permit.

Mr. Forstrom stated that staff's opinion is that the applicant has not demonstrated a hardship that is unique to the property.

Mr. Forstrom noted that the Owner's Association submitted a letter in support of the variance request.

Mr. Abel requested staff show some pictures to illustrate where the fence would have to stop. Mr. Forstrom showed a picture of the adjacent home and noted that the fence could not go past the front building setback of the adjacent home it is not allowed by our zoning regulations for side yard fences on corner lots unless approved by the BOA.

Mr. Abel asked for the reason for the regulation. Mr. Spencer explained this is a perfect example as if someone backs out of the garage from the adjacent house they cannot see oncoming traffic. Mr. Spence stated that in this case the garage is on the opposite side which is a positive. Mr. Spence stated you cannot plan for every situation so this is the reason for the regulation.

Mr. Jackson stated to the applicant that you must have a hardship for the variance to be approved.

Mr. Bone stated that the hardship is his back door is 39" from the corner of the house at the corner of the house and he has a safety concern about the fence being so close to the door.

Mr. Forstrom showed the board a picture of the back area of the house.

Mr. Brown stated the City did not decide where to build the door so that where the door is built is not a hardship.

Mr. Brown asked Mr. Forstrom to read the definition of a hardship.

Mr. Forstrom read the definition which says "A hardship should not be created by the owner, it should be due to unique circumstances existing on the property".

Mr. Jackson asked to staff to show the picture again of the house next door. Mr. Jackson asked the applicant if the back corner of his house is even with the corner of the house next door. The applicant said yes.

Mr. Sparr asked if the applicant talked to the people next door and the applicant said he did and they are okay with the fence although he has no letter from them.

Mr. Brown asked Mr. Forstrom if he had all the return receipts requests and Mr. Forstrom affirmed.

Mr. Abel stated he drove by the property and has a hard time seeing how the fence would affect vehicle visibility as the view appears to be wide open.

Mr. Spencer stated the zoning regulation is written in general and that in this case the garage is not on the side of the adjacent house nearest the fence so visibility would be less affected.

Mr. Forstrom stated the fence would not impact traffic visibility at the street intersection.

Mr. Brown state the fact remains you have not given us a hardship.

Mr. Brown stated in his opinion the applicant has created his own hardship and it is not something unique to the property. Mr. Brown stated that where the door is located does not meet the definition of a hardship.

Mr. Forstrom added that the fence does stop 7' from the side property line and does not go all the way to the side property line even though it is clearly beyond the front building line of the abutting property.

Mr. Sparr stated he sees no safety issue but understands why the applicant wanted the fence further out from the corner of the building to create symmetry and look better.

Mr. Jackson asked the applicant if he would be okay with the fence not going out as far into the side yard.

The applicant stated he possibly could but he was concerned how much he would have to pay to relocate the fence.

Mr. Giattina stated that it appears the fence could come out a little from the corner of the applicant's house and still not be in front of the adjacent home front building line.

Mr. Forstrom stated there only may be a foot or so from the corner of the applicant's house available without going beyond the adjacent home front building line.

Mr. Jackson asked for a motion. Mr. Sparr formed a motion to approve the applicant's request. Mr. Giattina seconded the motion. The motion failed 3-2 with Mr. Giattina, Mr. Jackson, and Mr. Brown dissenting.

After the vote, Mr. Brown informed the applicant he will have to take the fence down or relocate it so it complies with the fence permit approved site plan.

**PUBLIC COMMENT/ADJOURNMENT:**

Mr. Jackson asked if there was any public comment and there was none.

Mr. Sparr formed a motion to adjourn at 1:51 pm and Mr. Giattina seconded the motion which passed without dissent.

PASSED: February 22, 2018 RESPECTFULLY SUBMITTED:

  

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CARL JACKSON, CHAIRMAN