

**North Little Rock Board of Zoning Adjustment
Minute Record – May 26, 2022**

Chairman Tom Brown called the meeting of the North Little Rock Board of Zoning Adjustment to order at 1:30 P.M. in Conference Room B of the City Services Building, 120 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. Gardner Burton
Mr. Steve Sparr

Members Absent

Mr. Mike Abele

Staff Present

Ms. Donna James, City Planner
Richard Hager, City Attorney

Others Present

David Burnett, 112 Spekar St., Conway, AR
Greg Ferris, Wichita, KS
Cory Malchaski, 4 Hays Ct., North Little Rock, AR
Sam Edleman, 222 W. G St., North Little Rock, AR
Denese Estep, 4 Ridgewell Ct., North Little Rock, AR
Linda Price, 4 Ridgewell Ct., North Little Rock, AR
Jim Evans, 605 Cherry Hill, North Little Rock, AR
Jerry Evans, 3225 Cypress St., North Little Rock, AR
Natasha Kendrick, 219 W. D Ave., North Little Rock, AR
Ellen Yeary, 5312 Centerwood, Little Rock, AR
Grace Wills, 304 Walnut St., Little Rock, AR

Old Business

None

Approval of Minutes

Mr. Burton formed a motion to approve the minutes from April 12, 2022. Mr. Sparr seconded the motion. Chairman Brown called for a vote. The motion was approved.

Public Hearing Items -

BOA 2022-12 - 3128 Pike Avenue, NLR, AR, a variance request from Section 5.17 – Communication Towers (E) to allow an increase tower height (75-feet in height to a total height of 145-feet)

Chairman Brown asked the applicant to approach the Board and state his name and address. Mr. Greg Ferris addressed the Board on the merits of the request, as the agent of the applicant. He stated that his hardship was a significant amount of mature trees on the property that create a serious block to communication signals, meaning that the tower would have to be constructed very tall in order to be effective. Chairman Brown asked Ms. James to clarify the definition of a hardship. Ms. James read the definition aloud. Mr. Ferris elaborated that the surrounding area and the topography of the land would not allow a tower that was built within the 75-foot height the ordinance allows, to be effective.

Chairman Brown asked if there was anyone in the audience who wished to speak about this application. Mr. Brad Hughes, Chairman of the North Little Rock Airport Commission addressed the Board. Mr. Hughes stated that the Airport Commission had concerns about the dangers to aircraft that the proposed tower would present when they were taking off or landing at the airport. Mr. Ferris replied that ATT can't build any towers without FAA approval, who would ensure that this tower presented no dangers to any aircraft before approval. He emphasized that the FAA had very strict safety standards for what they would approve and that if they felt there was any chance of danger they would not approve the plans.

Chairman Brown asked if the FAA had been consulted yet. Mr. Ferris replied that they would like to get a building permit from the City before they present plans to the FAA. Mr. Ferris stated that they were willing to receive approval from the FAA as a condition of approval before they receive a city permit, if the Board would prefer to set that condition.

Mr. Burton asked why the Airport Commission was not made aware of these plans earlier. Ms. James answered that they are not typically part of the review process, but that in the future they would be brought into the process. Mr. Burton stated that he was hesitant to take a vote on this issue since the Airport Commission just learned of the proposed tower and was opposing it's construction. Mr. Ferris reiterated that these plans must be approved by the FAA who would ensure that it was safe for the North Little Rock Airport.

Mr. Sparr asked if the tower could be built to a lower height if trees were removed. Mr. Ferris responded that it was not just the trees in the immediate area of the proposed tower, but trees and topography very far out, including many on the highway right of way and on private property, therefore removing the trees in the immediate area would not resolve the hardship.

Mr. Ferris stated that he appreciated the concerns of the Airport Commission but that ATT would not be allowed to violate those concerns, due to the fact that ATT will need FAA approval before they could build. He stated that ATT would never risk losing their FCC licenses by violating any FAA rules, especially for a single tower.

Mr. Giattina asked Mr. Hughes if he knew where this tower was proposed to be built. Mr. Hughes responded that the Airport Commission was told it would be essentially at the end of the runway. He stated that due to the small scale of the North Little Rock Airport, many of the aircraft there were smaller and older and therefore their equipment may not be as advanced, which was a cause of concern for the Airport Commission. Mr. Ferris stated that the FAA would use the same safety matrix for this airport as they did for any other.

Mr. Ferris asked the Board of Zoning Adjustment to waive any landscaping requirements that might normally be asked of a rezoning since they are only requesting a height adjustment.

Chairman Brown called for a motion. The proposal was denied due to lack of a motion.

Chairman Brown told Mr. Ferris that he had the right to appeal to the Pulaski County Circuit Court and that he could bring the proposal back to the Board of Zoning Adjustments as many times as he would like.

BOA 2022-10 - 219 W D Avenue, NLR, AR, a variance request from Section 4.1.2.D to allow a reduced side yard setback for an accessory garage building (5-feet to 3 ½- feet)

Ms. Natasha Kendrick addressed the Board on the merits of her request. She stated that an existing concrete slab made it necessary to build the garage on either the East or West side of the house. She was proposing to build it on the East side because the West side would place it even closer to the property line. She also stated that it could not be built any further back on the property because drivers would not be able to pull into it.

Chairman Brown reminded Ms. Kendrick that the Board needed to hear her hardship and he asked Ms. James to read the definition of a hardship. Ms. Kendrick stated that the topography, the width of the lot combined with the pre-existing slab created the hardship.

Mr. Sparr asked to see an aerial view of the property and asked Ms. Kendrick to point where the garage was built. Ms. Kendrick pointed out the location and stated that the garage was already built. Ms. James informed the Board that Ms. Kendrick did receive a building permit before constructing the garage, but the final inspection found that the building was 3.5 feet from the property line, as opposed to the 5 feet required by ordinance. Chairman Brown reminded Ms. Kendrick that although this may have been a result of work done by a contractor, the burden fell on her as the property owner. Ms. Kendrick acknowledged and agreed with this.

Mr. Burton asked Ms. Kendrick why she initially wanted to build the garage. She answered that it was built to give her covered parking and to offer more storage.

There being no further comments from the Board or the public, Chairman Brown called for a motion. Mr. Sparr formed a motion to approve the application and Mr. Giattina seconded the motion. Chairman Brown requested a roll call vote and all members voted in the affirmative.

Postponed - BOA 2022-11 - 520 W 14th Street, NLR, AR, a variance request from Section 4.1.4-C, to allow a reduced front yard setback for 3 proposed lots, Lots 1R, 2R and 3R, Block 41, North Argenta Addition to the City of NLR, Pulaski Co, AR, (25-feet to 15-feet)

Chairman Brown proposed that this application be proposed to give the applicant a fair chance to address the Board. Mr. Giattina motioned to hear this application next month. Mr. Burton provided a second. The Board voted unanimously to approve this motion.

BOA 2022-13 - 605 Cherry Hill Drive, NLR, AR, a variance request from Section 4.1.2 to allow a reduced front building setback (25-feet to 11-feet)

Mr. Jim Evans of 605 Cherry Hill Drive, NLR addressed the Board. Chairman Brown asked Mr. Evans to state his hardship. Mr. Evans answered that the lot size and shape, as well as how the house sits on the lot made a variance necessary in order to remodel this house. Mr. Evans stated health concerns were making it necessary to remodel the house with larger doors and larger bath to allow for current and future immobility concerns.

Mr. Sparr asked if this was expanding the master bedroom and master bath. Mr. Evans answered in the affirmative.

There being no other comments from the Board or the public, Chairman Brown called for a motion. Mr. Burton made a motion to approve the application. Mr. Sparr provided a second. Chairman Brown requested a roll call vote. The Board unanimously voted to approve this motion.

BOA 2022-14 - 4 Hays Court, NLR, AR, a variance request from Section 4.1.2-D to allow a reduced side yard setback for an accessory building (5-feet to 2 feet 5-inches) and to allow a reduced building separation between an existing accessory structure and a newly constructed accessory structure (10-feet to 3-feet 4-inches)

Mr. Cory Machowski of 4 Hays Court addressed the Board, stating that his hardship was that the only place to build the shed within ordinance would place it over a wastewater line. Not wanting to build it there, he asked the Board to approve this application for a variance.

Chairman Brown asked Ms. James if the applicant would be allowed to build the shed over the sewer line. Ms. James answered that typically construction was not allowed in an easement, such as this sewer line, but that it might be possible if the construction was considered temporary. Currently storage sheds are not classified as temporary or permanent.

Mr. Sparr stated that he had built a garage in an easement, but had to build it in such a way that it could be disassembled and moved if the City ever required access to the easement.

There being no further comments from the Board or the public, Chairman Brown called for a motion. Mr. Burton made a motion to approve the application. Mr. Giattina provided a second. Chairman Brown requested a roll call vote. The Board voted unanimously to approve the

motion.

Postponed - BOA 2022-15 - 1301 W 11th Street, NLR, AR a variance request from Section 4.1.5 to allow a reduced side yard setback along Division Street (15-feet to 8-feet)

BOA 2022-16 - 300 W G Avenue, NLR, AR, a variance request from the Section 4.1.3, to allow a reduced side yard setback for an attached carport (6-feet to 1-foot 6-inches) and to allow a reduced building separation between an existing detached garage and the new proposed carport addition (10-feet to 1-foot 6-inches)

Ms. Ellen Yeary, the architect for the proposed project addressed the Board, stating that the hardship for the project was that the existing driveway necessitates that a carport be built beyond what current ordinances allowed. Ms. Yeary acknowledged that the neighbors might object to the project due to concerns about runoff. She stated the project could be built an additional 6 inches back from the property line, as well as have gutters installed, and additionally a stone wall that ran between the properties would prevent any runoff from entering the neighbor's property. She also stated that there were plans to also redirect some current drains, as well as digging a trench drain to redirect water to more appropriate places on the lot and keep the runoff from entering the neighbor's property.

Mrs. Sam Edleman of 222 W. G Ave. addressed the Board, stating her concerns about the project regarding possible damage to her property. Mrs. Edleman stated that the garage on the property had already caused flooding damage to her property next door due to the roofline being 6 inches from the property line. Mr. Burton asked if anyone knew when this garage was constructed. Mr. David Burnett of Conway, who is employed by Mrs. Edleman as a maintenance person, stated that there was an aerial view of the property from 2018 that does not show the garage. Sometime after 2018 was when the flooding problems began. Ms. Yearly stated that she believed the garage to be much older than 2018 due to the state of deterioration of the building. Mrs. Edleman stated that they could not find any records of when this garage was built. She invited Ms. Denise Estep of Sherwood to speak on this issue.

Ms. Estep stated that she looked through county and city records and found that there was an unfinished detached structure recorded on the property and that this structure had a small tool shed in front of it. She stated that between 2018 and 2020 this building was made into a garage. She stated that the roof of the garage and the roof of a rock building on the Edleman's property was 6 inches and that the sides of the two buildings were 22 inches apart. The runoff from this close proximity had caused water damage to the rock building, which the Edlemans have had to repair, and that has started to erode the foundation. The runoff flows underneath the rock wall that Ms. Yearly referred to earlier. She stated that they also had concerns about fire due to the close proximity of these two buildings. She stated that the rock wall directed water to the foundation of the main home on 222 W. G Ave.

Mr. Burton asked who owned the property prior to the current owner, who recently purchased the home. Ms. Estep answered that it was bought in 2015 by Mr. Clark Smith who used the house as rental property. Prior to that it was owned by Kelly Combs. Mr. Burton asked if any of

these issues were brought to Mr. Smith's attention. Ms. Estep stated that these issues were brought to the attention of several people who owned the house at 300 W. G over the years. She stated that their concern with the proposed carport was an increase of runoff from the roof and a concrete pad, causing further damage to the property of the Edlemans.

Mr. Sparr stated that the plans presented by Ms. Yearly would move water away from the neighboring property, including addressing some of the issues caused by the existing structure. Mrs. Edlemans reiterated the damage being done to her property currently and stated that the owner of the property at 300 W. G told her that she would be building a pole barn. She stated that this project would not in any way benefit the neighborhood or the direct neighbors.

Mr. Burton stated that if the proposed plans were followed as presented it should actually help mitigate some of the current issues with the runoff. He reminded Mrs. Edlemans and others opposing this project that the Board was only discussing the current proposed project and could not address some of the other issues that had been brought up regarding current structures and past damages.

Ms. Estep asked to be shown where the proposed trench drain would be on the plans. Ms. Yearly pointed out where the new paving and a new patio would be installed with plans to slope runoff towards driveway, where it would enter the new proposed trench drain, where it would then be piped underground to the street where it could be drained properly. She stated that there would be two drain collectors diverting water. Ms. Yearly gave Ms. Estep a copy of the plans to keep.

Mr. Giattina asked Ms. Yearly and the group opposed to the proposed project if they would like to table this issue so the two parties could discuss this further and then come back to the Board. Ms. Yearly agreed to that. Mrs. Edlemans stated that runoff which currently ran into the street pools in front of their driveway already, so additional runoff would make this problem worse.

Chairman Brown stated that the Board was going to table this proposal for a month so that the neighbors could discuss this project further. He gave his opinion that approving this 1.5 foot setback, instead of the 6 foot in the city ordinance, could set a precedent for other residents and future projects.

Mr. Giattina asked the group opposed to the project if they were willing to look at the plans and consider the project. Mrs. Edleman stated that she was willing to consider the plans.

Mr. Giattina made a motion to table this proposal until next month. Mr. Burton provided a second. The Board unanimously voted to approve the motion.

Chairman Brown stated that this issue would be resolved at the next meeting and that he hoped Ms. Bell would attend.

Ms. Yearly stated a concern that if she made the setback any more than the proposed 2 feet

then it would be too difficult to park in the carport.

Mr. Burton encouraged Ms. Yearly to consider ways to incorporate water mitigation from the current structure into these plans. Ms. Yearly agreed.

Chairman Brown asked if the existing building could be torn down and replaced with a garage or carport. Ms. Yearly stated that it would be possible but would be more money than Ms. Bell would like to spend. Chairman Brown stated that the Board must consider whether it can be done or not, not whether the owner can afford to do it.

Administrative -

Mr. Burton made a motion to excuse Mr. Abel. Mr. Giattina seconded the motion. The Board unanimously approved the motion.

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. Giattina and by consent of all members present, the meeting was adjourned at 2:40 pm.

Approved on this 30th day of June


Tom Brown, Chairman