

BOARD OF ZONING APPEALS MEETING  
SEPTEMBER 17, 2013  
7:00 P.M.

I CALL MEETING TO ORDER

The meeting was called to order at 7:00 p.m.

II ROLL CALL

Members Present: Ed Knox, Dave Nienaber, Carolyn Ghantous,  
Lawrence Hawkins III, Joe Ramirez, Robert Weidlich and Jane Huber

Others Present: William McErlane, Building Official

III PLEDGE OF ALLEGIANCE

IV MINUTES OF THE REGULAR MEETING OF AUGUST 20, 2013

Chairman Weidlich: Is there any changes or additions to the Minutes of our last meeting on August 20th, 2013?

Mr. Hawkins: I move to adopt.

(Mrs. Huber seconded the motion and with seven "aye" votes from the Board of Zoning Appeals Members, the Minutes of the August 20th, 2013 meeting were adopted.)

V CORRESPONDENCE

(No correspondence presented at this meeting.)

VI REPORT ON COUNCIL

(Mr. Hawkins gave a summary report of the August 21st, 2013 and the September 4th, 2013 City of Springdale Council Meeting.)

VII REPORT ON PLANNING COMMISSION

(Mrs. Ghantous gave a summary report of the September 10th, 2013 Planning Commission Meeting.)

VIII CHAIRMAN'S STATEMENT AND SWEARING IN OF APPLICANTS

IX OLD BUSINESS

(No Old Business presented at this meeting.)

X NEW BUSINESS

A. Chairman Weidlich: The first order of business is the owner of 11285 Princeton Pike is requesting a variance for a 4.09' side yard setback. Section 153.221(A) "The

minimum side yard setback for properties in the GB district for properties abutting non-residential districts shall be 12'."

Would the person representing 11285 Princeton Pike please come to the podium?

Ms. Erin Standen: I work for Core Resources. I am representing Gwen Mooney Funeral Home; the potential address is 11285 Princeton Pike. We did have the development plan approved last week to have a new funeral home put into the old Ethen Allen space. The whole concept behind it is, Spring Grove Funeral Home and Cemeteries, they own Oak Hill Cemetery across the street so they would like to have a funeral home closer to or directly adjacent to the cemetery. The way that the lot is currently set up with the detention basin on the south end and the parking in the surrounding areas, the best layout was to add a porte cochere on the north side of the building. The way that it lays out for traffic patterns, it falls 4.09' from the property line. We are requesting that you grant the variance to allow this since the setback per Code in this Zoning District is 12'.

(At this time Mr. McErlane read the Staff comments.)

(No one from the audience came forward to speak concerning this request and the public portion of the hearing was closed.)

Mr. Hawkins: I just want to confirm on the north side of the building where the porte cochere would go, there would only be two parking spaces that go north and south and those would be handicap parking spaces?

Ms. Erin Standen: I believe that is correct.

Mr. Hawkins: And the rest would just be reserved for the drive-through of that?

Ms. Erin Standen: Yes.

Mr. Knox: Has your neighbor, the new Mexican restaurant been informed of this, because I didn't remember seeing a sign that we are supposed to have out there?

Ms. Erin Standen: I personally have not spoken with them.

Mr. Knox: Has the Building Department received any comments from them?

Mr. McErlane: No. The notification that was sent to the adjacent property owner was sent to the owner of the property and not the operator of the restaurant. From what the applicant submitted previously, there are mutual access and parking easements between the two properties that allow for access through there.

Mr. Knox: The porte cochere, as it is shown here, has the vehicle pointing toward the front of the building which if you took a casket out of the vestibule, it would be rather difficult to load it. Is this just a thing where they put a car in here to give us a scale?

Ms. Erin Standen: I believe it was to demonstrate the turning radius, that a car could pull in from the west and from the north but they would be bringing caskets out from that side entry, and then I don't know all the logistics of loading a casket into a hearse, then they would do that underneath the cover.

Mr. Nienaber: That question covered my concern.

Mr. Hawkins: I would like to note for the record that there are exceptional topographical conditions based on the location of the property particularly the portion of the property to the south of the building that creates a situation where it is a practical difficulty for the applicant to be able to use that property as other individuals within the same zoning district would be able to, because of the extensive catch basin there.

Mr. Knox: I would like to note for the record that since there is a parking area with a large space in order for people to maneuver in there, I don't see that being this close to the property line would be an impediment, so I will be voting in favor.

Chairman Weidlich: If no one has any additional comments or questions, could we have a motion?

Mrs. Huber: I move to grant a variance to Section 153.221(A), so as to allow a 4.09' side yard setback for property located at 11285 Princeton Pike. The section of the Code that was read earlier; Section 153.221(A) "The minimum side yard setback for properties in the GB district for properties abutting non-residential districts shall be 12'."

(Mr. Hawkins seconded the motion and with seven affirmative votes, the variance was granted.)

- B. Chairman Weidlich: Next order of business is the owner of 346 Plum Street is requesting a variance to keep a pool in a side yard. Section 153.488(C)(1) "The facility shall not be located in the front yard or the side yard."

Mr. Roger Crawford: I live at the adjacent property at 11557 Hickory Street and I am representing Ruby Jenkins who is the owner of both properties.

Chairman Weidlich: Mr. McErlane, do we need anything signed for this gentleman to represent the owner?

Mr. McErlane: His name is on the application and it is also signed by the owner.

Mr. Roger Crawford: The reason we need a variance is the pool is located in the side yard because we don't have a back yard at this property. I have a few additional pictures, other than what you already have, that show the side of the house and the back of the house, if you would like to look.

Chairman Weidlich: If you don't mind, you could pass them around to the Board Members.

(Mr. Roger Crawford passed the photos to the Board Members for review.)

Mr. Roger Crawford: Both properties, it is considered one property according to Ruby who has been there since 1954 I believe, but I guess it is split up into two properties according to the City. The pool is actually on 346 Plum Street but it is 7' from the property line between the two but the house sits at such an odd angle on the property that there is no other place to put it.

(Mr. McErlane read the Staff comments.)

Mr. Hawkins: Mr. McErlane, are there any easements between these two properties?

Mr. McErlane: With regard to any kind of easements at all; not that I am aware of. If there were private easements between two property owners, we wouldn't necessarily have a record of that.

Chairman Weidlich: Is there anyone in the audience that would like to speak on behalf of this application?

Ms. Mary Kock: My husband, Mike Kock and I have lived at 11560 Walnut Street, which is right behind Roger Crawford, since 1992. I have lived in Springdale since that day that I was born. I can tell you why the houses were built that way on the lots, it was so everyone could have a garden; all the side lots were all gardens back in the day. We have no objection to this pool whatsoever; we can't see it and it is not a problem.

Mr. Ed Damota: I live at 11560 Hickory, which is directly across the street. Unlike the last person, I can see the pool all the time, every day, every time I look out my front door. I think it is wonderful and I have no problem with it. I think these people are a credit to the neighborhood and I think they should be allowed to keep it.

Mr. John Niehaus: I live at 11541 Hickory, at the corner of Hickory and Plum and I am right across the street from Mrs. Jenkins. When I look off of my deck I can see the pool. I, like Ed, see no reason that he should be made to move this. It is ludicrous, I think.

(No other members from the audience came forward to speak regarding this request and the public portion of the meeting was closed.)

Mr. Nienaber: My concern is directed to the City; is there any requirement that there be a security fence around the pool because it sure looks like neighborhood kids could access it.

Mr. Roger Crawford: I can answer the question. In the Code it says that an exception can be made for an above ground pool that is 4' or deeper, and this pool is 4-1/2'.

Mr. Hawkins: For the record I would note that it is a corner lot and there are inherent difficulties with regard to setbacks in terms of rear and side lot space as result of it being a corner lot. I would also note that the property lots in this area are particularly small and narrow in comparison to some others, even the streets are far more narrow in most instances. As a result of those exceptional circumstances, it makes the property owner have a difficult time complying with the setbacks.

Chairman Weidlich: I have a question just out of curiosity, the way this property is, would this be considered three front yards on this one since it is the only house there surrounded by streets?

Mr. McErlane: If you consider Oak Alley to be a frontage, then yes it is, it does have three front yards.

Chairman Weidlich: That is an oddity around here.

Mr. McErlane: Right.

Mr. Knox: Since the lot next door is owned by the person who owns the lot in question, I don't see where there is a real problem to get close to the property line because it is her property. I am going to vote in favor of it.

Mr. Ramirez: Just to note, on the construction of the pool and the deck, I have to compliment the construction because it looks like a very nice project.

Mrs. Huber: I think the pictures are wonderful and I don't think that they should be penalized because we have pre-historic lots in Springdale, many of them. They should have the same right as someone who has an acre or more with properly sized rear and side yards. I am all for it.

Chairman Weidlich: I have to say that I don't see a real issue myself either. This is a very odd situation here compared to other things we have had. I will be voting in favor of this variance too.

Mrs. Huber: I move to grant a variance to Section 153.488(C)(1) so as to allow a pool to be located in the side yard and 6' from the rear lot line. The Code says "Facilities shall not be located in any front yard or side yard."

(Mr. Knox seconded the motion and with seven affirmative votes from the Board of Zoning Appeals Members the variance was approved.)

Chairman Weidlich: You have your variance by a vote of seven to zero, sir.

XI DISCUSSION

Mr. Knox: At the conclusion of the last meeting we discussed some questions about signage. I informed the Chairman that about two days later, I saw the Mayor in Mr. Parham's office and mentioned to him that we were looking at that. They had a young lady sitting in there and apparently she may be hired to redo our sign ordinance. I think the Mayor was out in front of us on this one. He also mentioned that they would probably form a committee that would have Members of the Planning and Members of Board of Zoning Appeals on that committee.

XII ADJOURNMENT

Mrs. Hawkins moved to adjourn, Mrs. Ghantous seconded the motion and the Board of Zoning Appeals meeting adjourned at 7:29 p.m.

Respectfully submitted,

\_\_\_\_\_, 2013  
Chairman Robert Weidlich

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Secretary Jane Huber