

BOARD OF ADJUSTMENT

MINUTES

January 5, 2022 @ 5:00 p.m.

The Board of Adjustment held a meeting on Thursday January 5, 2022 at 5:00 p.m.

Members Present

Vice-Chairman Don Jacimore
Wayne Cummings
Wendell Miller

Members Absent

Secretary Justin Cothren
Chairman Blake Tarpley

Visitors Present: City Planner Sara Jondahl, Planner I Victoria Marchant

Welcome Visitors

The First Order of Business is a request to review and approve the minutes of the Board of Adjustment November 29, 2022.

Member Miller made a motion to approve the minutes as written. The motion was seconded by Member Cummings and passed unanimously.

The Second Order of Business is a **REQUEST TO WITHDRAW** Variance to allow an addition to a non-conforming structure and variance from the side yard setback, located at 1109 Parker Road. Submitted by Lidia Gomez. (VARI-1022-000288)

Member Miller made a motion to withdraw. The motion was seconded by Member Cummings and passed unanimously.

The Third Order of Business is Election of Officers for 2023

- a. Chairman
- b. Vice Chairman
- c. Secretary

Member Miller made a motion to table until the next meeting. The motion was seconded by Member Cummings and passed unanimously.

The Fourth Order of Business is a Variance from Article 3.6 to allow an 8' fence in the rear yard, located at 2307 W 8th St. Submitted by Brian Raines on behalf of Pattie L. Bailey Hausmann. (VARI-1222-000317)

Planner I Marchant stated that this is a variance from the fence height requirement, as stated, at 2307 W 8th St. She stated that the existing conditions are that this is located within the Inglewood Neighborhood. She stated that it is an existing single family home. Planner I

Marchant stated that it is an R-1 zoned property, and it is surrounded by other R-1 zoned properties. She stated that surrounding properties are single family homes. Planner I Marchant stated that the application is to allow an 8 foot fence in the back yard to enclose their back patio. She stated that the members should have in their packet a site plan which shows the location of that fence on their survey. She stated that the applicant is proposing this 8 foot height, and they have cited reasons of security due to their unique work background and their property abutting a public walking trail as their reasons for their request. Planner I Marchant stated that staff has not found that the applicant has shown that special conditions exist as the applicant's conditions that they presented that were specific to their land were also applicable to other surrounding properties. She stated that the literal application of the code would not deprive the applicant of rights commonly enjoyed by others within the same district as there are numerous properties which are also abutting the detention walking trail and which utilize fences that are within the restrictions set out by the zoning code.

Staff recommends denial of this application as a result of the findings below:

1. The applicant has not demonstrated special conditions exist; and
2. The granting of this variance is not in harmony with the purpose and intent of the Code;
3. The granting of the variance is not a variance allowing reasonable use of land.

Brian Raines of HNA Agency Services stated that he is speaking with Patty Housman regarding this particular fence. He stated that based on the information provided, the fence is not actually 8ft tall but is a little lower than that at around 7'6". Mr. Raines stated that the reason why it is so high is to incorporate two gate features into the fenceline and maintain a structure going into the top of the gates. He stated that they had to go a little higher with that. Mr. Raines stated that one of the issues they are trying to maintain is the fact that based on Patty Housman's background, being overseas, she has a need for a heightened level of security that most people do not require. He stated that in order to build a fence that would provide that type of security if someone wanted to break in, they had to do a top support in order to make sure the gate posts are able to be spread apart to give her a better feeling of security. Mr. Raines stated that this is not a very big fence as it does not go around the property line, it is just a small section of the back yard which is more of an offshoot of the back patio. He stated that this will allow her to spend some safe time in her backyard while being able to view the walking train and stuff like that and still feel safe. He stated that limited disability and night time are some key factors that help give her a sense of security while she lives there. Mr. Raines stated that he had some photos showing areas of the terrain that give a line of sight into her backyard that could possibly meet the definitions that were previously stated. He stated that her neighbor which is located at 2703 has a six foot fence that is plastic vinyl in which you can see into their backyard as well as their furniture. He stated that they have no sense of privacy in that fence even though it was a six foot fence. He stated that that was the neighbor to the east side, and that is 2303. Mr. Raines stated that she is in between two privacy fences, and her other neighbor is 2311 and also has a six foot privacy fence but their fence obscures the view into their backyard. He stated that from that position you could see clearly into Patty's patio where she wants to spend some of her time and evenings when the weather is good. Mr. Raines stated that they considered doing a privacy fence but such a small

area would restrict air flow to that back section of her patio, and it would make it unbearable for her to enjoy the summer months on her patio. Mr. Raines stated that that is one reason that they are asking for a variance. He stated that they are trying to get this approved so she can have a better quality of life while living in a neighborhood amongst her neighbors and feel comfortable with the people walking behind her house. Mr. Raines stated that he has photos showing the fence.

Member Cummings asked if this was not a solid fence but was 4-inch maximum spacing. Mr. Raines confirmed that to him.

Mr Raines stated that the posts were constructed out of steel and were very strong, very sturdy and would be set in concrete. He stated that they already had the property marked by Arkansas One so they know where all of the utilities are. He stated that it had two gates constructed out of 14 gauge steel. He stated that the locking mechanisms are deadbolt locking mechanisms with striker guards. Mr Raines showed the Board pictures of the proposed fence and other images he referenced.

Member Cummings asked if the elevations in the images shown were at the same elevation as her property. Mr. Raines confirmed that they were.

Member Jacimore stated that these pictures gave them an idea of what the fence would look like.

Mr. Raines stated that one of the safety considerations were for first responders

Member Miller asked why, other than security reasons, they were going for a 7'6" fence. Mr. Raines responded that the reason they were going for a taller fence was because of the top structure for the gate.

Ms. Hausmann stated that different people have different needs for security. She stated that in 1987 when she first took her job overseas she was in the Philippines when the Sparrow hit team decided to take out four Americans. She stated that she and her son were there and saw the car. Ms. Hausmann stated that after they [the Sparrow hit team] tried to take out some military members, for some reason the military members were delayed, and they took out four arrow stars, so she saw the crater that was 10 ft deep that went across two lanes of traffic. She stated that there were other individual incidents after that. Ms. Hausmann stated that she was living next door from the military member that drove up from Angela City Air Force base to Manila for his job every day, and they attacked him at the gates of the embassy. She stated that one bullet happened to go right where the seal of the door was. Ms. Hausmann stated that they walked on base for 14 months and for that time they wanted to keep Americans safe. She stated that she has had all kinds of briefings. Ms. Hausmann stated that she knows what to do if she is captured by terrorists, how to best survive, and how to check her car for bombs. She stated that she knows what to do if there is an active shooter and she was trained for these things because they wanted all of their people to be safe, even the Department of Defense civilians and that she was a DoD civilian. Ms. Hausmann stated that she has had the experiences there and she has had assault rifles pointed at her twice in her life while she was in the Philippines from a foreign military member, so her awareness is a little higher and her need might be a little higher than maybe even

the average person that lives in Russellville. She stated that there was a year where her parents had no idea where she was because she was getting divorced by a German husband, and she had three attorneys: an American military attorney, a German attorney, and an attorney in North Carolina that were all trying to get her out of there because she was fleeing domestic violence. Ms. Hausmann stated that she was trying to get herself and her son out because if she did not do it the right way she could have gone to jail for ten years for international kidnapping. Ms. Hausmann stated that she was nothing in a foreign country. She stated that her attorney told her that the number one way for a German man to get rid of his foreign wife was to get two doctors that would never even meet her to put her into an insane asylum. She stated that the second way was that they would just murder you. Ms. Hausmann stated that she lived in that house with her husband for six months trying to get their escape plan and that she had the DoD behind her and she had every Friday after school a meeting with her attorney. She stated that they did the affidavit of what was going on. Ms. Hausmann stated that she got out and she got her son out because she had said once to her husband that if he kept treating their little son like that he's going to end up being a criminal and be in jail and he said he did not care. She stated that he was not going to do anything different. Ms. Hausmann stated that the point is she has had things happen to her—she does not feel safe on her patio once it gets dark— so this thing that says reasonable use of the land— she does not have the same use of her land that her neighbors have because of the events that have happened in her life. She stated that for the DoD there are regulations and sometimes they are written vaguely so that when special circumstances come up people can do things to assist. She stated that the wall of her patio has windows and is the only place where she can put a tv, meaning that some one can attack her from behind. Ms. Hausmann stated that they had asked why a 6ft wall was not good enough. She stated that if you put two men on his knees and the other is using him to go over, he falls right over a six foot wall. She stated that she needs a little more than that. Ms. Hausmann stated that everyone around her has a man in her house, she is a single woman and she has an adult disabled child that she is a guardian of. Ms. Hausmann stated that she told Brian that she needs a little more—an edge but she needed it to look nice. She stated that her original idea, realtors told her it would look like a jail but she stated that that was what made her feel safe. She stated that one of the things she likes to do when it storms and there is beautiful lightning, they sit out on the patio at night. Ms. Hausmann stated that she is not really asking for 8 feet, but 7.5 ft. She stated that she told Brian that she could not have a structure that people could just push over. She stated that she needed the extra height so that she could have a six foot gate. Ms. Hausmann stated that no one could see it. She clarified that the only people that can see it are the people in the park. She stated that if they needed to come out to her house to actually look to do so.

Member Miller asked Planner I Marchant if on the Table of Permitted Uses if this was something they could pass. Planner I Marchant stated that it was within their grounds.

Member Cumming made a motion to approve. The motion was seconded by Member Miller and passed unanimously.

The Fifth Order of Business is Variance from Article 3.21 and 4.1 to waive the sidewalk requirements and allow a reduction in parking. Submitted by Barrett & Associates on behalf of Farm Credit Services of Western Arkansas, ACA. (VARI-1222-000316)

Planner I Marchant stated that this is a variance from parking and sidewalk requirements at 5177 Hwy 64 West. She stated that this is located in the Marina Heights district and is an existing vacant lot. Planner I Marchant stated that it is a C-4 zoned property surrounded by R-2 zoned and C-2 zoned properties abutting the railroad with adjacent residential uses and vacant properties. She stated that the applicant is proposing to build a new office building and is requesting relief from the sidewalk regulations. Planner I Marchant stated that staff has found the applicant has demonstrated that special conditions exist due to ARDOT has stated they do not want sidewalks along highway system unless they connect to an existing walk and there are no sidewalks in this area of Hwy 64. She stated that the nearest sidewalk is approximately well over half a mile away on West Main and almost a mile and a half away on West Parkway. Planner I Marchant stated that although the Comprehensive Plan states that generally that both sides of West Main Street/ Hwy 64 should have sidewalks, staff does not foresee the need for sidewalks past Marina Road on West Main Street in the next 10 years barring a major development boom along West Main. Planner I Marchant stated that the applicant is additionally requesting a special exemption to the parking requirements. She stated that the applicant is varying from the required parking regulations by 42% as the code requires 81 parking spots and the applicant is proposing 47. The applicant has expressed that the proposed new facility will be utilized strictly for office personnel not utilized by customers. Planner I Marchant stated that the applicant estimates total personnel at this location on a typical day being 30 people with a potential for 15 additional people for single day training events showing that the 47 parking spots would be adequate for the personnel that will occupy this location.

Staff recommends approval of this application as a result of the findings below:

1. The applicant has demonstrated special conditions exist; and
2. The applicant has met all other variance requirements.

Member Cummings asked if this was the old [inaudible] property? Member Jacimore confirmed that it was.

David Garza stated that the request is because they have a good feel about how many people would be working there. He stated that one thing he did want them to do is make this look really nice and beautiful being right next to the lake. Mr. Garza stated that they did not want to have this huge black-top out there. He stated that they have the means so that if they needed the parking, they would put it in.

Member Miller made a motion to approve the variance request as presented. The motion was seconded by Member Cummings and passed unanimously.

Meeting adjourned.
