

**North Little Rock Board of Zoning Adjustment
Minutes
May 23, 2019**

The meeting of the North Little Rock Board of Zoning Adjustment was called to order by Chairman Carl Jackson at 1:30 P.M. in the Planning Office (Conference Room B). Roll was called and a quorum was found to be present. A quorum being three members present.

Members Present

Carl Jackson
Tom Brown
Tim Giattina
Steve Sparr

Members Absent

Mike Abele

Staff Present

Donna James, City Planner
B.J.Jones, Administrative Secretary
Rodger Greene, Building Official
Marie-Bernarde Miller, Deputy City Attorney

Others Present

Bob and Barbara Gullett, 120 Dooley Rd., NLR, AR
Dudley Blair, 320 Skyline Dr., NLR, AR
Thomas Pownall, Thomas Engineering, 3810 Lookout Rd., NLR, AR
Boyce Holmes, 6604 Westover Dr., Little Rock, AR
Johnny Wise, 31 Shady Lane, Perryville, AR
Erasmus and Sandra Dierich, PO Box 20055, White Hall, AR
Bubba Lloyd, 315 Dooley Rd., NLR, AR
Kenneth Bartczak, 305 W. 7th St., NLR, AR
Ron Harris, 6309 Southwind Dr., NLR, AR
Kevin Tucker, Arkansas Fence and Guardrail, 3806 Birmingham Lane, NLR, AR
Mike Ronnel, 6915 Hwy 70B, NLR, AR

Administrative

Mr. Giattina formed a motion to excuse the absence of Mr. Abele. Mr. Sparr seconded the motion and there was no dissent.

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Approval of Minutes

Mr. Giattina formed a motion to approve the minutes from the previous meeting, April 25, 2019. Mr. Sparr seconded the motion and there was no dissent.

Old Business

None

New Business

1. **BOA Case 2019-06** - To allow the placement of a carport within the front building setback for 117 Prairie View Drive, North Little Rock, AR –

Chairman Jackson noted that the case had been withdrawn at the request of the applicant.

The Chairman then swore in all in attendance that wished to speak at this hearing.

2. **BOA Case #2019-11** - To allow a six foot chain link fence with three strands of barbed wire, for a total fence height of seven feet, in the front and side yards of an I-3, Industrial Park zoned property located at 7101 Highway 70, North Little Rock, AR.

Chairman Jackson asked the applicants to state their names for the record.

Ms. James introduced the request and provided photos of the property. She pointed out a building that was to be demolished and added that staff was supportive of the request due to the materials stored at the business were not easily traceable, but were easily stolen. She requested the Board honor the conditions staff had requested in the packet if they decide to approve the request.

Chairman Jackson asked the applicant to state their hardship.

Mr. Pownall explained the materials stored at the location needed to be protected and expressed appreciation for previous approvals of fence height variances to allow the site to be secured. He stated the business had purchased additional property and were expanding thus the need for the additional fencing.

Mr. Brown asked if the hardship was security.

Mr. Pownall replied in the affirmative.

Chairman Jackson asked the applicant if there had been any losses.

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Mr. Ronnel stated people were on the property weekly without permission. He added the losses had improved and were less by the hiring of police for security. He stated before security was hired, people had entered the property every other night. He explained the requested fencing would aid the police in keeping the property secure.

Chairman Jackson suggested the isolation of the property did not help the matter.

Mr. Brown formed a motion to grant the applicant's request.

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

3. **BOA Case #2019-12** – To allow the placement of an accessory structure larger than typically allowed per the zoning ordinance with a reduced side yard setback and to allow an addition to the rear of the existing home with a reduced side yard setback located at 305 West 7th Street, North Little Rock, Arkansas.

Chairman Jackson asked the applicants to state their names for the record.

Ms. James introduced the item and provided pictures of the property and pointed out two accessory structures that had been removed to allow for the proposed new garage structure. She also indicated the area the applicant was proposing to place a cover over an outdoor patio area. She stated the applicant was seeking a variance to allow a reduced side yard setback for the covered patio and a reduced side yard setback for the new garage. She stated the patio cover was to have a six-foot side yard setback and the garage a five-foot side yard setback.

Ms. James noted staff had not heard a valid hardship and requested the setback requirements remain in place as required by ordinance due to the fact the applicant's request could be redesigned to meet the minimum setback requirements. She stated staff had listed conditions in the agenda write-up they were requesting the Board to honor if they approve the applicant's request.

Chairman Jackson asked the applicant to state their hardship.

Mr. Bartczak explained the current garage was falling apart as was the rear accessory building. He stated his desire was to consolidate a garage and storage into one structure.

Chairman Jackson again asked for a valid hardship.

Mr. Bartczak repeated the structures were falling down.

Mr. Brown noted the existing house was located over the property line and asked the applicant if he had built the structure.

Mr. Bartczak replied in the negative.

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Mr. Brown asked the applicant to state a valid hardship to the Board.

Mr. Bartczak explained that he needed additional storage. He stated a garage attached to the home would be removed upon completion of the new garage. He stated the covered patio area was to allow for outdoor living space.

Mr. Giattina asked the applicant if he could meet the conditions staff had requested.

The applicant replied in the affirmative.

Mr. Brown asked if he could attach the requested space to the back of the existing house.

Ms. James replied in the affirmative, noting that the setback for the detached accessory building was five-feet but the setback for the attached addition would be twenty-five feet.

Mr. Brown asked the applicant if he was installing a lift in the requested garage space.

The applicant replied in the affirmative.

Mr. Brown asked the applicant if he did mechanic work.

The applicant replied that he only worked on his own personal vehicles.

Mr. Brown asked for confirmation that the applicant would not perform mechanic work for the public on the property.

The applicant confirmed.

There was additional discussion regarding the covered patio attached to the rear of the home.

Mr. Sparr asked if any neighbor had objected to the applicant's request.

Mr. Brown asked if Code Enforcement had visited the property regarding inoperable vehicles in the front yard.

The applicant replied in the negative.

There was additional discussion regarding reducing the size of the garage to meet staff conditions for setbacks.

Ms. James asked the applicant to reduce his request for the garage by twelve inches to meet the five-foot setback requirement.

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Mr. Brown suggested if the applicant met that request, he should be granted his request for the reduced setback for the addition to the house allowing a five-foot setback.

Mr. Giattina formed a motion to approve the patio cover as requested and approve the new garage placement request with a condition the applicant take out one-foot from the structure to meet the five-foot side yard setback.

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

4. **BOA Case #2019-13** – To allow the placement of a carport within the front setback of property located at 4108 Lakeview Road, North Little Rock, Arkansas.

BOA Case #2019-13 - Withdrawn at the request of the applicant.

5. **BOA Case #2019-14** – To allow a retaining wall within the rear yard with a wall height, including the required fence, of 9-feet 4-inches exceeding the 8-foot typically allowed per the zoning ordinance for the property located at 319 Skyline Drive, North Little Rock, Arkansas.

Chairman Jackson asked the representatives of the application to state names and addresses for the record.

Ms. James introduced the request stating the retaining wall was built without a permit and the proposed fence on top of the wall was not in place but when placed would exceed allowed height per the zoning ordinance. She added staff had not heard a valid hardship and could not support the request. She requested the Board honor staff conditions in the agenda write-up if they grant the applicant's request.

Mr. Holmes, the homebuilder for the property, apologized for building the retaining wall without a permit and noted he was not in the habit of doing so.

Mr. Wise, the excavator of the property and constructor of the retaining wall, explained in other municipalities, the permit for the retaining wall was included with the building permit for the house. He stated he was not aware he needed a separate permit to build the retaining wall.

Mr. Holmes stated they were willing to do whatever it took to correct the mistake. He explained the higher retaining wall helped level the site for the home, making it easier to maintain and helped with water run-off.

Mr. Giattina expressed concern with diverting the water might be a problem to the neighbors.

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Mr. Wise responded the neighbor's lot was higher and with the construction of the wall they have installed a French-drain on the applicant's property to resolve any drainage issue.

Mr. Brown asked where the water would go.

Mr. Sparr suggested the run off could have been worse without the work that had been done.

There was extended discussion concerning the run off crossing the street and how there had not been a problem in the past.

Mr. Holmes summarized with he did not have a crystal ball to predict what would happen in the future but assured the Board that he did not take shortcuts and was mindful of neighbors and the neighborhood. He suggested after the grass was planted the situation would improve. He reminded everyone that the ground had been saturated for some time with the abundance of rain this year and he was confident at the end of the process there would be a nicely finished home that added value to Skyline Drive.

Mr. Giattina asked the size of the proposed home.

Mr. Holmes responded that the home was 3,700 square feet.

Mr. Giattina asked what would the result be if the Board did not approve the request.

Ms. James replied they must comply with the ordinance without a variance. She stated the retaining wall would need to be designed to meet the minimum ordinance requirements.

Mr. Blair, 320 Skyline Drive, asked to speak. He stated he had never had a water problem or mud on the curb before, but he does now during this construction.

Mr. Wise responded previously the lot was landscaped and now there was nothing to prevent the dirt and mud from washing from the site. He stated the situation would improve once the home was finished and the lot was landscaped.

Mr. Blair asked for assurance that there would be no run off once the construction was finished.

Mr. Wise responded there should not be a problem.

Mr. Holmes assured the neighbors in attendance he desired to be a good neighbor.

There was extended discussion with the neighbors, showing them the proposed site.

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Mr. Bubba Lloyd, 315 Dooley Road, asked to address the Board. He explained he had gone to the site one rainy night and observed the water could not sink in the ground fast enough to prevent diversion of water across the adjoining property. He requested the Board to honor the recommendation of staff to deny the applicant's request. He added that a French-drain could only work if the water got in the ground.

After discussion regarding the construction of the French-drain, Mr. Wise noted he did not have any control over water that poured off other lots.

Chairman Jackson asked how many drains were in the wall.

Mr. Wise replied there was a four-inch drain every twenty to thirty feet in the wall.

Mr. Gullett, 120 Dooley Road, asked to address the Board. He stated we have codes for a reason. He told of his own remodel experiences and having to meet code requirements. He told of his own desire for a drain to dump water somewhere else but he could not do so because it would not meet code requirements. Therefore, he replaces fence pickets on a regular basis due to water damage. He requested all things be kept equal. He stated if he must live by codes, he thought the applicant should have to live by the codes as well.

The owner of the property addressed the Board. He stated that he was a builder but hired a local builder, as he was not familiar with North Little Rock requirements. He stated lowering the retaining wall did not affect the water flow. He stated the lower wall could speed it up.

Mr. Lloyd asked the owner if he was going to live at the property.

Mr. Dierich replied that he was building the house for his daughter.

Mr. Brown asked Ms. James to read the definition of a hardship.

She complied.

Mr. Brown stated that he believed the owner created the hardship and asked if he was willing to take the wall down to the allowed height.

Mr. Sparr noted if his variance was not approved, he would have no choice but to reduce the height of the wall. He added he did not think the neighbors would be any happier with a lower wall.

Chairman Jackson asked if anyone was prepared to make a motion on the matter.

There was no response, even after him asking a second and third time.

Ms. Miller stated the case dies with no motion from the Board.

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Chairman Jackson directed the applicant to take the wall down to the height allowed by the ordinance.

Ms. James added that they would need to submit a new plan with an engineering stamp to obtain a permit for what was allowed to be built.

PUBLIC COMMENT/ADJOURNMENT

Mr. Giattina moved for the Board to adjourn at 2:35 pm and there was no dissent.

PASSED: _____ **RESPECTFULLY SUBMITTED:**

Tom Brown, Chair