

**North Little Rock Board of Zoning Adjustment
Minutes Record – June 25, 2020**

The meeting of the North Little Rock Board of Zoning Adjustment was called to order by Chairman Tom Brown at 1:30 P.M. in the City Council Chambers, 300 Main Street, North Little Rock, AR. Roll call found a quorum to be present; a quorum being three members present.

Members Present

Tom Brown, Chairman
Mike Abele
Gardner Burton
Tim Giattina (Arrived at 1:35 pm)
Steve Sparr

Members Absent

None

Staff Present

Ms. Donna James, City Planner
Mr. Tim Reavis, Assistant Director of Community Planning
Mr. Rodger Green, Building Official

Others Present

Mr. Dwayne Gibbs, 2222 Crestwood Road, North Little Rock, AR 72116
Ms. Rita Ritchie, 625 Skyline Drive, North Little Rock, AR 72116
Ms. Renee Rhoads, 2208 W 58th Street, North Little Rock, AR 72118
Mr. Jason Howard, 53 Sunset Drive, North Little Rock, AR 72118
Mr. Damon Crawford, 410 W A Avenue, North Little Rock, AR 72116
Ms. Katelynn Tabor, 982 Greene 912 Road, Paragould, AR 72450
Ms. Avery Sparr, 600 Bogil Road, Paragould, AR 72450

Administrative

There were no items for discussion.

Old Business

None

Approval of Minutes

Mr. Sparr formed a motion to approve the minutes from the previous meeting on May 28, 2020. Mr. Giattina seconded the motion and there was no dissent.

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BOA #2020-16 A variance is requested from the area provision of Section 4.11 to allow the placement of deck/porch within the front yard setback for the property located at 2222 Crestwood Road, North Little Rock, AR 72116. Chairman Brown called the applicant forward and requested he state his name and address for the record and provide to the Board his hardship. Mr. Brown stated in order for the Board to approve the request the applicant had to provide a hardship as to why he needed the variance.

Mr. Dwayne Gibbs addressed the Board on the merits of his request. He stated he would like to have an area where he and his family could sit and watch their children play. Chairman Brown stated this was not a valid hardship. Mr. Gibbs requested the Board provide him with the criteria for a hardship. Ms. James read into the record the definition of a hardship.

Mr. Gibbs stated some of the circumstances were the house was built in the 1960's and the front porch was only four feet wide. He stated with the placement of a chair on the front porch the chair took up most of the four feet not allowing entry or exit from the front door. He stated in his hardship the natural shade from a tree located on the property which had grown over the years provided shading of the seating and front of the house. He stated the tree provided natural shade for about six-eighths of the day.

Chairman Brown questioned the applicant as to the placement of wood over the post or columns of the home. Mr. Gibbs stated the columns of the home were replaced with four by four post and wrapped in cedar. He stated in doing this a structural engineer had been engaged to provide a letter the construction was sound. Mr. Brown stated he understood the work was completed without a permit. Mr. Gibbs stated this was correct. He stated he was a first time homeowner and was unaware he needed a permit to complete the work. He stated a neighbor stopped by and questioned what would happen if he constructed the porch all the way to the street. Mr. Gibbs stated he then started making phone calls and found out that anything other than paint required a permit. Mr. Brown questioned if a contractor was hired to do the work. Mr. Gibbs stated Sanchez Painting was hired to do the work. Mr. Brown stated the contractor knew he had to get a permit.

Mr. Brown stated he would like to hear from the Building Official concerning the part which was covered. Mr. Rodger Green, the Building Official for North Little Rock, addressed the Board stated the engineering letter submitted by the applicant was adequate to serve the City's needs for inspection. He stated there were no issues with the City concerning the permitting of the columns which were replaced and covered.

Mr. Brown stated again he would like to hear a hardship from the applicant. Mr. Gibbs stated the front porch was narrow. He stated the chairs you can buy for a front porch and currently

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sitting on the front porch take every bit of the front porch. He stated the front porch could not be sat upon therefore the hardship existed with the size of the front porch. He stated his family could not sit on the porch and enjoy the area and allow for entry and exit from the front door. He stated the tree provided adequate shade allowing his family to enjoy the area. He stated there was not adequate shade in the back yard area. He stated he was not requesting any change other what had been constructed.

Mr. Brown stated his next question was could Mr. Gibbs have built the deck in the back yard. Mr. Gibbs stated it could have been constructed in the back yard but there was no shade and they would have to build canopies for shade. He stated they wanted to take in the natural surroundings that were already there.

Commissioner Able questioned if there was a sidewalk in front of the house which had been covered by the deck. Mr. Gibbs stated there was not a sidewalk, access to the front porch was from the open carport and the step to the front porch was a tremendous step. He stated accessing the front porch for his grandmother was difficult. He stated the porch allowed them to make a more adequate step for his grandmother and other people who were elderly to gain access to their home.

Commissioners Burton and Sparr questioned staff's recommendation. Staff stated they were not in support of the request. Staff stated the fear was at some point in the future someone would place a cover over the structure which in turn the area would no longer be an open porch/deck but would then become a covered structure within the front yard which was out of character with the neighborhood.

Commissioner Sparr questioned if Mr. Gibbs heard staff's concerns. He stated he did and his response was the porch was not attached to the home. He stated it was a free floating structure and could be removed at any time. Commissioner Sparr stated Ms. James was stating that at some point in the future either he or a future homeowner could come in and construct a cover over the deck, without a permit, or sell the house and the future homeowner would put a roof over the deck. Mr. Gibbs stated his comment was that anyone wanting to put a roof over the deck would need a permit. Commissioner Sparr stated the Board would like to think everyone started with a permit but apparently this was not the case.

There was a general discussion by the Commission and staff concerning the options Mr. Gibbs had concerning the deck. Staff stated the size of the deck was to be reduced to comply with the setback requirement. Staff stated the lot had a 30-foot platted building setback. Staff stated typical setbacks for residential lots was 25-feet but since Crestwood was a collector street designation the plat was filed with a 30-foot front setback.

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Chairman Brown stated he would entertain a motion if there was no additional discussion by the Board members. No motion was provided. He called for a motion on a second and third time. No motion was provided on the additional requests for the motion. The request was not approved for lack of a motion. Chairman Brown explained to the applicant he would be required to remove the front portion of the deck which was not in compliance with the setback requirement.

Mr. Gibbs questioned with the support letters from the neighbors how one could get a variance approved.

Chairman Brown stated each case was decided on an independent basis. He stated this case had been denied so Mr. Gibbs was to work with the City Building Inspector and the Planning Staff to take the porch back to be compliant with City Ordinance. He explained to Mr. Gibbs he had the right of appeal of this Board's decision. He stated the appeal was to the Circuit Court of Pulaski County.

BOA #2020-15 A variance is requested from the area provision of Section 12.15 (A) and 12.15 (B) to allow the placement of a four-foot tall chain-link fence within the front yard of this single-family home for the property located at 53 Sunset Drive, North Little Rock, AR 72118. Chairman Brown called the applicant forward, requested he state his name and address for the record and to provide the Board with his hardship. Chairman Brown stated there was a fence in place which was in compliance with the ordinance. He stated the compliant fence was removed and a fence constructed which was not in compliance.

Mr. Jason Howard stated he was requesting a variance to allow the placement of a chain-link fence within the front yard and to allow the fence to be four feet in height. He stated the previous fence which was a white picket fence was fairly old when his family took over the property. He stated it would break and was constant upkeep. He stated it was vinyl and was brittle. He stated he had four small children which were being hurt by the fence. He stated a couple of the seven foot panels had blown over due to a storm. He stated it was not feasible to put back up due to the damage. He stated there was a one to two foot drop off and his children riding their bicycles would fall off the drop off and hurt themselves. He stated this created a liability for his neighbor. He stated the neighbor requested he put something back up. He stated financially this was what he could afford. He stated architecturally acceptable fences per the ordinance were more expensive than what was installed. He stated the fence was vinyl coated so there were no rough edges. He stated he now understood he needed a permit. He stated he was unaware since a code enforcement officer had visited the site and told him since the fence was in place a permit was not required. Mr. Howard stated obviously this was not correct. He stated the fence was 90 percent complete but once he was served the notice to stop work he did not complete the work. He stated a neighbor had complained

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which is when code enforcement got involved. He stated code enforcement had looked at the fence and stated the fence was in the correct location and was allowed. He stated he was confused when the Planning Department got involved and issued the stop work order. He questioned why two departments of the City would provide conflicting information.

Staff stated the request was a variance to the zoning ordinance and code enforcement could not grant variances from the zoning ordinance. Mr. Howard stated the hardship was the financial burden and upkeep of the previous picket style fence.

Commissioner Giattina questioned the applicant on a previous statement concerning a neighbor complaint. Mr. Howard stated the neighbor complained since he did not like the fence and once code enforcement said the fence placement was acceptable the neighbor then called the Planning Office to see if a permit had been issued. Mr. Howard stated at this point it went to another level and he was here seeking a variance.

Chairman Brown questioned if anyone was present to speak against the item. No one was recognized. Mr. Howard stated he did have someone to speak for the request if necessary.

Commissioner Giattina questioned if his children had been hurt by the previous fence or the lack of a fence on the property. Mr. Howard stated the children had been hurt by the previous fence and by falling off the drop-off to the adjacent property. He stated this was the reason the picket fence had not been reinstalled after a seven foot section was damaged during a storm.

Commissioner Able questioned the height difference between the previous fence and the current fence. Mr. Howard stated one foot. He stated the previous fence was three foot tall and the new fence was four foot tall.

There was a general discussion concerning staff's recommendation. Staff stated they typically did not support chain link fencing within the front yard setback. The Commission noted from the front of the house to the rear property line the chain link fencing was not a concern.

The Chair entertained a motion for approval of the item. Commissioner Sparr provided a motion for approval based on the applicant's hardship of safety concerns for his children and the financial hardship of constant repair of the previous picket fence. Commissioner Giattina seconded the motion. Chairman Brown requested a roll call vote. All members voted in the affirmative. The motion was approved.

BOA #2020-13 A variance is requested from the area provision of Section 4.11 to allow a reduction in the front building setback for a new front entry porch for the property located at 625 Skyline Drive, North Little Rock, AR 72116. Chairman Brown called the applicant forward,

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requested she state her name and address for the record and to provide the Board with her hardship.

Ms. Rita Richie addressed the Commission on the merits of the request. She stated before the item was started she would like to make a statement to the Board. She stated the city had sewer easements over a considerable portion of her property. She stated based on the city sewer easements she was unable to add onto her home. She stated when she and the architect came up with a concept plan she contacted the Planning office to see if there were any issues with the project. She stated she was told she did not have any issues with the project, the easements had not changed. She stated a variance to the front setback was never mentioned or she would have come before the Board much sooner.

Ms. Ritchie stated she worked with the architect to develop plans for the new entry porch. She stated it was not until she went out to bid that she was informed of setback concerns. She stated her hardship was the home was built in the late 50's to early 60's. She stated the existing front porch did not meet any code. She stated there were no railings on the front porch. She stated the steps were on different levels. She stated she had considered placing railings on the existing porch but then getting furniture and appliances into and out of the home would be impossible. She stated the porch had constant water damage and rot. She stated all the roofers had stated she needed to readjust the gutters. She stated the gutters were adjusted correctly. She stated the number one goal of the new entry was to stop the rot. She stated the architect stated the only way was to build a gable to gable design and install a cricket which then would allow for proper drainage from the roof. She stated the existing steps were degrading and had been patched a number of times. She stated the variance was necessary to allow for the new construction and to stop the constant rotting of the existing roof.

Chairman Brown stated he would entertain a motion for approval of the item if there was no additional discussion by the Board. Commissioner Sparr stated he would make the motion to approve the request based on the applicant's stated hardship of constant rot of the existing roof due to the sloping of the roof and the need to allow the porch to be somewhat compliant with the addition of steps and handrails. Commissioner Giattina provided the second. Chairman Brown requested a roll call vote. All members voted in the affirmative. The motion was approved.

BOA #2020-14 - A variance is requested from the area provision of Section 12.2 (E) to allow a waiver of the 10-foot setback requirement between two accessory structures, a swimming pool and a gazebo for the property located at 410 W A Avenue, North Little Rock, AR 72116. Chairman Brown called the applicant forward, requested he state his name and address for the record and to provide the Board with his hardship.

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Mr. Damon Crawford addressed the Board on the merits of his request. He stated the hardship was the property contained a creek which ran through a large portion of the eastern boundary of the property. He stated the creek was drainage for a large part of the neighborhood. He stated the pool was small and the request was to allow the waiver of the setback requirement for the gazebo. He stated the pool was getting smaller due to the electric departments concerns with an existing guide wire. He stated he was working with the electric department to resolve any setback concerns they may have.

Commissioner Sparr stated the request was for a variance to allow the pool and the gazebo to be placed without the typical separation. Staff stated this was correct. Staff stated the separation was in place to allow the fire department access around structures should there be an emergency. Staff stated the fire department had not indicated a concern and they were supportive of the request.

Chairman Brown stated if there was no additional discussion he would entertain a motion. Commissioner Sparr made a motion for approval of the item based on staff's recommendation and the applicant's hardship of the existing drainage way along the eastern boundary of the property. Chairman Brown requested a roll call vote. All members voted in the affirmative. The motion was approved.

BOA 2020-05 – A variance is requested from the area provisions of Section 12.9 to allow the placement of an accessory structure within the side yard for property located at 2208 West 58th Street, North Little Rock, AR 72118. Chairman Brown called the applicant forward, requested she state her name and address for the record and to provide the Board with her hardship.

Ms. Renee Rhoads addressed the Board on the merits of her request. She stated she had recently purchased a travel trailer. She stated some of her family members had issues with leaking roofs due to hail damage and sitting out outside without a cover. She stated people try to fix the leaks but they were usually not successful. She stated after Christmas she stated pricing metal coverings for the travel trailer. She stated the covering was just a top, a metal covering with six poles. She stated there was only one spot to put the covering in the yard. She stated there was a large transmission line located on her property which limited the placement of a number of things on her property. She stated the builder told her she would need a permit. She stated once she was made aware she needed a permit she went to the Planning Office and was told she could not place the canopy as proposed. She stated she had been working with Entergy to secure a letter of approval to allow the placement of the covered canopy within their easement but as of date had been unsuccessful in getting approval. She stated she was continuing to work to secure the approval. She stated Arron Boone with Entergy had contacted her and was working to secure the letter of approval to allow her to place the canopy.

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Chairman Brown stated the Board could not approve the request until a letter of approval was received from Entergy. He stated the Board did not want the liability should something happen to the overhead power line. He stated he felt there was adequate area to place the travel trailer under one of her existing carport structures. Ms. Rhoads stated she had three boats. She stated the other garages were full or not tall enough to house the travel trailer. She stated her hardship was wanting to protect her investment. She stated her hardship was also the depth of the lot was shallow compared to the width and the area within the side yard of her lot. She stated there had been an addition to the rear of the home which also reduced the area in the rear yard.

Ms. Rhodes questioned if the Board could approve the request awaiting approval from Entergy. Chairman Brown stated the item would be postponed to the July 30, 2020 hearing to allow Ms. Rhodes to secure approval from Entergy.

Public Comment and Adjournment

Chairman Brown called for public comment. There being none and there being no further business before the Board and on a motion of Mr. Sparr and seconded by Mr. Burton and by consent of all members present, the meeting was adjourned at 2:18 pm.

Approved on this 30th day of July, 2020



Tom Brown, Chairman