

**North Little Rock Board of Zoning Adjustment
Minute Record – August 18, 2022**

Chairman Tom Brown called the meeting of the North Little Rock Board of Zoning Adjustment to order at 1:30 P.M. in the 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

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
Ma. Amy Fields, City Attorney

Others Present

Thomas Pownall, Thomas Engineering
Jimmy Moses
Chris Moses
Doug Meyer
Jim Jackson

Old Business

None

Approval of Minutes

Mr. Burton formed a motion to approve the minutes from July 28, 2022. Mr. Giattina provided a second to the motion. Chairman Brown called for a voice vote. All members voted in the affirmative. The motion was approved.

Public Hearing Items –

Mr. Thomas Pownall of Thomas Engineering was present representing the request. He stated there were four areas of variances the developers were requesting the Board approve. He stated one variance related to the fence placement, two variances related to building setbacks and the final variance was associated with the proposed parking.

Ms. Fields stated the Board should consider each of the requests individually. Chairman Brown called for discussion concerning the proposed fence placement.

Mr. Thomas stated the first was the placement of the decorative fence. He stated the fence was proposed past the front of the building located on Rockwater Boulevard. He stated the fence was to assist with security. He stated the developers were proposing to make the site as secure as possible. He stated the fence was located adjacent to the gate entrance. He stated the need for the variance was also related to the shape of the lot. He stated the lots southern perimeter angled causing the buildings to be located nearer Rockwater on the western portion of the lot.

The Board questioned the look of the fence and if the fence would be locked. Mr. Pownall stated the gate would be located in the evening and the fence was similar in look and style as the fencing located at the View and on City owned property to the east.

Chairman Brown stated to Mr. Pownall he was in need of four hardships. He stated he wanted to hear the first hardship related to the fence. Mr. Pownall stated safety and security was the hardship related to the fence. He stated the development needed to be secure to protect the residents. Chairman Brown questioned if there would be a fence around the entire property. Mr. Thomas stated the entire development would be fenced but the only location for the variance was the frontage at the center entrance.

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

The second discussion was based on the variance request for the building setback along Rockwater Boulevard. Chairman Brown questioned the hardship for the variance request. Mr. Pownall stated the hardship was based on the lots topography. He stated more specifically there was a large drainage channel located on the east side of the property. He stated the structure was 9-feet by 9-feet and there were two structures located within the easement. He stated the development was not allowed to build over the drainage structure. He stated this was a significant structure. He stated the boxes were 10-feet deep. He stated even though the structure was only 20-feet wide the easement was 45-feet to protect the drainage structure. He stated the drainage was running down a portion of the developable property. He stated this was not something that could be modified or one would want to modify. He stated the building had to be moved to the west and based on moving the building to the west the southern portion of the lot became less developable due to the shape of the lot. He stated the hardship was the uniqueness and the topography of the lot.

There was a general discussion on the hardship and the definition of a hardship. Mr. Abele stated the hardship should not be created by the owner. He stated the situation was being created by the owner because there was a clean slate and a clean area for development. Mr. Abele stated the hardship was being created by the owner in that they were not designing the project to meet the minimum requirements of the ordinance.

Mr. Pownall stated this was not a clean slate. He stated there was a large drainage structure located on the property which was not put in place by the owner. Mr. Pownall stated typically drainage structures were placed along the right of way lines and not internal to a property. He stated the owner did not create this situation. Mr. Abele questioned the location of the easement. Mr. Pownall stated the easement was located on the east side of the property within the C6 zoned portion of the property, the most valuable portion of the property for development. He stated there were less requirements in the C6 zoning district which made the area the most valuable portion of the property for development. Mr. Abele stated the building design could be reconfigured to meet the requirements. Mr. Pownall stated the building placement was based on the allowable buildable area of the lot.

Chairman Brown questioned if any of the Board members had any questions or comments. There being none, he stated he would entertain a motion on the 2nd variance request. Mr. Sparr provided a motion for approval and Mr. Giattina provided a second to the motion based on topography and the shape of the lot. By a roll call vote members Burton, Giattina, Sparr and Chairman Brown voted in the affirmative. Mr. Abele provided a dissenting vote.

The third discussion was based on the variance request for the building setback along the rear of the property adjacent to the river trail. Chairman Brown questioned the hardship for the variance request. Mr. Pownall stated the hardship was similar to the previous variance request. He stated based on the lots topography and the shape of the lot a small portion of the building encroached into the required building setback. He stated based on the placement of the drainage structure the buildings were forced to move to the west placing the buildings into an area where the development criteria was more stringent. He stated the lot itself was reduced from north to south and this was the place of the variances within the northern and southern portions of the lot. Mr. Pownall stated the variance was due to the shape of the lot, the topography of the lot. He stated the drainage structure created a hardship with the inability to develop the most valuable portion of the lot with regard to the development standards.

There was a general discussion concerning the overall development, the adjacent single family development and the style of development. Mr. Pownall stated the intent was to develop the area as a walkable community. To place the homes and porches near the street to create an urban development. He stated this development was proposed as a walkable community as well.

There was a general discussion by the Board concerning the request and the allowance of the encroachment. Staff stated they did not have a major concern with the setback variance request. Staff stated in this situation the variance request was located adjacent to the river trail and not near a home or the street. Staff stated the height of the building was creating the setback variance. Staff stated for every two-feet the building went up an additional one-foot building setback was required. Chairman Brown questioned the hardship. Mr. Pownall stated the hardship was the drainage structure and the uniqueness of the lot created the hardship. Mr. Pownall stated based on the drainage structure all the buildings had to be shifted to the west into the more restrictive area,

Chairman Brown questioned if any of the Board members had any questions or comments. There being none, he stated he would entertain a motion on the 3rd variance request. Mr. Sparr provided a motion for approval and Mr. Giattina provided a second to the motion based on topography and the shape of the lot. By a roll call vote members Burton, Sparr and Chairman Brown voted in the affirmative. Mr. Abele and Mr. Giattina, provided dissenting votes.

The forth discussion was based on the variance request for parking. Chairman Brown questioned the hardship for the variance request. Mr. Pownall stated the hardship was the

same as the other cases. He stated the drainage structure required 45-feet of area which could not be built upon which lessen the area for the placement of the structures on the property. He stated the area with the drainage structure was the most valuable buildable portion of the lot. He stated the topography and the shape of the lot necessitated the placement of the buildings and without the placement of buildings within the C6 portion of the site required additional parking over the R4 zoned area. He stated an area 45-feet wide running the longest length of the property cannot be built upon. The hardship was the requirement to create more parking spaces than the C6 portion of the property.

Chairman Brown questioned how many apartments were within the project. He questioned how many units were studio, 1 bedroom, 2 bedroom and 3 bedroom.

Chris Mosses addressed the Board. He stated 80-percent of the units were 1-bedroom and studio apartments. He stated 72 units were 2-bedroom and the remaining units were 1-bedroom or a total of 288 units. He stated there were no 3-bedroom units.

Mr. Abele stated the development was proposed with 1.1 parking spaces per unit. He stated the development was a residential development which should provide 1.5 parking spaces per unit. He stated the area was a residential area and there were few alternatives to park. He stated if there was a parking problem the cars would bleed over into the nice residential areas.

There was a general discussion concerning the number of vehicles which would potentially be placed per unit. Chairman Brown questioned where the additional vehicles would park.

Mr. Pownall stated he wanted to point out the property was zoned commercial and multi-family. He stated he wanted to point out the Future Land Use for the property was commercial. He stated the intent was the property was going to be developed as commercial property and not as residential.

Ms. Fields addressed the Board stating the applicant's original request was to rezone the property to C6 and at the applicant's request the application was amended to allow the property to remain zoned R4 with a small area of R2 zoning be rezoned to R4. Mr. Pownall stated this was correct. Ms. Fields stated she wanted to place on the record the background of the application due to the Board members not being at the Planning Commission hearing or the City Council hearing. Ms. Fields questioned Mr. Pownall stating the intention was for the property to be commercial. Mr. Pownall stated the full intention was for the entire property to

be commercial. He stated within the C6 development there was not a parking or setback concern. The development fully met the minimum requirements of the C6 zoning district.

Mr. Abele stated the development was a residential development. He stated based on the city requirements the development should provide 1.5 parking spaces per unit. He stated this was playing with numbers because the development was an apartment development regardless of the zoning. Mr. Abele stated he was looking at this from a practical standpoint. Staff clarified the parking requirements based on the number of units and the zoning district. Mr. Abele stated he was looking at this from a practical standpoint. He stated the units were basically the same and he was looking at this with the development providing 1.1 parking spaces per unit when the City required 1.7 spaces per unit. He stated the cars would bleed over into the residential area.

Chairman Brown stated Mr. Pownall had not addressed his question. He questioned where the cars were going to park. Mr. Pownall stated the cars were going to park in the parking lot. He stated the 72 units would have 144 cars because each unit would have 2 people and each person would have a car.

Mr. Moses stated the site had a total of 500 parking spaces and a typical apartment development carries a 7-percent vacancy rate. Mr. Brown questioned the number. Mr. Pownall stated there were 409 on-site parking spaces.

There was a general discussion concerning the parking, the location and the availability for other options for parking and vehicles ownership. Mr. Abele stated persons living in the area may bike to work but they certainly would not walk to work because it was too far.

Mr. Pownall stated if there were 70 units of 1 bedroom and 288 units of 2 bedroom. He stated based on the Board's comments the projected parking for the development would be 432 parking spaces. He stated the development was at 409 parking spaces.

Mr. Moses stated the site plan had been modified to accommodate the neighborhood to the west and as a result parking spaces were lost. He stated the site plan was modified and parking removed to save a tree the neighborhood desired to keep.

Mr. Pownall stated there was an alternative to provide additional parking. He stated the owners had purchased property to the east of this site which could be used as parking for the development. He stated an additional 50 parking spaces could be added in this area to meet the minimum required. Mr. Pownall stated the site was maxed out on on-site parking. He

stated with buffers and setbacks and saving the tree there was no additional area for the placement of any more on-site parking.

Chairman Brown questioned the placement of the proposed off-site parking. Mr. Pownall stated the parking was located across Pike Avenue. He stated the development could be accessed via a man gate located on Pike into the site. Mr. Pownall stated the variance request needed to move forward. He stated the Board could make the approval based on the

Mr. John Owens, President of the POA, stated he was not an expert on parking. He stated the neighborhood was the reason for the property being R4 and not C6. He stated the original site plan had cars parked along the western boundary adjacent to the single family homes. He stated the developer listened to the neighborhood concerns and created a 33-foot barrier between the development and the homes running the length of the property from Rockwater Boulevard to the river. He stated it was an actual barrier with trees which would shield the neighborhood from looking directly into the development. He stated they also set back the building 50-feet from the western property line. He stated the original plan did not include the barrier or the building setback. He stated the neighborhood was concerned with the parking proposed but they did not want to lose the barrier. He stated the barrier was important to not allow cars to be parked on the other side of a wooden fence adjacent to the homes. He stated if the neighborhood had to choose between parking and the building off set and the barrier the neighborhood chose the barrier and the building off set. He stated the neighborhood took a vote and decided to take a neutral stand on the issue.

Mr. Dale Humphrey stated he agreed with Mr. Owens statement the residents would prefer to keep the trees and not lose the buffer and building off set.

Mr. George Freedman, 640 Riverfront, stated he agree the buffer should remain. He stated the site was an urban site. He stated there were a number of persons walking in the area. He stated he had walked from his home to the Argenta District on a number of occasions. He stated he pasted the Vue a number of times on a daily basis and he had never seen parking being an issue. He stated he only commented on this due to this development was also at a 1:1 ratio for parking.

Mr. Giattina questioned if there was a way the Board of approve the request with conditions. Ms. Fields stated the Board could approve as is, deny as is or approve with conditions to ensure compliance and protect the adjacent property. Ms. Fields stated the Board could not set up contingencies but with the motion provide a condition the development provide now, not in the future but now, provide a number of off-site parking spaces. She stated the tree options were to approve, deny or approve with conditions and define what the conditions were.

Mr. Pownall stated the developer was willing to agree to the condition that off-site parking be provided. He stated the parking would be located to the east of this site and 50 spaces would be provided.

Mr. Abele questioned if the developer sold the property or developed the property in a different

manner would the parking still be required. Ms. Fields stated the variance was tied to the off-site parking being provided. If the parking was removed the variance would be out of compliance. She stated the parking was to remain in perpetuity. If the property were sold then additional parking would have to be provided somewhere in the vicinity of the development.

Mr. Abele again expressed his concern with the parking impacting the residential neighborhood. He stated the cars would park within the residential areas.

Chairman Brown questioned if any of the Board members had any questions or comments. There being none, he stated he would entertain a motion on the parking variance request. Mr. Giattina provided a motion for approval and Mr. Sparr provided a second to the motion based the condition the applicant provide parking on property located immediately to the east forever.

Chairman Brown questioned the ownership of the property

By a roll call vote members Burton, Giattina and Sparr voted in the affirmative. Mr. Abele and Chairman Brown provided a dissenting vote.

Administrative -

Public Comment and Adjournment

Mr. Giattina provided a motion to adjourn the meeting at 2:52 PM. Mr. Sparr provided a second. All members voted in favor of the motion and the meeting was adjourned.

Approved on this 29th **day of** September


Tom Brown, Chairman