



**City of North Little Rock
Board of Zoning Adjustment Agenda
Thursday, October 27, 2022 - 1:30 PM
Conference Room B – City Services Building – 120 Main Street, NLR, AR 72114**

Call to Order -

Roll Call and finding of a Quorum -

Approval of Minutes - September 29, 2022

Public Hearing Items -

BOA #2022-33, 410 W A Avenue, NLR, AR, a variance request from Section 5.20 to allow an increased height in a retaining wall and the required fence on the retaining wall

Administrative –

Public Comment -

Adjournment –

Reminder -

- Turn off cell phones
- Board of Adjustment Hearing procedures on back of the Agenda
- Visitors sign-in with both name **and** address

Next Board of Zoning Adjustment Hearing Filing Deadline November 1 2022 Hearing Date November 17, 2022

For the Board to grant a variance the applicant must first establish a hardship. A hardship should not be created by the owner, it should be due to unique circumstances existing on the property. For example, it must be demonstrated a strict enforcement of the Zoning Ordinance would prohibit the development of the property or no reasonable use of the property can be made.



**NORTH LITTLE ROCK
BOARD OF ZONING ADJUSTMENT
HEARING PROCEDURES
(1/1/2019)**

Order of the Public Hearing: The regularly scheduled public hearing is generally held on the last Thursday of each month at 1:30 PM in the City Council Chambers, 300 Main Street, North Little Rock, AR. All meetings are open to the public. Typical hearings begin with roll call and finding of a quorum, approval of the previous meeting minutes, correspondence and staff reports, committee reports, unfinished business, new business, public comment and adjournment.

Voting: There are five members of the Board. A quorum consists of three members present. "Robert's Rules of Order" apply unless the Board has outlined alternative procedures. All business must be approved by a minimum of three votes.

Procedure to allow a person to address or approach the Board:

1. No person shall address or approach the Board without first being recognized by the Chair.
2. After being recognized, each person shall state their name and address for the record.
3. All questions and remarks shall be addressed through the Chair.
4. All remarks shall be addressed to the Board as a whole and not to any individual Board member.
5. When a group of citizens are present to speak on an item, a spokesperson may be selected by the group to address the Board. If multiple individuals of the group desires to speak, the Chair may limit each presentation to three minutes.
6. No person other than members of the Board and the person having the floor shall be permitted to enter into any discussion, either directly, indirectly or through a Board member, without permission of the Chair.
7. Once the question has been called, no person in the audience shall address the Board on the matter at hand without first securing permission to do so by a majority vote of the Board.
8. At least 24-hours prior to the public hearing, anyone wishing to submit exhibits for the record shall provide staff with copies of the exhibits for each Board member, one copy of the exhibit for staff to place in the permanent file and one copy of the exhibit for the legal department.
9. At least 24-hours prior to the public hearing, anyone wishing to read a statement into the record shall provide staff with a written copy of the statement.

**North Little Rock Board of Zoning Adjustment
Minute Record Summary – September 29, 2022**

Chairman Tom Brown called the meeting of the North Little Rock Board of Zoning Adjustment to order at 1:30 P.M. in Conference Room B of the City Services Building, 120 Main Street, North Little Rock, AR. Roll call found a quorum to be present; a quorum being three members present.

Members Present

Mr. Tom Brown, Chairman
Mr. Tim Giattina, Vice-Chair
Mr. Mike Abele
Mr. Gardner Burton
Mr. Steve Sparr

Members Absent

(None)

Staff Present

Ms. Donna James, Assistant Director of Planning
Ms. Marie Miller, City Attorney

Others Present

Brian Dale
Zachary Ratkovich
Eric Maxwell
Noah Treat
Jason Davenport
Beau Cooper
Anna Sawyer

Old Business

None

Approval of Minutes

Mr. Sparr formed a motion to approve the minutes from August 18, 2022. Mr. Abele seconded the motion. Chairman Brown called for a vote. All members voted in the affirmative, the motion was approved.

Public Hearing Items –

1. BOA #2022-28, 4308 Hazelwood Road, NLR, AR 72116, a variance request from Section 4.1.2 to allow a reduced rear yard setback for the construction of wheelchair ramps accessing a deck and backyard pool

Mr. Zachary Ratkovich was present representing the request. There were no registered objectors present. Chairman Brown called the item and requested Mr. Ratkovich address the Board and provide his hardship.

Mr. Ratkovich stated his application was to allow an encroachment into the rear yard setback for the construction of a deck to allow a wheelchair bound friend to access their rear yard pool. He stated the slope of the yard around the house was such that accessing the rear yard was difficult. He stated in addition his parents were aging and needed assistance due to mobility issues getting into the back yard. He stated ADA guidelines for residential construction require certain slopes for compliance. He stated based on the allowable slope the proposed deck would be located on the rear property line. He stated the side property line would have a setback of 10-feet due to an easement located within the area.

The Board questioned the area of the encroachment. Mr. Ratkovich stated the only setback issues was the rear. He stated the side setback was being met. He stated the rear yard was adjacent to a park. He stated there would not be any site line issues for neighbors with the placement of the deck as proposed.

Chairman Brown questioned if any of the Board members had any questions or comments. There being none, he stated he would entertain a motion for approval of the variance request. Mr. Giattina provided a motion for approval of the item based on the applicants stated hardship. Mr. Sparr provided a second to the motion. By a roll call vote, all members voted in the affirmative.

2. BOA #2022-29, 425 Chimney Rock, NLR, AR, a variance request from Section 5.20 to allow an increased height in a retaining wall

Mr. Noah Treat was present representing the request. There were no registered objectors present. Chairman Brown called the item and requested Mr. Treat address the Board and provide his hardship. Chairman Brown questioned if Mr. Treat had authorization of the property owner to request the variance. Staff stated there was authorization to allow Mr. Treat to represent the request.

Mr. Treat stated the hardship was the topography of the lot. He stated in order to build a house on the lot a variance was required. He stated the slope of the lot was such without a retaining wall the lot was virtually unbuildable.

Chairman Brown questioned if any of the Board members had any questions or comments.

Mr. Giattina questioned if there would be an impact on the adjacent neighboring property. Mr. Treat stated the neighbor would not be impacted and drainage would not affect any adjacent property. He stated there would be French drain system and an engineer had “engineered the wall”.

Chairman Brown called for a motion for approval of the variance request. Mr. Sparr provided a motion for approval of the item based on the applicants stated hardship. Mr. Burton provided a second to the motion. By a roll call vote, all members voted in the affirmative.

3. BOA 2022-30, 9300 Maumelle Blvd, NLR, AR, a variance request from Section 4.3.3 to allow a reduced front and side yard setback

Mr. Brian Dale of Joe White & Associates was present representing the request. There were no registered objectors present. Chairman Brown called the item and requested Mr. Dale address the Board and provide his hardship. Chairman Brown questioned if Mr. Dale had authorization of the property owner to request the variance. Staff stated there was authorization on file.

Mr. Dale stated the hardship was the developer bought the building with the understanding he would be allowed to add onto the structure. He stated it was believed when the building was constructed there was a lesser setback than the current zoning district required. He stated the client was wanting to match the existing building face with an addition.

Chairman Brown questioned the proposed request. Mr. Dale stated the building would be of similar size as the existing building. He stated the existing building currently encroached into the setback. He stated the proposed new building would match the existing setback. Chairman Brown questioned the application. Staff stated the request was to clear up the existing encroachments into the front and side property lines and allow the new construction to encroach into the setback.

Chairman Brown questioned the hardship. Mr. Dale stated the building was existing and the desire was to match the existing building with the new construction.

Chairman Brown called for a motion for approval of the variance request. Mr. Sparr provided a motion for approval of the item based on the applicants stated hardship. Mr. Abele provided a second to the motion. By a roll call vote, all members voted in the affirmative.

4. BOA 2022-31, 3917 McCain Blvd, NLR, AR, a variance from Section 14.25 to allow the placement of a wall sign without street frontage

Mr. Jason Davenport was present representing the request. There were no registered objectors present. Chairman Brown called the item and requested Mr. Davenport address the Board and provide his hardship. Chairman Brown questioned if Mr. Davenport had authorization of the property owner to request the variance. Staff stated there was authorization on file.

Mr. Davenport stated the hardship was the location of the building. He stated the building was located at the entrance to McCain Mall. He stated the building had one side facing McCain Boulevard and the other faced into the McCain Mall parking lot. He stated the client wanted the visibility of signage from both the street and the interior mall access drive.

Mr. Burton stated there were no residences located in the area. He stated the request was similar to other requests in the same shopping center.

Chairman Brown called for a motion for approval of the variance request. Mr. Burton provided a motion for approval of the item based on the applicants stated hardship. Mr. Sparr provided a second to the motion. By a roll call vote, all members voted in the affirmative.

5. BOA 2022-32, 314 Parker Street, NLR, AR, a variance from Section 4.2.8 to allow the placement of a 5 unit townhouse development with a reduced lot area and a reduced side yard setback within a C6 zone. Chairman Brown stated the request had been withdrawn at the request of the applicant.

Administrative - None

Public Comment and Adjournment

There being no further business before the Board, and on the motion of Mr. Sparr provided and seconded by Mr. Giattina, and by consent of all members present, the meeting was adjourn at 1:40 PM.

Approved on this 27th day of October, 2022

Tom Brown, Chairman

BOA #2022-33
October 27, 2022

Variance Requested: a variance request from the area provision of Section 5.20 to allow an increased height in a retaining wall and the required fence on the retaining wall

Location of the Request: 410 W A Avenue, NLR, AR

Legal Description of the Property: Lot A2, Blk 35, Park Hill Addition to the City of North Little Rock, Pulaski County, AR

Owner/Applicant: Damon and Jennifer Crawford

Present Use of the Property: Single-family

Present Zoning of the Property: R1

Site Characteristics:

The site contains a recently constructed single family home. The home fronts on W A Avenue with the driveway located on North Poplar Street. North Poplar Street is a narrow paved roadway with open ditches for drainage. A Avenue is paved with curb and gutter along the property frontage. There are no sidewalks in place along either street. There is a drainage creek located along the properties eastern boundary. This area of Park Hill is predominately single-family homes.

Surrounding Land Use and Zoning

<u>Direction</u>	<u>Surrounding Zoning</u>	<u>Surrounding Uses</u>
North	R1 Single-family	Single Family
South	R1 Single-family	Single Family
East	R1 Single-family	Single Family
West	R1 Single-family	Single Family

Justification: The applicant's justification is presented in an attached letter.

Staff Analysis:

The lot was replatted in 2009 with a reduced front yard building setbacks of 15-feet, instead of 25-feet along W A Avenue and N Poplar Street. The reduced setbacks were granted to accommodate the creek and drainage easement located along the eastern portion of the lot and allow a reasonable size home footprint of at least 2,400 square feet.

On April 20, 2017, the Board of Zoning Adjustment approved a variance request to allow a 10-foot front building setback along North Poplar Street, reducing the setback from 15-feet to 10-feet to allow the construction of a new home. The applicant proposed *"moving the home five feet to the west to*

allow for more room for future utility access and make building the house less difficult while also avoiding the natural erosion area". Building permits were issued and the new home has been constructed.

The Board approved a waiver of the minimum setback requirements for accessory structures on June 25, 2020. The applicant proposed the construction of a pool and gazebo within the rear yard of the home. The pool and gazebo were to be located a minimum of 10-feet from the primary structure (north) and a minimum of 5-feet from the south property line. The pool and gazebo was proposed located a minimum of 5-feet from the west (Poplar Street) property line. The applicant proposed the placement of a wood fence along the property line of North Poplar Street and along the southern property line. The fence height varied based on the grade of the lot, 4.8-feet to 6-feet in height. The applicant did not complete this project.

The applicant is now proposing to placement of a retaining wall and fence with an increased height. The applicant states a creek/ditch runs through and along the east side of the property. This creek is a vital waterway for the Park Hill Neighborhood and can not be altered or disturbed and limits the use of this portion of the yard. Due to the topography and shape of the lot, it does not leave an opportunity for the family to find privacy and outdoor play area for their children. The applicant is proposing to level a portion of the rear yard, the leveling will span in height from 0" – 72" over a 38' length allowing a 26' by 38' level fence yard for outdoor living space. The retaining wall will be placed at the rear of the fill area and a privacy fence will be located on top of the wall. The wall height is proposed at 72" (6') with a 6' fence placed on top of the wall. The applicant is seeking the variance to allow an increased wall height, 6' vs. 5' and the increase in the wall and fence height 12' vs. 8'.



A hardship is a special circumstance, which makes it very difficult for a particular project to meet the Zoning Ordinance requirement. Special circumstances are not interpreted to be something intangible, such as lack of knowledge of the code or misinformation at the time of purchase or construction. A hardship generally occurs when the physical characteristics of a property are such that it cannot be developed as permitted by the zoning ordinance. A hardship may be created by surroundings, shape or topographical conditions particular to the specific property. A hardship cannot be self-imposed, or the result of the property owners own action.

Board Member's to Consider:

1. Does the variance request authorize the operation of a use other than uses specifically permitted in the district? No
2. Does the zoning ordinance, if literally interpreted, deny the reasonable use of the property? No
3. Are there unique circumstances, which were not created by the owner of the property, which necessitates the variance? No
4. Will approval of the variance harm the use of the adjoining property? No

5. Will approval of the variance alter the essential character of the district? No
6. Will approval of the variance weaken the general intent and purpose of the land use and zoning plan? No
7. Will the approval of the variance be in harmony with the spirit of the ordinance? No
8. Will the approval of the variance adversely affect public health, safety, and general welfare? No

Approval Allows:

1. Approval will allow an increased wall height, 6' vs. 5' and the increase in the wall and fence height 12' vs. 8'.
2. Approval of this variance request is valid for 180-days from date of approval. If a building permit is not secured within the 180-day period, approval becomes invalid unless, the Board of Zoning Adjustment has approved a request for a time extension. All requests for time extension must be made prior to the expiration of the Board's approval.

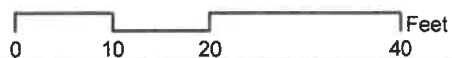
North Little Rock Board of Adjustment



BOA CASE #2022-33

Date: 10/3/2022

1 inch = 20 feet



User: jhale



North Little Rock Board of Adjustment



BOA CASE #2022-33

Date: 10/3/2022

1 inch = 100 feet

0 50 100 200 Feet



User: jhale



Ref: Letter of Hardship regarding LT A2 BLK 35, North Little Rock 72116

Damon Crawford

410 West A Avenue

North Little Rock, AR 72116

damon372@yahoo.com | 501.920.7666

Dear Board of Adjustment Members,

Please accept this letter of hardship as I am seeking a variance to allow a 6' wooden privacy fence on top of a 6' retaining wall (Section 5.20).

There is a substantial reason I am asking for this variance:

1. A creek / ditch runs through and along the East Side of the property. This creek / ditch is a vital waterway for our Park Hill Neighborhood and cannot be altered or disturbed in terms of using this portion of our yard. With that being said, due to the topography and shape of the lot, it does not leave opportunity for us to find privacy and outdoor play areas for our children in our yard with our property/build lines and the afore mentioned creek/ditch. We would like to level the rear of our yard (leveling will span 0"- 72" over a 38' span) with a retaining wall and put a privacy fence up. This will allow us an approximate 26'x38' level fenced in yard for privacy.

Sincerely,

Damon Crawford

\$170⁰⁰

