

BOARD OF ZONING APPEALS MEETING  
NOVEMBER 20, 2012  
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, Lawrence Hawkins III, Ed Knox,  
Joe Ramirez, Dave Nienaber, Robert Weidlich and Jane Huber

Others Present: Randy Campion, Building Inspector

III PLEDGE OF ALLEGIANCE

IV MINUTES OF THE REGULAR MEETING OF OCTOBER 16, 2012

(Mr. Hawkins moved to adopt the October 16, 2012 Board of Zoning Appeals meeting minutes; Mr. Knox seconded the motion and with six affirmative votes from the Board of Zoning Appeals Members, Mr. Nienaber not present at the October 16<sup>th</sup> meeting, the minutes were adopted as written.)

V CORRESPONDENCE

Chairman Weidlich: Everybody should have received correspondence 32-2012.

VI REPORT ON COUNCIL

(Mr. Hawkins gave a summary report of the October 17<sup>th</sup> and the November 7<sup>th</sup> City Council meetings.)

VII REPORT ON PLANNING COMMISSION

(Mrs. Ghantous gave a summary report of the November 13<sup>th</sup> Planning Commission Meeting.)

Mrs. Ghantous: Mercy Health Springdale Medicine at 212 West Sharon Road came seeking minor improvements that required the Planning Commission's approval and we approved that plan as submitted; as you know the signs are going to be mounted on the current posts so there is no longer the need for the Board of Zoning Appeals to grant a variance.

VIII CHAIRMAN'S STATEMENT AND SWEARING IN OF APPLICANTS

IX SWEARING IN OF NEW BOARD OF ZONING APPEALS MEMBER,  
MR. DAVID NIENABER BY MR. LAWRENCE HAWKINS III

X OLD BUSINESS

- A. Chairman Weidlich: For our Old Business (Mercy Health Springdale Medicine, 212 West Sharon Road) a variance is no longer needed, as Mrs. Ghantous mentioned in the Planning Commission report.

XI NEW BUSINESS

- A. Chairman Weidlich: Our first order of business is the owner of 519 Lafayette Avenue has applied for a variance to allow a 33' long by 12'11" high travel trailer to remain at the side of his property on his driveway. Said variance is requested from Section 153.480(D)(1) "One recreational vehicle...may be stored in an unenclosed area of the property, but not closer than five feet to the nearest lot line, or any right-of-way line. Such recreational vehicle... shall not exceed 30 feet in length or 11 feet in height."

Mr. Dan Tudor: I live at 519 Lafayette. The camper has been in the driveway for four years and it is well maintained; it is behind the house so nobody sees it but my neighbors next door and across the street. It has been there for four years and there hasn't been an issue with any of the neighbors or anything else.

(At this time, Mr. Campion read the Staff comments.)

Chairman Weidlich: Would anyone in the audience like to speak on this request?

(At this time Mr. Weidlich did swear in Ms. Goldie Berssenbruegge, who was not sworn in earlier.)

Ms. Goldie Berssenbruegge: I live at 521 Lafayette. He is my neighbor and you can't see his travel trailer unless you are right in front of his driveway. It is always well maintained. They have been excellent neighbors and it is not devaluing our property, if anything it is increasing the value of our property. My step dad lives across the street and he was unable to come tonight and he wanted me to speak for him too. He lives at 524 Lafayette and he said that he doesn't have a problem with that travel trailer being there. That trailer is better maintained than some of the other houses on the street.

(No one else from the audience came forward and this portion of the public hearing was closed.)

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

Mr. Hawkins: You are saying the trailer is back behind your house; are you referring to the fact that the driveway goes all the way back behind your house to the garage?

Mr. Dan Tudor: Correct.

Mr. Hawkins: The trailer is along the side of the house which goes all the way back.

Mr. Dan Tudor: Right.

Mr. Hawkins: You are going to sell the trailer; do you know how long it is going to take you to do that?

Mr. Dan Tudor: I don't have a clue. I only got a couple of calls on it this past summer. It is a lot of money and the way things are right now, it is kind of tough. I have it on three different marketers and I've got in on three different websites.

Mr. Hawkins: It is not your intention to keep it there for a long time; you are trying to store it there so that you can sell it; is that accurate?

Mr. Dan Tudor: Well, if I don't sell it I will be keeping it. I was going to downsize and go to a different type of trailer. It is actually a fifth wheel, that is why it is so tall because it has an upstairs to it and that is why the front part of the trailer goes so

high because it goes upstairs to sleeping quarters and the shower and everything is upstairs.

Mr. Hawkins: One of the concerns I have is that if there is a variance granted tonight it is going to run with the property forever. If you sell that camper, the variance goes on forever so the variance would allow a trailer that size there. I know that the neighbors that are there right now may not have any issue with it but the other thing that the Board has to consider is what folks 100 years from now are going to care about it. You have talked about possibly downsizing, have you looked at trading that trailer in for a smaller one?

Mr. Dan Tudor: Yes, I have but they don't want to give me near what it is worth. I will keep it before I lose that much money on it.

Chairman Weidlich: I do agree with Mr. Hawkins; the variance stays with the property forever and you are obviously not going to be in that house forever and your neighbors won't be around then, the neighborhood will be changing at some point. That is where we are right now.

Mr. Ramirez: I would like to thank you for keeping the property well maintained, such as we see in the photos. Our concern is that, if you were to leave and we grant the variance and somebody else comes in with a trailer, then they only have to meet the requirements of the size of the trailer and not the condition so the next neighbors may see and eyesore next to them; that is something that we have to take into consideration.

(No further deliberation or discussion was presented.)

Chairman Weidlich: Would somebody like to make a motion?

Mr. Hawkins: I move to grant a variance to the owner of 502 Lafayette Avenue to allow a 33' long by 12'-11" high travel trailer to remain at the side of his property on his driveway; variance is to Section 153.480(D)(1) of the Code.  
(Mr. Knox seconded the motion and with 7 "No" votes from the Board of Zoning Appeals Members the request for variance was denied.)

- B. Chairman Weidlich: The next item on the agenda is the owner of 233 West Kemper Road has applied for a variance to allow a 40' long by 12'6" high motor home to be stored in the front of the property on the driveway. Said variance is requested from Section 153.480(D)(1) "One recreational vehicle...may be stored in an unenclosed area of the property, but not closer than five feet to the nearest lot line, or any right-of-way line. Such recreational vehicle... shall not exceed 30 feet in length or 11 feet in height."

Mr. John Meyer: I live at 11846 Ramsdale Court. I am trying to sell my house at Ramsdale and planning on traveling in this RV. I am really looking for a temporary variance, if that can be done; I think I put on here six months. I could work with whatever you would agree with. It is in the front of the house, I agree, but it is 65' back off of the road.

(Mr. Campion read the Staff comments concerning this request.)

Mr. Weidlich: Is there any communications from the public?

(At this time two individuals from the audience stood to speak and were sworn in by Chairman Weidlich; they were not sworn in earlier.)

Mr. Rob Treinen: I live at 237 West Kemper Road. I've have been John and Esther's neighbor for ten years now and also their tenant's neighbor for ten years and they are great people and great neighbors to have. If they would like to have a

six month to a year variance to have the RV stored in the front driveway then I don't have any type of problem with that whatsoever.

Mrs. Barbara Dauer: I live at 211 West Kemper Road. This gentleman has a nice big lot and he has a driveway around the house. I just wondered why he couldn't park the trailer in the backyard. And, if he is going to travel a lot, is he going to leave it parked there in between trips; it is really a big trailer?

Mr. John Meyer: When I start traveling, we are going to continue to travel and that is going to be our only residence. It won't be back there except for maybe the 72 hours that we are allowed. And to park it around the back, I have low wires coming across there and I can't get it under the wires. If I get it back there, it is 40' long and the lot is 60' wide so I really can't turn it around once I get it to the backyard.

Mrs. Barbara Dauer: So, it is not going to be there very often?

Mr. John Meyer: No.

(No other individuals from the audience came forward and this portion of the public hearing was closed.)

Mr. Hawkins: Mr. Meyer, we do not have a temporary variance so if we grant a variance tonight it will go with the land in perpetuity. It is not going to be just for six months or a year; it is not going to be something that this neighbor would deal with but somebody potentially down the road having that. This would be a decision that would impact everybody that is going to be around that lot for years to come.

Mr. John Meyer: Why can they not make a temporary variance?

Mr. Hawkins: That is the way the law is written right now. If our Law Director says otherwise then we could do something else and that would be within our purview but as it is understood right now the Law Director has indicated that the law says there are no temporary variances; it is going to go with the land forever. So, that is the dilemma that we are faced with that situation and particularly in the situation where it is not something that you really need in perpetuity, it is a concern. If you don't need it then it is a concern for the neighbors that say they would be o.k. with six month or might be o.k. with a year or they might be o.k. if you come and go. If we grant a variance, then it doesn't matter if you decide to go on the road for six months and come back and stay for three months and then go on the road again. If we grant a variance then you could do whatever you want as far as parking at the side of the house. That is the concern that I have.

Chairman Weidlich: I will state the same, Mr. Meyer, that I did with the other applicant; I echo the same comments as Mr. Hawkins with the variance staying with the land forever. Unfortunately, we used to be able to grant temporary variances but we can't anymore. That is pretty much where we stand on that issue.

Mr. John Meyer: I have been here since 1975; I bought my house. At that time I was very impressed with the City of Springdale. It was run by my neighbors and friends. I feel that now a days it is no longer run that way. All of my neighbors and all of my friends have no problem with it but the zoning rules are "gestapo-type", "you must do what these rules say". I feel that is very wrong and I think that is what is wrong with Springdale right now. If you look around the neighborhood at all the vacant homes and all of the foreclosed homes; I think you have a problem, I really do. I feel that you are no longer working with the people. You have your rules and we have to follow your rules to a tee.

Chairman Weidlich: Thank you for your comments. If there is no further deliberation from the Board Members, could somebody please make a motion?

Mr. Knox: I move to grant a variance to the owner of a 40' long by 12'-6" high motor home in front of 233 West Kemper Road as referred to in

Section 153.480(D)(1) "One recreational vehicle...may be stored in an unenclosed area of the property, but not closer than five feet to the nearest lot line, or any right-of-way line. Such recreational vehicle... shall not exceed 30 feet in length or 11 feet in height."

(Mr. Hawkins seconded the motion.)

Chairman Weidlich: Is there any deliberation on the motion? And I take it we have no amendments to it?

(No further deliberation or amendments were brought forward.)

Chairman Weidlich: Will you call a vote, Mrs. Huber?

(Mrs. Huber polled the Board of Zoning Appeals Members and with 7 "No" votes the request for variance was denied.)

Chairman Weidlich: You did not get your variance by a vote of seven to zero. Thank you for your time.

- C. Chairman Weidlich: The next order of business is the owner of 609 Maple Trace has applied for a variance to construct a building addition 27' from the rear property line. Said variance is from Section 153.176 "The minimum rear yard setback for properties in the PF-M district shall be 50 feet."

Mr. Kenneth Huff: I am the Executive Vice-President and Chief Financial Officer For Maple Knoll Communities which operates Maple Knoll Village just down the street; 11100 Springfield Pike. Maple Knoll Village is a retirement community and we have a senior age requirement before folks move in. We have approximately 270 independent living units. We have over 500 people living on the campus right now. Before the housing market collapsed we were 95% occupied. At the moment we are about 80% occupied in independent living and we adopted a marketing philosophy that there would be no reasonable offer refused. We have a couple that are interested in moving into 609 Maple Trace and they are very specific on their requirements. They are paying for the cost for renovations. It is not coming out of our pocket. They want a 14' long master bedroom; at the moment there is a 12' solarium or sun room in that place. So, the request is for an additional 2'. There have been variances in the past on this property. It backs up to a privacy fence and then an industrial building on the other side so it is not sitting in a normal residential community. The Staff made the comment that we could get a return on investment without the variance. I have to disagree with that because we have so many units vacant right now. We don't have people in line waiting to move in. This is a unit that has stood vacant for at least four months. A couple is interested in paying for the renovation and moving in and that is the reason we are requesting a variance.

(Mr. Campion read the Staff comments for this variance request.)

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

Chairman Weidlich: Does any of the Board Members have questions for the applicant?

Mr. Hawkins: The entire fence to the south of the property is going to be taken out?

Mr. Kenneth Huff: The privacy fence west of the property is not affected. That is the side that we are asking for the 2' variance. We will certainly comply with whatever Springdale wants as far as the driveway and the tree planting; I think that has been our history.

Mr. Hawkins: That driveway is going to go down through to connect with that parking lot that is there?

Mr. Kenneth Huff: I will be honest, I really don't know what the driveway plans are.

Mr. Hawkins: I just wanted to confirm, as Staff had indicated, there is a fence there that you are going to have to take out, as well. I just want to note, as the applicant has indicated, the property that is adjacent to the property that we are discussing is a business and that area is zoned General Business (GB), as opposed to residential. Thank you Mr. Chairman.

Mr. Knox: Mr. Huff, I am somewhat confused by what has been presented to us here. Where is the garage going to be for this unit?

Mr. Kenneth Huff: It is going to be south of the existing unit.

Mr. Knox: Is that what is shown here?

Mr. Kenneth Huff: Yes.

Mr. Knox: But we have no plans. The only thing this variance is asking for is the 2' wider area in another area and not where the garage is?

Mr. Kenneth Huff: Correct.

Mr. Knox: So, are you going to come back and ask for another variance?

Mr. Kenneth Huff: I don't believe we have a variance for the driveway or the garage. That is going south of the existing building. Our problem is moving west from the existing building. There is a neighboring unit that has been granted the same variance that we are asking for. I am not sure why the concern over the driveway is here.

Mr. Knox: You are talking about going west. The arrow is pointing north so that would be in this direction. Are we talking exclusively about this small area there?

Mr. Kenneth Huff: No; it is the shaded-in area.

Mr. Knox: That is going to be a bedroom and not a garage?

Mr. Kenneth Huff: It is currently a solarium and they want to convert it to a master bedroom. They want to move their existing furniture and they want the 14' length to the bedroom or they are not going to move in.

Mr. Knox: If I might say at this time, I would feel much more comfortable if we got to see the complete plan of what the entire unit is going to look like including the driveway and remove the fence, and the possible removal of a tree. Right now, I would say this application is incomplete; but that is just my personal feeling.

Mr. Champion: There is a drawing at the back of your packet, on the last page.

Mr. Knox: In that case, it is only 15' from the lot's property line.

Mr. Champion: Yes, that is correct. The side yard setback, I believe has been met. So, the variance is really just the rear yard setback, to the east.

Mr. Nienaber: Whose parking lot is that to the south; and have they already approved their part of this project?

Mr. Kenneth Huff: We own all the property. People choose to move in and they pay a fee at moving in and they pay a monthly fee for services and upkeep and those kinds of things; but all of the property belongs to Maple Knoll Communities.

Chairman Weidlich: Do you know if that parking lot is used a lot? It looks like they will lose at least three parking spaces for the driveway to connect?

Mr. Kenneth Huff: We have ample parking spaces back near the Manor House Restaurant. I would much rather have a parking problem because that would mean that we are busy.

Chairman Weidlich: Does anyone else have any questions for the applicant?  
(No Members of the Board of Zoning Appeals presented any additional questions.)

Chairman Weidlich: Is there any deliberation on the discussion?

Mr. Hawkins: I will just note for the record that this is a property that is located in a unique position in terms of what is bordering; it is on the edge of the property. The area that we are talking about going east, that is adjacent to this property, is zoned General Business (GB) and it is not residential, so we are not getting closer to a potential residential area, we are getting closer to a business area; I find that to be less intrusive.

Mr. Knox: To clarify my thinking, what we are going to be voting on is a 2' extension in the area shown on the plan that has the "X" bedroom?

Chairman Weidlich: Yes; the new master.

Mr. Knox: Solely on that?

Chairman Weidlich: Right. I have to agree with Mr. Hawkins because this addition is not going to affect the view or anything from the adjacent industrial building because when I was out there the windows were so high that no one is going to see out of those without a step ladder inside the building, and a privacy fence and the tree line is also there shielding the property.

If there is no further deliberation, would somebody like to make a motion, please?

Mr. Knox: I move that we grant a variance to the owner of 609 Maple Trace at Maple Knoll Communities, Incorporated, to extend the building known as the Florida Room, 2' to the east as referred to in Section 153.176.

(Mrs. Ghantous seconded the motion and with a 7-0 "Aye" vote, the request for variance was approved.)

## XII DISCUSSION

Chairman Weidlich: Is there any discussion tonight?

(At this time members of the audience spoke on behalf of the denied variance requests.)

Ms. Goldie Berssenbruegge: I have had family and friends living in Springdale since I was a kid. My husband's dad and my stepmother paved Lafayette Avenue; he hauled in rocks and they spread them with a shovel. You all ought to be ashamed of how you are treating your neighbors because there are elderly people that lived on Lafayette that got notices, one was in her 90's, that her fence had to be painted; it was 100° and my husband and I went out and painted their fences because they had 30 days. These women were so upset by these notices, these people work hard, they have worked hard all of their life. All they want to do is retire and travel and you are telling them that they cannot keep their future home on their property. They have paid taxes to Springdale and they have helped to support this community for all of these years. You all ought to be ashamed.

Chairman Weidlich: Thank you for your comments.

Mr. Hawkins: I can appreciate what you have to say and I can appreciate your frustration for the applicants that did not have a variance granted tonight. I think it is important to understand, when folks get notices issued by the Building Department there is a certain set of guidelines that the City is going by, that the Building Department is going by, trying to maintain a certain appearance for the City. The Building Department does the best they can trying to get around; there are some things that may slip by them, they only have so many resources to do that. From my understanding from working with the Building Department, usually if someone responds to the Building Department's thirty day letter, they can get some more time. I have had the Building Department come along and say we need you to fix your windows or get shutters painted and if we have had a wet Spring, then it is not going to happen because it keeps raining. So, what they are looking for initially is correspondence; and if you correspond with them they will give you time. In general they are pretty good about that. In terms of these folks that sit up here and the folks that come in here to ask for a variance, there is nobody up here that wants to tell their neighbor, their fellow Springdale resident, I grew up in Springdale and went to Springdale Elementary School through Princeton and I am here in Springdale with my family now, there is nobody who sits us here that wants to tell somebody that you can't do whatever it is that you want to do. No one wants to do that. But, the reality is that we get into a slippery slope; Council makes an ordinance and we have to set a limit someplace because I guarantee you there is going to be someone that is going to be upset. Mr. Champion can tell you when the ordinance went into effect, but at some point Council decided they were going to say, 30' X 11', and anything beyond that you will have to come in and talk about it.

Ms. Goldie Berssenbruegge: So how can these things be changed? How can these hard working people who have worked hard all of their lives and they keep their property up - my husband's dad built the house that we live in and he built the house across the street that my grandmother lived in until she passed away recently, now it belongs to my dad - these people have lived in Springdale all of their lives and have helped to build Springdale to what it is, these people have worked hard all of their lives and lived here for years and years, so how has this changed? Right down on Kemper Road there is another motor home sitting on blocks that is very close to CVS pharmacy; why is that sitting there? These fences that needed repainting, there was a park right down the street on Rose Lane that the fence was rustier than these older ladies' fences were. It wasn't painted but their fences had to be painted. There is something wrong with Springdale's system.

Mr. Hawkins: Some of those things are things worked through the Building Department. They don't have fifty people running around checking everything in terms of property maintenance; not everything is going to be caught. To be fair, we don't have the resources to do that. There is not an ordinance that says you can't have a trailer or camper in Springdale; it has to put limits on it. There are limits set in the ordinance. Anytime you grant a variance you are making a legal decision and so for the next person that comes in that is in the same shoes, I'm not saying that you have to grant that variance but the lawyer in me says that they are going to have a good argument to make in Hamilton County Common Pleas Court because they can sit and point and say that other residence has one.

Ms. Goldie Berssenbruegge: So, if you don't grant a variance, how do they appeal this?

Mr. Hawkins: If you want to appeal it you can appeal it to Common Pleas Court in Hamilton County. That is the option you have.

Mr. John Meyer: Have you approved variances for large R.V.'s?

Mr. Champion: Not to my knowledge.

Mr. John Meyer: The reason I asked is there is one in Springdale that is as big as mine sitting in the side yard.

Mr. Champion: I was asked when the ordinance went into effect, it looks like an ordinance was passed in 2000 and then it was updated in 2005 and the last Section was November of 2008, the Section that pertains to campers and such. It is something that changes all the time.

Mr. John Meyer: The one that I see over there is newer than mine.

Mr. Champion: It would fall under the same rules as yours. If you give us that address we will look at it.

Mr. John Meyer: I am not going to report another neighbor. The Building Department should be looking at it.

Mr. Champion: We do. We have one property maintenance inspector and we have one residential inspector and the two of them really go neighborhood by neighborhood. So, it might be that everybody on your street gets orders and then we probably won't be back for about two years based on covering the whole City. That is why you will see your neighbors getting orders at the same time, they walk down the street house to house. The only other way we do that is if somebody calls in and complains then we will go and investigate that.

Mr. John Meyer: O.K. Mr. Hawkins, on your thing with painting the fence, I understand what he said about not having the time. Yet, my neighbor had the paint on her window that was peeling, yet here a couple years ago the City bought two homes, tore them down and rebuilt them because they were that bad; how did our Building Department let them go that far? The one across the street from me has gutters falling off and the roof leaks, then I get caught for painting or something else yet the City lets these people get away. That is my problem with it; I think there is a lot of impartiality in the way things are run. That is my feeling.

Mr. Ramirez: I have lived in Springdale 32 years and I received one of those notices and I had to paint my fence and I paid a \$75.00 fine.

Mr. Dan Tudor: How much time do I have to move my camper?

Chairman Weidlich: That, you would have to discuss with the Building Department. Please contact Mr. McErlane or one of the Building Department Officials.

Mr. Dan Tudor: They gave me six days.

Mr. Champion: They gave you six days?

Mr. Dan Tudor: But now with all of the storage places that are full with campers and boats, it is going to be tough to find a place to put it.

Mr. Champion: Well, call our office and talk to Brian. He is probably the one that wrote the orders, or Mr. McErlane.

Mr. Dan Tudor: All right.

### XIII ADJOURNMENT

Mrs. Huber moved to adjourn, Mr. Knox seconded the motion and the Board of Zoning Appeals meeting adjourned at 7:56 p.m.

Respectfully submitted,

\_\_\_\_\_,2012 \_\_\_\_\_  
Chairman Robert Weidlich

\_\_\_\_\_,2012 \_\_\_\_\_  
Secretary Jane Huber