

BOARD OF ZONING APPEALS MEETING
JANUARY 19, 2016
7:00 P.M.

I CALL MEETING TO ORDER

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

II ROLL CALL

Members Present: Carmen Daniels, Holly Emerson, Carolyn Ghanous,
Jane Huber, Dave Nienaber, Joe Ramirez, Michael Wilson

Others Present: Randy Campion, Building Inspector

III PLEDGE OF ALLEGIANCE

IV MINUTES OF THE REGULAR MEETING OF OCTOBER 20, 2015

Mr. Ramirez: We have before us the minutes of the October 20th, 2015 Board of Zoning Appeals meeting. Does anyone have any additions or corrections to those Minutes?

Mrs. Emerson: I need it removed that I was absent; I was not on the Board of Zoning Appeals at that time.

Mrs. Ghanous: I move to adopt. (Mr. Nienaber seconded the motion and with a vote of 4 ó 0 from the Board of Zoning Members present at the time, the Minutes of the October 20th, 2015 BZA meeting were approved. Mrs. Daniels, Mrs. Emerson, and Mr. Wilson abstained as they were not at that meeting.)

V CORRESPONDENCE

Mr. Ramirez: We have no correspondence this evening.

VI REPORT ON COUNCIL

Mrs. Ghanous gave a summary report of the December 16th, 2015 and the January 6th, 2016 City of Springdale Council Meetings.

REPORT ON PLANNING COMMISSION

Mr. Ramirez gave a summary report of the December 8th, 2015 and January 12th, 2016 City of Springdale Planning Commission meetings.

VII ELECTION OF OFFICERS

Mr. Ramirez: The next step is our election of the Officers for this session. Would anyone like to nominate for the Chairman?

Mrs. Huber: I would like to nominate Joe Ramirez.

Mr. Ramirez: Are there any other nominations? (None)

Mr. Nienaber: I was going to nominate Joe Ramirez; so I will just second that.

(With no further nominations for Chairman and with a unanimous öayeö vote, Mr.

Joe Ramirez was approved as Board of Zoning Appeals Chairman.)

Chairman Ramirez: Next is the Vice Chairman - do we have any nominations for the Vice-Chairman? I would like to nominate Mr. Nienaber.

Mrs. Huber seconded the nomination. (With no further nominations and a unanimous ðayeö vote, Mr. Nienaber was approved as Board of Zoning Appeals Vice Chairman.)

Chairman Ramirez: Is there a nomination for Secretary? I myself will nominate Mrs. Huber.

Mrs. Ghantous seconded the motion. (With no further nominations for Secretary and a unanimous ðayeö vote, Mrs. Huber was approved as Secretary for the Board of Zoning Appeals.)

Chairman Ramirez: Thank you for your past excellent work.

VIII OLD BUSINESS

Mrs. Ghantous: It has been so long since we last met and I don't remember but several people were absent from that meeting; Derrick Parham asked me to make sure that all of the Members had this definition of ðhardshipö; who didn't get that? I brought one for everybody. I think it is critical at this stage as we are kind of starting fresh to make sure we are all working off of the same page.

IX NEW BUSINESS

(Chairman Ramirez performed swearing in of Applicants.)

- A. The Sunoco located at 12089 Princeton Pike has submitted an Application to the Board of Zoning Appeals for a Variance to permit the installation of electronic price signs. Section 153.523(1) states ðElectronic signs shall only be permitted per 153.3531(D)(11) and (12) and 153.538.ö

Chairman Ramirez: Would the representative for Sunoco please come to the podium and state your name and address and the reason for your request.

Mr. Steve Cupito: I am here on behalf of the Sunoco Station asking for permission to basically refresh their site and refresh their street sign allowing to have LED gas price sign. Also, included in that is a new logo called a diamond logo, it is their new image. They are doing a national program where they are trying to refresh all of their stations. We have asked also permission for a red LED for regular and green LED for diesel, since this site is a semi-truck stop; they have their own diesel canopy of the side of the building for strictly semi-trucks and green LED is the diesel signal for truck drivers. That is basically it, if anybody has any questions.

Mr. Campion read the Staff comments concerning this request.

Chairman Ramirez: Is there anyone in the audience that would like to comment on behalf of this application? (No one came forward from the audience and the public portion of this application was closed.)

Chairman Ramirez: Members of the Board, would you care to discuss this with the Applicant?

Mr. Nienaber: Thank you. Along with the documents we received, there is also a piece of paper saying property adjacent north is 12117 Princeton Pike, owned by the ALLF family, LLC; are they represented here too, or do they have a remark? Since we received a copy of this, I figured there was a story behind it.

Mr. Cupito: No, there is no one here from that address.

Mr. Nienaber: Are you aware of what their take is on this?

Mr. Cupito: I am not.

Chairman Ramirez: Thank you. Any other comments, discussion?

Mrs. Emerson: A couple of questions on the LED lighting; do you have the automatic dimmer in that?

Mr. Cupito: Yes.

Mrs. Emerson: And the automatic shut-off if it is not fully functioning and fully lit?

Mr. Cupito: Yes. Did everybody have this in their packet? This is from the manufacturer, which is Everbrite, Inc.: LED digits are full intensity brightness, or full sun are a maximum output of 930 foot candles. As it gets dark, the LED will dim down to 74 foot candles automatically with built-in sensors. Also, if they do have a problem, if this sign goes out and obviously a service man would have to be called, that is one side because there are basically two separate sides; if one goes out the other will stay working. One half, north or south, if it is working and the south is out the north will stay working. Does that make sense?

Mrs. Emerson: Okay. And we also in our ordinance are requesting for one color; both of the regular and diesel are both labeled "regular" and "diesel", correct? I know you want the differentiating in the color, but is one labeled "regular" and the other is labeled "diesel"?

Mr. Cupito: They are.

Mrs. Emerson: Okay.

Mr. Nienaber: Can they live with a single color on the LEDs, since at least at this point anything that we have approved has only been a single color?

Mr. Cupito: Yes, I don't perceive an issue with that. This is just their standard. If I go back and say we are only good for the red, then I don't think there will be an issue.

Mr. Nienaber: Mr. Champion, does this changing of the sign put them to needing another variance as far as size? The way I read all the paperwork, it looked like it is still staying within the variances that they already have but I thought you might have a handle on that.

Mr. Champion: They would need a variance for the size because you are increasing from 139.5 s.f. to 148.2 s.f. So, there is an increase in the size and also in your motion we don't allow signage to move, and it looked like from the drawing that the Sunoco turned around in a circle.

Mr. Cupito: No nothing rotates at all. That was back in the day, how it was but no longer.

Mr. Campion: Staff is just recommending that you include that in your motion that it is a stationary sign and that it is just one color.

Chairman Ramirez: Thank you. Any further discussion on this subject?

Mr. Nienaber: I was just trying to think back several months to, in my opinion what is driving this, is the new station being built at Princeton Pike and Crescentville. I was wondering, was there any specific variances that we granted them that would be applicable to this. I was just trying to pick the Members brains that were at that meeting also.

Mr. Campion: We had a variance for the Thornton's sign?

Mr. Nienaber: I thought we did. Was it the size only or was that to allow the LED signs?

Mr. Taylor: My recollection, it was also size.

Mr. Nienaber: Thank you. I am leaning on this that from my vantage point is that we are not looking at that much more of a variance, something under 10 s.f. more for signage.

Chairman Ramirez: Would you like to make a motion?

Mr. Nienaber: I'm in favor.

Mrs. Ghantous: This Number 5 under the considerations, I don't know if I wasn't listening but it says that the applicant to confirm with City Staff the compliance with Sections 153.460 (D) and 153.460 (B); what are those referring to, what are those?

Mr. Campion: Those are the new Sections that address digital signage in the proposed Zoning Code.

Mrs. Ghantous: In the proposed Code. So, the Applicant knows that whatever he is doing is going to have to be in the proposed Code?

Mr. Campion: Yes and a lot of those are that it has to dim down at sunrise and sunset. The applicant will apply for a permit and we will issue the permit. This is a variance to meet the existing Code.

Mr. Nienaber: I move to grant the owner of 12089 Princeton Pike, a variance to the Zoning Code, Section 153.523(1)(C). I prefacing that by saying that we have referred to two other Code Numbers since this discussion started. I think the Zoning Code is going to be realigned. With regard to the request for variance, to allow total signage of 148.2 s.f. subject to the requirements expressed in the City of Springdale's Comments on January 19th, 2016 as authored by Anne McBride, the five page document that was appended to this presentation. I trust you have seen this, too?

Mr. Cupito: Yes.

Mr. Nienaber: Do I need to read that, it is five pages?

Chairman Ramirez: No. Do I have a second on that motion? Mrs. Ghantous seconded the motion.

Chairman Ramirez: Is there any further deliberation on this subject; from the audience? (None.). Are there any motions to amend? (None.). Mrs. Huber, will you please poll?

(Mrs. Huber polled Board of Zoning Appeals Members, and with a vote of 7 - 0, the variance was granted.)

Mr. Campion: As a point of record, was the motion to allow the 148.2 s.f. and all of the comments in Staff report?

Mr. Nienaber: If we need to fine tune that, I am fine. I was trying to say that it was to allow the sign square footage variance, as long as they abided by all the remarks from Ms. McBride.

Mrs. Ghantous: The considerations or the remarks?

Mr. Nienaber: All of them.

Mr. Campion: My point being, I can't tell you what to do, but I think you should include in your motion something about it being just one color, the red, and I think you should also include that it is going to conform with the new Zoning Code.

Chairman Ramirez: Okay, Mr. Nienaber, would you please give us a new motion to amend the previous motion?

Mr. Nienaber: To amend the previous motion, that is to include a limit to one color of LED lights to be red, no part of the sign to be free-standing, maximum sign area to be 148.2 s.f. and the Applicant to confirm with City Staff compliance with Sections 153.460(D) and 153.460(B) of the proposed Zoning Code.

Mr. Campion: I am sorry; I have one question - you said no part of the sign to be free-standing; I think the motion would be that no part of the free-standing sign may move; it is a free-standing sign.

Mr. Nienaber: To amend that no part of the free-standing sign may move.

Chairman Ramirez: And that one color should be red.

Mr. Nienaber: Correct. So, 148.2 s.f., no moving parts, electronic fuel price display one color only, all to be in compliance and confirmed with City Staff to Sections 153.460(D) and 153.460(B) of the proposed Zoning Code.

Chairman Ramirez: Thank you. Do we have a second on that motion? Mrs. Ghantous seconded the motion.

Chairman Ramirez: Mrs. Huber, would you please poll the Board.

Mrs. Huber polled the Board, and with a vote of 7 ó 0, the request for variance was approved.

Chairman Ramirez: Thank you, your request has been approved 7 ó 0.

Mr. Cupito: Thank you for your time.

- B. The owner of Spring Grove Cemetery, regarding the Oak Hill Cemetery Mausoleum Development at 11200 Princeton Pike has submitted an Application to the Board of Zoning Appeals for a variance to permit the construction of an

accessory structure (mausoleum) exceeding 16ø in height. Section 153.192(B) states "No accessory structure shall exceed 16ø in height."

Chairman Ramirez: Would the representatives from Spring Grove please come forward?

Mr. David Lingo: My name is David Lingo.

Chairman Ramirez: If your partner will be speaking, if you could introduce yourself at this point.

Mr. Tim Foster: My name is Tim Foster.

Mr. Lingo: We are simply here to seek a variance for the height requirement, height restriction of 16ø for a mausoleum to be constructed here on Princeton Pike. The purpose of the variance is nothing more than aesthetic and it is our architect's recommendation that we go with this height just to maintain the façade, the way it is appearing on his rendering; there is nothing more to it than that.

Chairman Ramirez: Is the height 16ø?

Mr. Lingo: The height to the eave is 16ø11 ½"; so we would be in excess by 11 ½". The peak at the highest point would be 32ø

Chairman Ramirez: Any discussion from Members on this?

Mrs. Huber: Most of my family is buried at Oak Hill and that numbers a lot of people. Where in the world is a current chapel at Oak Hill?

Mr. Lingo: I have no clue. I don't know where that came from, we have some other structures that are part of the facility's maintenance.

Mrs. Huber: There is a maintenance garage and an office building. I want that clarified, there is no chapel.

Mr. Lingo: There is no chapel that we have on the property, no.

Mrs. Huber: Thank you.

Mrs. Emerson: The 32ø is the peak of the roof, in the center, I take it?

Mr. Lingo: That is correct.

Mrs. Emerson: How wide is that area, in the center?

Mr. Lingo: 27ø8ø.

Mrs. Emerson: Is there anything that keeps you from making that, I mean is there anything in the ceiling that is stored or anything, or is it just for looks purely?

Mr. Lingo: It is all aesthetic, it is just for that vaulted ceiling in the center of the building.

Mrs. Emerson: And there is no way we could bring that peak down some?

Mr. Lingo: We could but then it would squash; that is my take on it. Do you have any objection to making that less?

(Man in audience shakes head in the negative.)

Mr. Lingo (continued): I don't think we would, I think we are just looking for something to give it the statement. You see the center of building with a 12/12 pitch and then lowering it to the 7/12 off the sides on the wings.

Mrs. Emerson: But that is adjustable?

Mr. Lingo: I don't see why it wouldn't be, I mean it is purely roof structure.

Mrs. Emerson: So it's not going to take away from any of your usage of the building?

Mr. Lingo: It is purely for aesthetics; it is for the look.

Mrs. Emerson: Okay, thank you.

Mr. Nienaber: As I read your topo map, I am deducing that the base elevation is going to be at 735' but by the time you get to the back side of it where you have to cut the hill away, you are at 740' or 741'. Which is going to, in effect minimize by about 6' the overall visual height of the building. Secondly, what I am seeing is that you are going to be roughly 200' setback from the street. So on that note, especially when we are putting this on 86 acres of land, I don't have a problem with this compared to us encouraging a Tire Discounters, for instance to allow to have a taller sign because of the way the land fell away there or in the case of Burlington Coat Factory having larger letters because they were so far from the road. Thank you very much.

Mrs. Ghantous: Is this the same presentation that Planning Commission heard?

Chairman Ramirez: Yes, except we need a variance for the height of the building.

Mrs. Ghantous: Okay, thank you.

Chairman Ramirez: By the way, it was approved at the Planning Commission with the exception of the building height exceeding 16'

Mrs. Huber: Just another point; cemeteries, as we know them now are probably going to be more of the mausoleum usage than the graveyard, so I'm all for this but what about the trees that are being removed?

Mr. Lingo: There are several that will be taken out.

Mrs. Huber: About ten.

Mr. Lingo: Yes, there are. There are several that aren't the best specimens. We do have plans on replacing every single one of those with caliper inches required. It is all part of our plan to put these back in. We replant approximately 40 to 60 trees a year in the cemetery now just because of decline and removals and things like that; storm damage, you name it. We are certainly on the leading edge of doing that, we have replanted hundreds and hundreds of trees in Spring Grove and we do an equal number based on the acreage we have out here.

Mrs. Huber: Thank you.

Chairman Ramirez: Just for a note, at the Planning Commission, the Applicant did make some concession on trees and they are willing to make those changes. I believe we went from 20 trees to 30 trees.

Mr. Lingo: 2 1/2 to 30.

Chairman Ramirez: So they are working with us.

Mrs. Daniels: Earlier, Holly had asked if you could lower it; how much could you lower it without taking away from your look of the building?

Mr. Lingo: I would have to refer to the architect to see what his input was on it. I think part of why it had the 12/12 pitch at the center was because of it sitting back off of the street and we are just trying to not make it look like a flat-top mausoleum like you would see in a lot of other places. We wanted something that didn't look like a mausoleum; that is what we were shooting for. That is why all of the crypts are interior to the building, as well, so you don't see all of the shutter fronts on all of the crypts, they are all interior to the central area in the two wings. To answer your question, I don't know; I would have to throw that back to the architect and ask him what his recommendation would be on the roof. We are just trying to keep it in proportion, those sides have a 7/12 and then if you squash down the center it would look a little off.

Mrs. Daniels: Thank you.

Mrs. Emerson: What is the difference from the back of it to the peak, how much room to you have to play?

Mr. Lingo: I am not following your question. The mausoleum building itself is 27'4" front to back total depth.

Mr. Nienaber: The gables on the two ends, I guess stand at approximately about 25' so that leaves you about seven feet higher to the center piece. So that was all we were toying with was how much do you have to possibly bring it down?

Mrs. Emerson: So you have about 7' there?

Mr. Lingo: To make it equal to the 7/12 pitch, correct. Now what that would do to the actual pitch of the center portion, I don't know exactly, given that distance across there. I guess it is 27'8" and then the sides are 32' it would probably be slightly less if we brought it to the same 7/12 pitch.

Mrs. Emerson: I am sorry, say that again.

Mr. Lingo: I said it would be slightly less than the wings if we drop it to the same pitch as the sides, based on the distance. I don't know, I would have to run that all past the architect and see what he would come up with. I don't know how exactly that would look. To be honest with you, I think if we did that it would really make the center look strange. That's my construction take on this.

Chairman Ramirez: We will move to Staff comments.

Mr. Campion read the Staff comments concerning this request.

Chairman Ramirez: Mrs. Huber, do we have a motion?

Mrs. Huber: I move to grant a variance to Sections 153.192(B), so as to allow the construction of a mausoleum exceeding 16' in height. The property is located at 11200 Princeton Pike, Oak Hills Cemetery and the mausoleum is considered an accessory building. I think instead it is 16'7", right?

Mr. David Lingo: That is to the eave; that is to the top of the face of the building.

Mrs. Ghantous seconded the motion.

Mrs. Emerson: I would like to see that 32ø come down. I think that is double to what the Code is. I am thinking of at least seven feet that you can work with.

Mr. David Lingo: Seven feet less than what it is now?

Mrs. Emerson: Seven feet less than 32ø yes.

Mr. David Lingo: Twenty-five feet as the maximum?

Mrs. Emerson: That is what I would like to see, yes.

Chairman Ramirez: She is requesting 25ø maximum instead of 32ø. Is there any further discussion on Mrs. Emerson's proposal? (None.) Mrs. Emerson, would you like to amend the motion to reflect the 25ø?

Mrs. Emerson: Iød like to amend the variance to read the highest peak at 25ø

Mrs. Daniels seconded the motion.

Chairman Ramirez: Any further deliberation on this subject?

Mrs. Ghantous: Iøm a little bit confused. We had Mrs. Huber's motion and it was time to vote and then Mrs. Emerson wanted to amend; she amended. So now I will be voting ønoö because I am not in favor of the amendment that Mrs. Emerson presented. Do you see what I mean? So is that the way we really want to have it worded?

Chairman Ramirez: At the moment, as we stand, the motion would be for a 25ø maximum; if we voted, that is what we would be voting for - 25ø. That doesn't say we can't have another motion with something other than 25ø or have further discussion of what that height should be.

Mr. Champion: As a point of order, was there a second on the first motion?

Chairman Ramirez: Yes.

Mr. Champion: And then there was discussion of the first motion and an amendment to that motion, so you would have vote on the second motion, on the amendment?

Chairman Ramirez: On the amended 25ø would be what we are voting on now.

Mr. Champion: Yes.

Chairman Ramirez: Mrs. Ghantous is not in agreement with the 25ø limit.

Mr. Nienaber: If we were voting on the 32ø I think Iøm in favor of that because as I mentioned earlier this thing is 200ø from the road and is going to be at the base, about five feet or more, as you approach it from the road. So it's losing height and it is a far distance from the road; it is on 87 acres, so I am in favor of 36ø and if we have to take a second vote, I will vote ønoö on the 25ø

Mr. Champion: You do have to vote on the amendment, whether to continue with their motion and then you can go back to your first motion or whatever motion you want to make, or an amended motion.

Chairman Ramirez: Correct. On the amended motion, Mrs. Huber would you please take a poll?

Mrs. Huber polled the Board of Zoning Appeals - Mrs. Emerson and Mrs. Daniels voted aye and Mr. Nienaber, Mr. Ramirez, Mr. Wilson, Mrs. Ghantous, and Mrs. Huber voted no. The amended motion was denied by 2 to 5 vote.

Chairman Ramirez: Mrs. Huber, would you please poll the Board on the original motion that you made?

Mrs. Huber polled the Board of Zoning Appeals Members on the original motion - Mrs. Huber, Mrs. Ghantous, Mr. Nienaber, Mr. Ramirez, and Mr. Wilson voted aye and Mrs. Emerson and Mrs. Daniels voted no. The original motion was approved by a 5 to 2 vote.

Chairman Ramirez: Sir, the original proposed 32 feet has been approved.

XIII DISCUSSION

Chairman Ramirez: Does anyone have any discussion this evening? (None).

XIV ADJOURNMENT

Mr. Nienaber moved to adjourn, Mrs. Emerson seconded the motion, and the Board of Zoning Appeals meeting adjourned at 7:55 p.m.

Respectfully submitted,

_____, 2016 _____
Chairman Joseph Ramirez

_____, 2016 _____
Secretary Jane Huber