

BOARD OF ADJUSTMENT MINUTES

September 23, 2019

The Board of Adjustment held its regular monthly meeting on Monday, September 23, 2019 at 5:00 p.m., in the Council Chambers at City Hall.

Members Present

Chairman Wendell Miller
Vice Chairman Scott Sanders
Secretary Justin Cothren
John Choate
Vacant

Members Absent

None

Visitors Present: Mayor Richard Harris, City Planner Sara Jondahl, City Attorney Trey Smith, Planning Assistant Lequitta Jones, Public Works Director Kenneth Duvall, City Engineer Glenn Newman, Building Official Brian Holstein, Jim Lynch/City Corp, Zayne Bryson, Dave Garza, Shelby Hanson, and Dylan Hanson.

Welcome Visitors

The First Order of Business was a request to review and approve the minutes of the June 24, 2019 meeting.

Commissioner Sanders made the motion to approve the minutes as written. The motion was seconded by Commissioner Cothren and passed unanimously.

The Second Order of Business was a request to elect the 2019 Board of Adjustment Officers; Chairman, Vice-Chairman, and Secretary.

Commission Choate made the motion to approve the 2019 Officers as follows: Chairman Miller, Vice Chairman Scott Sanders, and Secretary Cothren. The motion was seconded by Member Sanders and passed unanimously.

The Third Order of Business was a public hearing appealing the decision of the Enforcement Officer concerning the interpretation of the Zoning Regulations in regard to proposed duplex units not listed in the permitted uses chart in the College Hill Zone, for property located at 110 West "I" Street. Submitted by Dave Garza of Barrett & Associates on behalf of Charlie Falwell. (BOA.19.09.3653)

City Planner Jondahl said the application is to demolish an existing dilapidated home and build a duplex that is handicap accessible. The property is located within the College Hill zone within the EIPaso / University District of Russellville. The planning review is based on the RZC Section 2.18. The College Hill Zone is intended to extend the university activity to ATU and incorporate mixed uses within the College Hill area. Due to the emphasis on urban form overland uses in the District, general use categories have been identified by areas. Uses not listed in the following schedule, but are substantially similar, may be permitted upon the approval of the Administrative Official or designee, subject to appeal to the Board of Adjustment. The Table of permitted uses for this area is silent on duplexes. It lists as permitted uses Single-Family residential attached dwelling units (townhomes) and Single-Family Residential detached dwelling units, but specifically does not list out duplex units. The zoning code table of permitted uses states that any use not specifically listed in the Table of Permitted uses is Not Permitted. To determine if the application would meet the substantially similar objective further application review shall be used. It is my recommendation while the administrative official has the authority to determine that the structure is substantially similar to the other uses permitted in the zone, I do not find enough substantially similar items as required by this section to make that determination. Additionally, the looks of this proposal look like a duplex, while the intent of the zone is to encourage an atmosphere of mixed uses and I do not believe the intent of this proposal meets the design criteria for this zone. My recommendation is to deny the application.

Dave Garza on behalf of Charlie Falwell said he met with City Planner Kevin Gambrill and staff to discuss a proposed duplex to be built at 110 West "I" Street to replace a dilapidated house the city had requested to be torn down. We met at Public Works. The lot is in the newly created College Hill Zone and we need some direction & clarification on what would be allowed. The meeting was very informative and we left with some direction to move forward on. The duplex plan and the site/grading plan were sent to review and approval. In between the time of the meeting and our submittal, Sara Jondahl was hired as the new city planner. It was City Planner Jondahl that discovered "duplexes" were not in the permitted use chart. Townhouses, condo's, apartments, and single-family units are permitted. This was a shock to us since nothing was said to us and the client at the May meeting. Not all ordinance are perfect, we understand that and want to work with the city staff in designing what is permitted per the code. However, my point is that we did try our best to prevent any issues by having the early meet and felt with some revisions to the floor plan and front façade the staff would approve such a plan.

Upon receiving Planner Jondahl's comment letter her recommendation that the submittal was denied, we are coming before you to appeal said recommendation on the grounds of the following information:

- 1) We are in agreement that the word "duplex" is not on the list of permitted uses. The only difference is condo's are in a POA while a duplex is singularly owned. Building

wise they look alike and I believe it is the visual appearance that the ordinance is built upon.

- 2) The duplex floor plan submitted does need revised to meet the intent of the code and that change has not yet been resented to the staff. We do feel the new plan will meet with the desired look the staff is requesting.
- 3) There are some ambiguities in the ordinance that show it needs some improvement. One such is the driveway description. One section states "front driveways are not allowed, only in the rear and sides of the units and in another it talks about residential front loading driveways need to be recessed 10 feet beyond the front of the building face. These two contradict each other.

The owner is wanting to build this single story duplex for his elderly parents. The unit must be ADA accessible all around. We will meet the columns and garage door requirement and the building will conform to the CHZ.

Melinda Falwell said they were building the duplex for their mother and father to meet their care and it will be ADA accessible.

Member Sanders made the motion to approve the appeal subject that the columns and garage door to conform, and the building to conform to the College Hill Zone. The motion was seconded by Member Cothren and passed unanimously.

The Fourth Order of Business was a public hearing requesting approval for a two-foot variance from the six-foot requirement (Zoning Code 3.6) to allow an eight-foot privacy fence, for property located at 110 Ashford Drive. Submitted by Robert D. Hanson. (BOA.19.09.3652)

Member Sanders abstained due to owning the duplex behind and has no problem with the fence.

City Planner Sara Jondahl said she drove out to the home and looked at the fence and didn't see a problem with it. She said she recommends approval.

Mr. Hanson said the old 6-foot fence was replaced with an 8-foot fence due to construction of duplexes with windows above the height of the old fence behind the property. These duplexes look into the windows of the home on the property.

Member Choate made the motion to approve the variance. The motion was seconded by Member Cothren and passed unanimously.

Meeting Adjourned

Chairman Wendell Miller