

BOARD OF ZONING APPEALS MEETING
JANUARY 20, 2015
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: Carolyn Ghantous, Dave Nienaber, Lawrence Hawkins III, Joe Ramirez, Ed Knox, Robert Weidlich and Jane Huber

Others Present: Randy Campion, Building Inspector

III PLEDGE OF ALLEGIANCE

IV MINUTES OF THE REGULAR MEETING OF NOVEMBER 18, 2014

Chairman Weidlich: Board Members, we have our Minutes from the November 18, 2014 meeting. Does anyone have any additions or corrections?

Mrs. Ghantous: I move to adopt.
(Mr. Knox seconded the motion and with a unanimous "aye" vote from the Board of Zoning Appeals Members, the Minutes of the November 18, 2014 meeting were approved.)

V CORRESPONDENCE

Chairman Weidlich: Members, you should have received correspondence 2014 S-15 supplement to the zoning code in your packets.

VI ELECTION OF OFFICERS

Chairman Weidlich: Since we didn't have a meeting last month we will elect officers for the next year. We will start out with Chairman; any nominations for Chairman?

Mrs. Huber: I nominate Mr. Weidlich.

Chairman Weidlich: Does anyone else have a nomination?
(No further nominations for Chairman were offered. Mr. Ramirez seconded the nomination for Mr. Weidlich.)

Chairman Weidlich: Any nominations for Vice-Chairman?

Mrs. Huber: I nominate Mr. Ramirez.
(With no further nominations for Vice-Chairman, Mr. Hawkins seconded the nomination for Mr. Ramirez.)

Chairman Weidlich: We will move on to nominations for Secretary.

Mr. Ramirez: I nominate Mrs. Huber.
(With no further nominations for Secretary, Mrs. Ghantous seconded the nomination for Mrs. Huber. With a unanimous "aye" vote from the Board of Zoning Appeals Members for the three nominations, the election of officers was set for 2015.)

VII REPORT ON COUNCIL

(Mr. Hawkins gave a summary report of the November 19, 2014, December 3, 2014, December 17, 2014 and the January 7, 2015 City of Springdale Council Meetings.)

VIII REPORT ON PLANNING COMMISSION

(Mrs. Ghantous gave a summary report of the December 9, 2014 and the January 13, 2014 Planning Commission Meeting.)

IX CHAIRMAN'S STATEMENT AND SWEARING IN OF APPLICANTS

X OLD BUSINESS

(No Old Business presented at this meeting.)

XI NEW BUSINESS

Chairman Weidlich: The first order of new business is the owner of 584 West Kemper Road is requesting a variance to allow two single household dwellings on one lot. Variance is requested from Section 153.492(E) " There shall not be more than one single household...dwelling permitted on a zoning lot."

Mr. Rick Lisi: I have come before you before and I appreciate the opportunity to come again with a different request for variance. I have a presentation that I would like to make. (At this time Mr. Rick Lisi presented a photo presentation of before and after alteration work at 584 West Kemper Road.)

Mr. Darrel Powell: I am an attorney and also a friend of Rick. He asked me to write the application for variance because he is kind of in bad shape and I am also looking for the opportunity to learn more about other types of law, property law being one of them. I did my homework because Rick is a teacher and expects the homework to be done. The main source, being the Board of Zoning Appeals handbook, defines different types of variances of area and use and we are asking for a use variance. The Board of Zoning handbook lists eight factors for a use variance, however not all eight need to be met according to the handbook. Also the Administrative Board balances the benefits of a grant to the owner with the benefits of a denial to the public. The eight factors; could the property be used under the current zoning plan; in this particular case, Mr. Lisi's insurance agent told him that insurance is prohibited. You can buy a special insurance; the special insurance is quite high and it doesn't cover both houses if something were to happen to both of them, there is a limit to it. It is not worth the cost. Also real estate agents have advised Rick to take the property off of the market, basically the property has no value, he can't sell. The second factor is that Rick's plight is unique. By unique, that means unique to the property and not to Rick. There is a difference if Rick wanted to start a business in a residential neighborhood, that would be a plight that's unique to Rick because he could start that business in any one of the plots in the residential neighborhood. In this case, the plight is unique to the property. There are very few other properties that have two houses on one lot. The plight is specific to the property, not to the owner. The other point that they ask is, does the requested use alter the essential character of the neighborhood; in this case it does not alter the essential character of the neighborhood because it outwardly changes nothing. That house has been there for at least fifty-four years and has been in bad shape and now it is in wonderful shape. The outward appearance, all people see is an improved house. They don't see anything else, he is not building an apartment complex there or anything like that. The problem is not self created and that is another test, was the problem self created; Rick did not divide the property and then

ask for a variance nor did he add the building, it was already there. He improved an existing building. He also purchased the building without knowledge that it was the zoning code that kept people from living there. He thought when he did all of that wonderful work that you saw from the photo demonstration, that once he did that then people could live in it. The requested use does not adversely affect delivery of government services; these services have been provided by the government for years and continue to do so. You saw the mailbox, they receive mail, they get water, they get electricity. He purchased the property believing that it was the condition of the second dwelling that made it uninhabitable and not the existing code. Are there other methods, other than a variance that could solve the problem; the property could not be divided without opposition, he tried that. Keeping the second dwelling makes the property essentially valueless, he can't sell it, he can't get a mortgage on it, he can't get a FHA mortgage and basically he is limited to cash buyers who probably don't have much money. Requiring destruction of this wonderful dwelling appears kind of capricious because I don't think there are very many other areas that would have a second housing that would look like that, that would need to be destroyed. In changing the zoning ordinance for this rare property, that would interfere with the zoning; you are not changing the zoning ordinance for a row of houses that are next to a business district, it is this one, there are not others. I don't think you are going to have a row of people come up here with vastly improved houses wanting to live in them. Finally, the zoning code purpose, the retention of neighborhood in single household dwellings that comes from the zoning code is not thwarted by two single household dwellings on one property. Nothing will change from what has been there before. The houses are not particularly dense, you saw that in the overhead photo demonstration. Finally, the balancing test favors Rick. The benefits to Rick to freely sell, insure and mortgage the property are greater benefits to the public than a denial. To deny this, there is less incentive for future owners, years from now, to keep the property up and maintain it because it just won't be worth anything. Granting would increase the probability that the property will be well maintained in the future. I thank Rick for the opportunity to speak to you tonight and I thank you for listening and I hope you will consider this variance and grant it.

(Mr. Campion read the Staff comments.)

Chairman Weidlich: We are going to open the meeting up to communications from the public. Is there anybody here who would like to speak on behalf of this application?

Mr. Dave Hawkins: 5680 East Kemper Road, Sharonville, I am from Olga & Dave Hawkins LLC Realtors. I am the realtor that told him to take it back off of the market for a couple of reasons, with the little house not being habitable it would be very difficult to get an appraisal to reflect anywhere near the amount of money that has been invested in it. It would be a rare bank that would finance it as is, without there being the ability for people to live in that other unit. Simply as a workshop, I guess, is about all you can allow; that won't carry enough value anywhere near. In other words without the habitability of that building I can't bring him out within 50% of what he has invested. That is all I have to say.

Chairman Weidlich: Thank you for you comments. Is there anyone else?

Mr. Tom Hinkle: I live at 586 West Kemper Road. I live right next door to the property that they are talking about. I do remember when that building was a barn. My mother has lived there since she was born and she is ninety seven years old. She remembers it as being a barn. Probably in the 1930's is when they built it. It wasn't until the Martins decided to rent it out and then they had their daughter live in there for quite a few years. She was the one that when Mrs. Martin went to a nursing home then she decided to move out and nobody has been in it since, that I know of. I would like to say that Mr. Lisi did do a good job and his presentation shows that; there is no questioning that at all. I did build houses before, I have remodeled houses. Mr. Watson, who lives behind has done the same thing. Both of us checked with the City when it came up to Sheriff's auction and we were all told the same thing that the back house was not inhabitable, to tear it down was basically

it, fix up the other property or tear both of them down and build a new one. One day, I saw Mr. Dave Hawkins bringing Mr. Lisi in and I did go over to talk. At that time, I did hear Mr. Lisi say that he was going to use it for a studio or for Audubon and I had presented it at that time that I had been already told many times that it wasn't going to be; the barn in the back was not inhabitable. My biggest problem with that house, there were at least three or four different families that lived in the barn at different times, was probably the traffic that was back there, the number of cars. Most people do have now days, two or three cars. Everybody that has lived there at different times has asked to cut across the back and has cut over my driveway to get back out on the road again. That is the biggest thing that irks me about that because they are so close there is not enough driveway for the two houses and by the way the garage on the other side was before 1960 and Mr. Martin rebuilt that garage, it was a wooden garage and I think it lies about 3' off of the property line; that is grandfathered now.

Chairman Weidlich: Thank you for your comments.

Mr. Alford Watson: I live directly in back at 575 Smiley Avenue. I have lived there and built the house there in 1976, I think it was, and I have lived there almost fifty years. I have no problem of making that a two-family dwelling on that property, that is an acre lot; all of those buildings are built on less than half an acre. There is over a half acre of vacant land behind these properties so therefore all of these buildings are congested down together and I can see a problem if they rent that house out, if they rent both houses out. Today, everybody has two cars, if you put four or five cars in there, where are you going to park them? I can see a problem there of just the congestion of the property. That is my biggest problem. When the Martins lived there, he had a big apple orchard in back and he used the two car garage for a storage for his apples when he would pick them in the fall and for the equipment to maintain. I would like to see it stay the way it is because I think there is going to be some serious issues if you make that a two-family dwellings back there. Thank you.

Chairman Weidlich: Thank you for your comments, sir.

Ms. Cindy Broermann: I live at 11639 Greenlawn Avenue. I have one question to ask; are you planning on renting the property or are you wanting to sell it?

Mr. Lisi: We want to sell the properties. The buyer could live in the bigger house or the smaller and rent out the other.

Ms. Cindy Broermann: When we moved to Greenlawn in 1979 there were two houses there and they were both occupied at that time. We have never had any problems with that. The only problem we had is when they were talking about dividing it and building another house back there. I have no problems with the two houses there. Thank you.

Chairman Weidlich: Would anyone else like to speak on behalf of this application?

Mr. Ron Pitman: I live at 579 West Kemper Road. Like this gentleman there, I have been around Springdale for quite a while. Just listening to the presentation by the applicant and the other folks, it sounds to me and being in the real estate business for many years I can tell you as the former Mayor here, I can tell you one of the things that I was looking at; did the City do what it should have done for the applicant and for the residents to look out for everybody's interest in it? What I can see is that the City did inform everybody that you couldn't do this and if the statute of limitations ran out on the non-use of the property then everybody looks to the law commission and boards to get them out of trouble when they do not do enough due diligence of their own sometimes. I think a lot of times, the first thing folks need to do is to go to the City Administrator or City Manger and say, "I have a piece of property, what can I do with it and what can I not do with it?". Generally, they would be told by these folks that you can't use the back building for a residence and try to skirt the issue and try to make an office out of it; that is trying to get around the code. Council has made the code specific way back when, until

now. Everybody needs to live by whatever the code calls for. Anytime you buy property then you darn well should make sure you know what you are buying and if you have a statute of limitations issue then that is a shame for the gentleman that buys it. The banks will not finance it and you can't get insurance on it, then that in itself is a red letter "look out, there is a problem here". Living across the street from the property on Kemper, I can tell you that I remember when it was used many years ago and I have been there since 1967, there was a lot of problems with traffic getting in and out of the place; people went over yards and everything else. Council said it is for a single family residence, then that is what it is. It is not a multi-family kind of thing. I would object. Thank you.

Chairman Weidlich: Thank you for your comments.

Mr. Darrel Powell: First of all, I think it was mentioned in the Staff comments that it was called a garage apartment. I think you see from the view up there that it was actually quite a nice house when he was done with it. I know there has been some comments about being able to park cars in there. You see up there (referring to the photo to demonstrate), there is what looks like a very wide area, it looks very good. I was there myself and there were three cars there and it appeared that there was a lot of land. Some people complain about people pulling out across their property and I didn't quite understand that. I was able to pull into a driveway that went past the main house to the second house and I don't believe I crossed any other property, other than the property that I was allowed to cross, getting to both houses. When Mr. Lisi asked for information, getting information, yes he was told that no one could live there. He thought that the reason was that the house was in such deplorable situation. He also was told that he could use it as a photo shop; well, he can't use it as a photo shop if he can't get insurance on it. He couldn't have a club meeting there without a great deal of risk. This put an undue hardship on him. The other thing and one of the mentions in the Staff comments when they talk about intent, the intent that they refer to actually when they talked about 153.45 was the intent of the maintenance requirements; permitted nonconforming uses. We are not looking at a permit of nonconforming use. The building is currently not permitted by strict application of the building code and we are not arguing that. We are requesting the variance. The standards of the variance are an unnecessary hardship and we are saying that it works an unnecessary hardship to burden him with property that a realtor will not sell. And it is unnecessary because it is unnecessary for the spirit of single household dwellings in the neighborhood. Granting the variance enhances the property. The probability that the property will be maintained in the future, I think that if you deny it then it will fall back into disrepair sometime in the future.

Chairman Weidlich: Thank you.

Mr. Hawkins: I just have a question for Mr. Hinkle for the sake of the record; if I am standing on Kemper Road and I am facing your home, Mr. Lisi's property is to the right of your home, is that accurate?

Mr. Tom Hinkle: Yes.

Mr. Hawkins: Thank you.

Chairman Weidlich: Would anybody else in the audience like to speak on behalf of this application?

Mr. Rick Lisi: I am usually not vindictive, I am really a nice person. Mr. Hinkle, I am sorry; you got an opportunity to buy that property and you are angry now because you didn't buy it because you were told you couldn't do work with it. I understand that but I think you are trying to hold me back from selling it because of that anger. I would like you to let go of that. The apple guy, I don't understand that. I have a wildlife sanctuary, I love birds. I bought my property specifically for wildlife. If he wanted that for apples then he should have bought that property for apple orchards. He didn't do that. When I was told that I could use that small building for our photo shop because I am a photographer, I am the President of

Audubon, and I travel around the world with my photography and I have a lot of friends that are photographers and I thought we could use it that way. I found that I couldn't get insurance on that building and that makes it difficult for me to put any equipment in there. That, along with some other things changed my whole idea. My friend Darryl, some things that happened there caused him grief with some of the neighbors and so I am asking for a variance. I am not going to make any money on this, I am going to lose money and I knew that from the start. This has never been a money making thing for me. I saw a building and the price was going down and it was in disrepair, I knew I could do something about that and I thought it would be good for Springdale to have a guy like me come in, fix that place up and make it something that would be nice. I have seen my father do it, I have done it myself in other communities. People usually, when you fix a house, the neighbors start fixing their houses and it is contagious. If you don't allow that, if you don't allow people to step forward and fix things up and find a way to do it by encouraging it then I feel sorry for Springdale, I really do.

Chairman Weidlich: Would anyone else like to speak on behalf of this request?

Mr. Alford Watson: Everybody knows who I am, most people call me Tom. In reference to why didn't I buy it when it was an apple orchard, the apple orchard was rotted down and gone before the property ever went up for sale. I did go look at the property but I was told by my real estate agent that that building back there could not be used as a dwelling. I looked at both of them, I am an investor and I buy houses and fix them up. I have fixed up thirty-seven houses and I know what I am talking about, too. It wasn't financially a good investment for me so that is why I didn't buy it. When it was an apple orchard, it wasn't for sale. Thank you.

Chairman Weidlich: Anyone else?

(At this point, no one from the audience had any additional information to present and the public hearing was closed.)

Mr. Lisi, if you will come to the podium, at this time we will allow the Board Members to ask questions.

Mrs. Ghantous: Mr. Lisi, have you looked at any ways that you could alleviate the parking issue?

Mr. Rick Lisi: Yes. I have put in a gravel pad next to the garage and a gravel pad next to the house that could be used for three cars on each one; which would solve the problem but I was told that you need a permit and it has to be blacktopped. I am out of money so I couldn't do it in blacktop. My feeling is that whoever buys it will probably put blacktop there to make it official parking.

Mrs. Ghantous: Could they turn around there and pull out?

Mr. Rick Lisi: Oh, you can do that now. We are talking about if you had a party and multiple cars; because there is three-car parking in front of the house and there is three-car parking in front of the garage, plus you can park next to the house. So there is plenty of parking and the issue was if there was snow or something, how do you turn around without worrying about hitting somebody, or if you have a party? That is why I put the parking pads in there and I didn't realize that I had to have a permit for that so I got fined for that, however I couldn't afford to make it blacktop and that is just going to have to be for the next person. In selling that, I will let them know that if they want to use that they have to blacktop it, then there is plenty of room.

Mrs. Ghantous: O.K., thank you.

Mr. Hawkins: Mr. Lisi, it has been said before that you have done an outstanding job with regard to the rehab of both houses over there. While I am an attorney, I am not a real estate attorney and I don't have the knowledge of these things in depth. So, I had to check with our Law Director so that I could understand what the issue was because you sit here and say that we have the ability to grant variances for whatever, including our charter gives us the ability to grant use variances. So, when

you were running into a brick wall in terms of saying that you can't get a use variance for that, I could not conceptualize what the issue was or why. I did speak with the Law Director to try to get a grasp on that. As I am looking at the code section 153.710 for variances, what I am seeing is while the charter grants us the ability to grant a use variance, the zoning code further limits that by saying that variances shall not be granted for uses not permitted in the zoning district applicable to property where a proper resolution would be to rezone the property to accommodate requested use. As I talked to the Law Director, what situation would there be where we could do a use variance where it is not going to be that kind of scenario. What I was given as an example is, if there was something where you could otherwise do it within that zoning district, for instance if there was a fast-food restaurant with a drive through and then a bank came through and wanted a drive through and if the zoning code said that banks can't have a drive through in this district but the idea of having a drive through is not prohibited in that district, but if it said banks can't do it. That would be a use that would be allowed, it is not a prohibited use where they are saying "no drive through, through this whole district". And so, as it was explained to me it is saying this is a situation where we would essentially be spot zoning and what I was given was that we were not able to do that in that process. So, what I wrestle with is you have done incredible work in taking something that was dilapidated and unusable and made it a great house, a future home. The problem I have is I am looking at the law and the law is telling me that I can't do this based on what our zoning code is saying. That is the issue I am having, as I am examining. If there is a means in which to alleviate the situation and grant you a variance, in my reading and understanding of the law, I would love to do that. I don't know if I can do that based on the way the law is looking here. So, you understand that is what I am wrestling with. I understand your attorney's comments. We go through and examine all those factors and while granting a variance would not impact governmental services, in looking at things such as the zoning impact, while it is one piece of property, when you grant a variance you set a precedent where there are not a bunch of homes through there that have two buildings on them that could be used for residences, unless they are still legally nonconforming. Then you get into a situation if you allow it, then who is to say you can't go build one and put one back there on your property and say, help me have a variance to have another home back there. There is a concern for that in essentially spot zoning and then you have to be able to defend it, is what it comes down to if someone else comes up and they want to have a second dwelling. That is potentially problematic. I understand what you are saying and what your counsel is saying in terms of the understanding of why you were told it was uninhabitable and that you thought that was really referencing that it was dilapidated. While there may have been a misunderstanding; I am understanding the City is saying that there wasn't, you have some residents saying that they spoke with you but I understand from where you are coming from that "hey, I just thought you were saying I couldn't have a residence there because it was dilapidated". In terms of there being some discussion with regard to not being able to have a dwelling there, I think that is an issue when folks are going through looking at the factors in terms of the situation as it has been created that we are dealing with. If I could wave a magic wand, I wish it was 2009 and it was still legally nonconforming and we didn't have this issue. That is what I am wrestling with right now. I did have a question for Staff, Mr. Champion, in terms of the process for review with Planning Commission looking at something in surrounding areas and then going to have approval from Council with regard to a single piece of property for rezoning, have you seen that process take place in the City?

Mr. Champion: No, I haven't. I think it is a long process and I think it is every ten years that they re-look at the zoning code. Are you talking about redoing the zoning in the area?

Mr. Hawkins: I mean, if Mr. Lisi has the ability to ask to have that plot of land rezoned?

Mr. Champion: What that process would be?

Mr. Hawkins: Or would you really have to wait until the entire area went through?

Mr. Campion: Every city has a long term plan for the City and it gets revisited every ten years, or something like that. I think the first step if you wanted to have it rezoned would be to talk to Council and Planning Commission.

Mr. Hawkins: The process would be Planning Commission would have to review it and make a recommendation to Council, and then Council would have to approve that?

Mr. Campion: Yes. And I don't know how long that process takes.

Mr. Hawkins: Is that done through an applicant, essentially going to Planning Commission and making that request?

Mr. Campion: Yes. I would think so.

Mr. Knox: I agree with Mr. Hawkins that you have done a wonderful job of rehabbing that building. At the same time we have to reflect the fact that the ordinances of this City are promises to the residents that the City is going to be run and the rules are going to be applied. If we step outside that, we are violating our trust. I do agree that if you want to do this, the only way to do it in accordance with the ordinances, and some of us here are already looking at redoing the zoning code, the only way to do it is to go and ask for a rezoning of that piece of property. As it stands right now, I cannot vote in favor.

Mr. Rick Lisi: Do you think in your trust that, and this is something that I am sure that they have all thought about, that the sale of that property is going to be so low if I can't use that second piece of property as a residence, that their property values are going to go down? I bought that property for only \$55,000. If I sit on it that is all it is worth. If they go to sell their properties and I will come back and ask for the taxes to be changed for it to represent my value, which would only be \$55,000 that is wrong. Now, they should be able to reap a reward if they want to sell their properties or if they want to leave their property value to their children. They are going to lose value because when they figure the property value, they are going to look at the neighboring houses and what they sell for. I am going to tell you, \$55,000 isn't enough for a house in that neighborhood. That is just a thought of protecting the public.

Mr. Knox: We must look at precedent also. If you can do that, we will have several other people probably coming in here and asking for variances of the same type.

Mr. Rick Lisi: This is the only one.

Mr. Knox: The real answer is in rezoning.

Mr. Rick Lisi: I checked this out and I think this is the only one that has the two houses other than those that are grandfathered in.

Mr. Knox: Right now, that is my point, that other people will try and Mr. Hawkins alluded to this that other people may come in and ask, "can I build a house on the backside of this lot because this is an acre?".

Mr. Rick Lisi: It wouldn't be grandfathered in and it would be new. It would be a new building, that is different.

Mr. Knox: But if you are allowed to have this, other people can use that as a wedge and we go on and on and on.

Mr. Rick Lisi: Right. If the tree hadn't fallen on that house and if they had insurance and they had it repaired then there would be people still living in that house right now. That is the issue, that in disrepair if you can't get insurance it is going to go down in value; that is not right.

Mr. Knox: When did the tree fall on the house?

Mr. Rick Lisi: Four, five or six years ago. Because I bought it three years ago and have been working on the two properties for about two and a half years. They didn't repair it. They put a big tarp on it that shows in the picture and I was able to buy it because of the damage that was done. Nobody would touch it because of the thing you are talking about, you couldn't live in it and you couldn't sell it.

Mr. Darrel Powell: Mr. Lisi is not asking to build another house on it, the other house was already there, he simply improved it. If other people come in and ask to build houses then I think you can distinguish this as precedent. Other people coming in with one house on a property and want another one, I don't think you can use this as precedent to do that, it would be only other people who had already two houses on their property. I think those are very rare if they exist at all.

Chairman Weidlich: Do you have anything further Mr. Knox?

Mr. Knox: No thank you, this could go on all night long. People would probably try and take garages and make houses out of them.

Mr. Hawkins: To the point of if the variance is granted, the issue and why we are here is the problem is, it lost its legal nonconforming use back in 2009. With that happening, the problem becomes that it becomes an equivalent of there was no house there at all because it is not conforming at that point. So, it goes back to snap into whatever the current zoning is, is what has to be compliant. My thing is I want to protect the City so that I am not making a decision that ends up with the Law Director and Hamilton County Common Pleas Court with a position that is indefensible. Through that discussion, I don't know how it can be defensible. If the variance is granted for that, if someone else comes up and says that I want to turn a garage into something else, a living habitable area or to even build another one on, or just build one on that plot of land, then at the point that it is nonconforming and it loses its legal nonconforming because of the six months then that is the problem that it runs into.

Mr. Lisi: It seems to me, if that was really the case then I would have never bought the property and Springdale should have said that it has to be torn down. They should have condemned it and not allowed somebody to buy it. I bought it and I think I got a false deal on buying it. And now, this is not right.

Mr. Hawkins: I can't speak for that. All I know is from what has been discussed and what has come through Staff's comments.

Mr. Lisi: It seems so simple, people had lived in it up until the tree limb fell in and they could still be living in it today.

Mr. Hawkins: I understand where you are coming from and your position. All the people who are up here, if you see them when they come on the Board and when their terms are up, they have to stand up and take an oath to follow the charter, the Ohio Constitution, the ordinances that are within the City of Springdale. So, my problem is with my right hand in the air and understanding now that I have talked to the Law Director and getting a better understanding of the statute, I think I have a problem in terms of how the law is written to be able to grant the variance. It is not even a matter of if I would like to. To me, in terms of my interpretation of what is before me, I can't based on the way the statute is. That is my own personal interpretation of what I am wrestling with from the information that I have been given. I do think, in terms of when you are looking at the property and you are making decisions about potential other issues, that is an issue if the variance is granted. If I come up and I have an acre or a half acre, I don't know how the City could defend against me saying, "You guys allowed this in a single-family zoned area, why can't I do it?", and say "hey, this building was already up there", but it is nonconforming for "x" number of years. I think it makes it tougher in terms of that. That is what I am wrestling with.

Chairman Weidlich: Does anyone else have any questions for the applicant?

Mr. Ramirez: I wish there was a way to get this to work. I don't know what means we have to be able to change what we have here. You have two very nice properties in Springdale and I wish there was a way we could get this to work. My issue is reading the code that we have 153.710, that I don't even believe that we can even make this decision. It says, "Variances shall not be granted for uses not permitted in the Zoning District...", it is as simple as that is put. That means that I don't know how this Board could even approve a variance.

Chairman Weidlich: Does anyone else care to ask the applicant any questions. (No further discussion was brought forward at this time.) We will move on to deliberation and discussion based on the evidence presented. Does anybody have anything? (Again, no deliberation or discussion brought forward at this point.) Can we have a motion please?

Mr. Hawkins: I move to grant a variance to the owner of 584 West Kemper Road, who is requesting a variance to allow two single household dwellings on one lot. Variance is requested from Section 153.492(E), that indicates that "There shall not be more than one single household dwelling permitted on a zoning lot."
(Mr. Ramirez seconded the motion.)

Chairman Weidlich: Is there any further deliberation or any amendments anyone would like to make?
(Nothing further was brought forward.)

(Mrs. Huber polled the Board of Zoning Appeals and with seven "no" votes, the request for variance was denied.)

Chairman Weidlich: I am sorry, your application has been denied.

Mr. Lisi: Thank you for your time.

XII DISCUSSION

(No Discussion presented at this meeting.)

XIII ADJOURNMENT

Mr. Hawkins moved to adjourn, Mr. Ramirez seconded the motion and the Board of Zoning Appeals meeting adjourned at 8:47 p.m.

Respectfully submitted,

_____,2015_____
Chairman Robert Weidlich

_____,2015_____
Secretary Jane Huber