

North Little Rock Board of Zoning Adjustment
Minutes
April 25, 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).

Members Present

Carl Jackson
Mike Abele
Tom Brown
Tim Giattina

Members Absent

Steve Sparr

Staff Present

Shawn Spencer, Planning Director
Donna James, City Planner
B.J.Jones, Administrative Secretary
Alli Austin, Office Assistant

Others Present

Marie-Bernarde Miller, NLR Deputy City Attorney
Charlie Kelley, 609 W. 36th St, NLR, AR
Kevin Kelley, 609 W. 36th St., NLR, AR
Brett Dingler, 6308 Navajo Trail, NLR, AR
Adam & Shelby Shelton, 2708 Justin Matthews, NLR, AR
Anthony Trimble, 1305 Sweetgum Lane, NLR, AR

Administrative

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

Chairman Jackson admonished all present to sign in.

Mr. Spencer echoed that request and added that all should take note of the meeting procedures that have been made available.

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Approval of Minutes

Mr. Giattina formed a motion to approve the minutes from the previous meeting, March 28, 2019. Mr. Abele seconded the motion. Mr. Brown noted a needed name correction on page 64, changing his name from John Brown to Tom Brown.

Mr. Abele formed the motion to correct the name. Mr. Brown seconded the motion and the minutes were approved with the exception of that name correction.

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 has been postponed, as the applicant had not notified adjoining property owners as required.

The chairman then swore in all in attendance that planned to speak at today's meeting.

2. **BOA Case #2019-07** - To allow a six-foot privacy fence within the side yard of a corner lot for property located at 6308 Navajo Trail, North Little Rock, AR.

Mr. Dingler is the owner and speaking at this meeting on behalf of his daughter and granddaughter that live at the property.

Chairman Jackson asked him to take a seat in front of the Board, state his name, and address for the record.

Ms. James presented pictures of the property.

Mr. Dingler explained that there was no back door on the home exiting to the back yard due to an addition on the home. He noted that there was a side door exiting to the side yard, hence his request for the variance to allow building a safe and secure playground for his granddaughter. His request is for a plan to attach fencing at the side of the house and down the adjacent Iroquois Dr. to tie back into the side entry.

Chairman Jackson asked if the proposal would enclose the carport in the rear.

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Mr. Dingler replied in the affirmative and noted that the existing chain link fence would be removed and a new privacy wood fence is to be installed.

Chairman Jackson asked the applicant to state his hardship.

Mr. Dingler replied that he wants to provide a safe and secure environment for his granddaughter to have access to a playground and the back yard.

Mr. Giattina asked the age of his granddaughter.

Mr. Dingler replied that she is eighteen months old.

Mr. Giattina asked if the neighbors are supportive of this proposal.

Mr. Dingler replied that the neighbors love him and appreciate the improvements he has made to the property.

Chairman Jackson asked for confirmation on the type of fence proposed and how tall it is planned to be.

Mr. Dingler replied that he is requesting a six-foot wood privacy fence and offered drawings and proposals from fence contractors.

Chairman Jackson asked for staff recommendations.

Ms. James replied that only a three and one half foot fence is allowed in the proposed side yard. Staff cannot support the variance, but if approved, staff requests a current survey to insure fencing is on the applicant's property.

Mr. Giattina formed a motion to approve the applicant's request subject to staff requests and recommendations.

Ms. Miller cautioned the Board to remember conditions listed in the ordinance that meet the requirements of a hardship.

Mr. Brown replied that he considered the safety of the granddaughter a hardship.

Ms. Miller explained that she is just reminding the Board that a person not meeting hardship requirements should not be granted a variance.

Mr. Abele asked if the Board should vote first to decide if there is a valid hardship.

Ms. Miller replied in the negative, suggesting that discussion should be sufficient to determine an opinion.

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

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Ms. James reminded the applicant to submit a survey.

3. **BOA Case #2019-08** - To allow a four-foot tall metal fence in the side yard of a corner lot for property located at 2708 Justin Matthews Drive, North Little Rock, AR.

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

Ms. James projected pictures of the property,

Chairman Jackson asked the applicants to state their hardship.

Mrs. Shelton explained that they have triplets that have just celebrated their second birthdays and they are requesting a fence in the side yard to connect to the neighbor's fence to contain and protect the children.

Mr. Shelton added that the property faces Justin Matthews Dr. that has an issue with speeding traffic. He explained that they are asking for the fence extension on the LaFitte side of the property due to the fact they can join the neighbor's fence on that side and there is access to the home via a patio door on that side. He noted that eight adjacent neighbors have no objections to the request.

Mr. Brown confirmed that the hardship is the safety of the children.

Chairman Jackson asked if there was any further discussion.

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

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

4. **BOA Case # 2019-09** – To allow a porch within the side yard setback along West 36th Street located at 609 West 36th Street.

Chairman Jackson called Charlie and Kevin Kelley to the front.

Ms. James showed the pictures of the property.

Chairman Jackson asked the applicants to state their hardship.

Kevin Kelley replied that there is no back yard as the house faces West 36th St. and they would like to sit lawn chairs out and add a walkway from one end to the other. He summarized that the request is based on cosmetic reasons.

Chairman Jackson asked for staff recommendations.

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Ms. James replied that staff could not support the request. She explained that a typical overhang is six to twelve inches and they are requesting much more. She added that the property is a corner lot that allows a fifteen-foot side yard setback on West 36th St. but their request extends into the fifteen-foot setback.

Chairman Jackson questioned the hardship.

Mr. Brown asked if the hardship is the topography of the lot. He added that the property had been in serious disrepair before their improvements.

Kevin Kelly noted that the request is only six inches larger than the original porch.

Mr. Giattina asked if the work would have to be cut back if the applicant's request is not approved.

Mr. Kelly replied in the affirmative.

Mr. Brown reiterated that the request is only twelve inches more than the original footprint and vastly improves the property. He added that he likes to sit on his porch too.

Chairman Jackson asked if this property is apartments.

Kevin Kelley replied that it is one home and the original grocery store is now a man cave for games and motorcycle storage.

Charlie Kelley elaborated on the location of his pool table and other motorcycles.

Chairman Jackson thanked him for sharing.

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

Mr. Giattina noted that he did not see a hardship.

Mr. Brown replied that a hardship would be if the applicant had to cut all the referenced work down and asked if a permit had been issued to build. He asked if the variance is for the twelve inches or the whole thing.

Mr. Abele seconded the motion.

Mr. Giattina asked for an explanation of encroachment, as it exists regarding the comment that staff supports encroachment.

Ms. James explained that the face of the wall where it is located now plus a typical overhang of twelve inches is partially within the setback.

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Chairman Jackson called for the vote and the motion passed with three affirmative votes. The one vote against the motion was from Mr. Giattina.

Chairman Jackson cautioned the applicant to obtain the proper permits.

5. **BOA Case # 2019-10** – To allow an accessory structure with a reduced side yard setback, a reduced rear yard setback and a reduced separation between the existing residence and the accessory structure located at 1305 Sweetgum Lane

Mr. Trimble came forward to present his request.

Ms. James explained that the applicant had built a storage shed in his back yard and placed it two feet from the north property line and two feet from the rear property line. The minimum setback should be five feet from each property line. The storage building is only nine feet from the house and the minimum requirement is ten feet between all structures. She added that staff could support the nine-foot distance and even a two-foot setback in the rear if the applicant would move the storage building south to meet the five-foot setback requirement.

Chairman Jackson asked the applicant to state his hardship.

Mr. Trimble explained that his lot is small with only twenty feet from the house to the fence.

Mr. Brown replied that the previous owner must have overbuilt for the size of the lot and that does not qualify as a hardship.

Mr. Trimble explained that he has children too and he needs to store his chemicals safely away from them.

Chairman Jackson asked what kind of chemicals and asked if the property has a business located on it.

Ms. James explained that the chemicals are normal household chemicals such as fertilizer, etc.

Chairman Jackson asked the applicant if he built the storage building.

Mr. Trimble replied in the affirmative.

Mr. Brown asked if the building is to store lawn mowers etc.

Mr. Giattina asked the applicant if the building could be moved toward the house.

Mr. Trimble reiterated that the yard is only twenty feet long.

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Mr. Giattina asked if the building could be moved five feet forward.

Mr. Brown asked if the goal is to move the building five feet from the fence line.

Ms. James explained that it needed to be moved three feet to meet the five-foot setback requirement.

Mr. Brown asked the applicant if he could do that.

Mr. Trimble replied that he would do what he had to do.

Mr. Brown suggested it is easy to resolve then.

Mr. Trimble responded that the building is heavy.

Chairman Jackson asked if the applicant could withdraw the request.

Ms. James explained that the applicant still needed variances for the ten-foot requirement and the two-foot rear setback.

There was additional discussion regarding which direction staff is asking the applicant to move the building.

Ms. James replied that the building needs to move away from the neighbor's property. She added that there is a vacant field in the rear so the two-foot setback on that side is not a problem.

Mr. Giattina noted the building in the picture on the neighbor's property and questioned if it met setback requirements.

Ms. James responded that it was built without a permit as well.

Mr. Brown suggested they should come before the Board as well.

Ms. James replied that someone complaining had turned in this applicant.

Mr. Giattina suggested a motion to approve applicant's request with staff conditions applied.

Mr. Brown suggested Mr. Giattina make the motion and he would second the motion.

Ms. James explained that the applicant would need two variances.

Mr. Abele formed the motion to approve the applicant's request with staff conditions applied to move the building three more feet from the property line shared with the neighbor.

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Mr. Brown seconded the motion.

Mr. Abele asked if the motion could be read back to the Board.

Ms. Jones replied in the negative explaining that she could not hear Mr. Abele's motion over Mr. Brown speaking and would have to listen to the recording for the information.

The motion was passed with a unanimous vote and Ms. James advised the applicant to apply for his permit.

PUBLIC COMMENT/ADJOURNMENT:

Mr. Brown moved for the Board to adjourn at 2:03 pm and there was no dissent.

PASSED: _____ **RESPECTFULLY SUBMITTED:**

CARL JACKSON, CHAIRMAN