

BOARD OF ZONING APPEALS MEETING  
MAY 15, 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: William Reichert, Lawrence Hawkins III, Carolyn Ghantous, Robert Weidlich, Joe Ramirez, Ed Knox, Jane Huber

Others Present: Randy Champion, Building Inspector

III PLEDGE OF ALLEGIANCE

IV MINUTES OF THE REGULAR MEETING OF APRIL 17, 2012

(Mrs. Ghantous made a motion to accept the April 17, 2012 Board of Zoning Appeals meeting minutes; Mr. Hawkins seconded the motion. A unanimous affirmative vote was taken at the end of the meeting from the Board of Zoning Appeals Members and the minutes were approved as written.)

V CORRESPONDENCE

Chairman Weidlich: Everybody should have received the Ordinance 17-2012 in their packet.

VI REPORT ON COUNCIL

(Mr. Hawkins presented a summary report of the April 18<sup>th</sup>, 2012 and the May 2<sup>nd</sup>, 2012 Springdale City Council meetings.)

Mr. Hawkins: The only other thing that was discussed is that we talked about and had a presentation from the Charter Revision Board dealing with Boards and Commissions and the number of years for each term for Planning Commission and Board of Zoning Appeals for Council Members. There was some discussion about changing the terms from four years to two years.

Mr. Knox: The change would be to the terms of the Members of Council. As I understand they don't want to change the other Members of the BZA and Planning.

Mr. Hawkins: The primary thing was that Members of Council; the Charter Revision did say they looked at all Members on those Boards, too and it was their suggestion that the Council even look at changing our resident's terms as well to two years. The primary thing was changing Council Member's terms from four years to two years on those two Boards. If that is going to happen, we anticipate that it will be on the November ballot but we haven't voted to put it on the ballot yet; I think that we would have to wait until July at the earliest that we could put it on the ballot.

VII REPORT ON PLANNING COMMISSION

(No report presented for Planning Commission.)

VIII CHAIRMAN'S STATEMENT AND SWEARING IN OF APPLICANTS

IX OLD BUSINESS

(No Old Business presented at this meeting.)

X NEW BUSINESS

- A. Chairman Weidlich: The owner of 501 Lafayette has applied for a variance to erect a patio roof 7' into the front yard. Said variance is from Section 153.580(D) "An entrance hood, deck or open but roofed porch may project six feet into a required front yard..."

Mr. Billy Mason: I am a resident of 501 Lafayette. We have a patio that is on the southeast corner of our house. We have decided that we want to put a roof over it so that we can have the convenience of a roof over the patio. I decided to build a solid roof. I talked to Mr. Bill McErlane about the plans and everything was o.k.; then we discovered that on the east side of the patio which is on Rose Lane and is also considered a front yard and he informed me that I would have to move the poles 1' on the east side into the patio. That would mean that I would have to cut the cement up so that I can dig the holes 30" deep. After we looked at it we decided it would look hideous. Beside that, there is a small stoop-type porch that goes into the kitchen from there, and if you move the poles in a foot then that would put the poles almost against the porch; you couldn't walk between the poles and the porch. After all of that I decided to apply for the 1' variance.

(At this time Mr. Campion read the Building Official's comments.)

Mrs. Anna Mason: I live at 501 Lafayette Avenue. He said what I wanted to say with the exception that the cement was there when we bought the house, so it obviously was approved or had a permit for it. My biggest problem with not being able to put the poles on the outside of the cement is you can't walk through there then. You have to go out into the yard to get past that part of the porch. I just really think it would look terrible to dig up the cement to put holes in it.

(No other members of the audience came forward to speak and the Chairman closed this public portion of the hearing.)

Mr. Knox: I stopped by yesterday and took a look and saw where the poles were; if you move them one foot forward, would you be able to safely egress in and out of that door, for instance with a wheelchair?

Mr. Billy Mason: No. Which door are you talking about, the side door?

Mr. Knox: The side door, yes.

Mr. Billy Mason: That opening is 48"; so then you could.

Mr. Knox: So, if you had the posts moved one foot forward?

Mr. Billy Mason: No, you could not. If the posts were in, that would be another negative, in that you could not make a ramp because of the posts.

Chairman Weidlich: I am assuming the tree there on the side is going to remain?

Mr. Billy Mason: Yes, sir; that has no effect on the tree.

Chairman Weidlich: Good. I think it enhances things a bit in my viewpoint.

Mr. Hawkins: I would like to note for the record that I think the resident has a unique situation being on a corner lot, having two front yards and I also find this variance not to be substantial.

Mr. Knox: I am going to be voting in favor of this, specifically because of the safety issue. Although neither you nor your wife need a wheelchair at this time, you could sell this house in the future and variances go with the house over a long period of time, so I will be voting in favor.

Chairman Weidlich: I will also be voting in favor because you have a difficult piece of property to work with. I think this will enhance your property and give you some shade.

Mrs. Huber: I move to grant a variance from Section 153.580(D), so as to allow a patio roof to be erected 7' into the front yard at 501 Lafayette Avenue.  
(Mr. Knox seconded the motion.)

(With no further deliberation, discussion or amendments Mrs. Huber polled the Board of Zoning Appeals Members and with 7 "aye" votes and 0 "no" votes the request for a variance was approved.)

B. Chairman Weidlich: The owner of 584 Observatory Drive has applied for a variance to allow an addition to be built 19' from the rear lot line. Section 153.102(A) "Single household dwellings shall have a minimum rear yard setback of 35'."

Mr. Matt Hood: I am actually not the homeowner, I am the contractor. The homeowner wasn't comfortable in front of a crowd, so I am here to represent them.

Chairman Weidlich: Mr. Campion, we are supposed to have a signed affidavit, I believe, for someone else to speak?

Mr. Campion: I am thinking that the owner has hired the contractor, which would act as their agent, but I don't know.

Mrs. Ghantous: But the owner signed the application.

Chairman Weidlich: Since the owner signed it, I guess everything is good. What I would like to do since these are two separate things, a screened porch and an addition on the north end, I think we ought to consider these separately. We will start with the addition.

Mr. Matt Hood: The addition, because this is a corner lot, we are going out the only direction that we thought we could for the actually addition, the north side. We are making it the same width of the house we are not extending past anything and they are looking at adding square footage to the home; to address the cosmetic issues and to update the home and add square footage for themselves.

(At this time Mr. Campion read the Building Official's comments.)

(Chairman Weidlich did swear in Mr. Mick Higgins, 579 Observatory Drive, a member of the audience (not sworn in earlier) who indicated that he would like to speak on behalf of this variance request.)

Mr. Mick Higgins: On behalf of my wife and myself, our primary concern was that we had little knowledge of what was going into the area and it has typically had some maintenance issues in the past for the blight of the street and we are concerned with what construction is going in there, having not been able to see any of the blueprints or the plans. We are finding out tonight that it is not an addition on just one side but two sides of the building, then we definitely have concerns. We are glad that there is a general contractor assigned to this but I think we would definitely like to have some time to confer with the owner who couldn't be here

tonight as far as being able to see the plans to find out exactly which part of the building this is going in and how much of an intrusion it would be to the neighbors, as well. Also, what height projections that this may have to interfere with the house that is in direct line of site from our front yard.

Chairman Weidlich: Did you state your address?

Mr. Mick Higgins: 579 Observatory Drive. We are catty-corner from this property.

Chairman Weidlich: Have you seen the two areas?

Mr. Mick Higgins: I have not seen the two areas.

(Chairman Weidlich gave Mr. Mick Higgins an opportunity to view the drawings showing placement of the requested addition.)

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

Mr. Reichert: Well, my question is to the person that was just at the podium (Mr. Higgins); you said you were on Observatory, you are diagonally across the street?

Mr. Mick Higgins: We are across the street and down one lot, away from Kemper.

Chairman Weidlich: My main comment is, what color pallet will be used on this addition on the north end?

Mr. Matt Hood: We are actually looking at the general purpose which is trying to get the entire outside of the home in better condition; new roof and our shingles are going to match the new shingles. Also, it is an Everest green siding, it is like a pine needle siding, it is a vinyl siding and asphalt shingles and conventional construction on a concrete slab opening up those two bedrooms basically; white windows and doors. It is a fairly basic structure.

Chairman Weidlich: Now the color scheme, is that going to clash and stand out like a sore thumb with the current color of the home?

Mr. Matt Hood: He is going to tie everything in together; right now it is a real dark brown, bronze color. We are going with a dark green on the addition and then the rest of it he is going to paint the existing siding to match.

Chairman Weidlich: Just out of curiosity, is he going to be losing a bedroom or something to be able to put this on, since this is listed as two additional bedrooms?

Mr. Matt Hood: It is actually adding onto the two bedrooms that are there currently.

Chairman Weidlich: So you are going to have to do some major structural work there?

Mr. Matt Hood: The structure is mostly there. There are nine foot windows there and we are going to be able to remove those, cut down the knee wall; those will extend into the addition and give them the extra square footage. It will actually be two separate bedrooms.

Mr. Hawkins: Is the property line in the rear up against that fence that is back there, that neighbor, or does it cut off before that?

Mr. Matt Hood: Before the room addition itself?

Mr. Hawkins: The applicant's property line; there is sort of a line of pseudo trees, stumps or what have you and there is a fence back there too; does it go all the way to the fence or does it cut off before that?

Mr. Mat Hood: We are matching the house itself. If you were to look directly at the house, that won't change at all; we are not extending either way that way. If you are standing directly on Observatory and looking at the left hand side of the house, directly at the side of the house it is getting extended ten feet. The depth and the projection of the home aren't changing. The problem is that the 35', the existing house doesn't have that so when we are matching the existing house we are actually too close to the rear of the property line.

Mr. Hawkins: On the Grandin side, if you were looking at the back part of the house, I know that neighbor's fence doesn't go all the way down there but is that where that property line is?

Mr. Matt Hood: It is fairly close to that fence; that is correct.

Mr. Hawkins: And with regard to the proposed room addition, I guess it wouldn't really affect the other part of it but there is a decent size tree on that northeastern part of it, does it impact that tree, does it have to be cut down?

Mr. Matt Hood: It does not.

Mr. Knox: I stepped off the distance and that fence appears to be within six inches of the property line.  
What time frame does the owner expect to paint or whatever, the existing house?

Mr. Matt Hood: I believe it is pretty much that he is doing the painting when we are finished with the addition.

Mr. Knox: So, he wouldn't be upset if we set a time limit on how soon he should paint it?

Mr. Matt Hood: I don't believe so.

Chairman Weidlich: If there is no more discussion, can we please have a motion. Since the applicant stated that the owner is going to paint the house to match the addition, I think that we could work that in to the motion.

Mr. Knox: I would like to make a motion that we have a variance from Section 153.102(A); to allow a 10' X 24'-8" extension on the north side of the residence at 584 Observatory Drive and also that the owner prior to the end of the year have the house painted a consistent color.

Mr. Ramirez: Could you tell us when you would start construction?

Mr. Matt Hood: That particular portion would start within a few weeks. So that would be sufficient time.

Mr. Ramirez: Do you think from that period, once you complete it, to the end of the year six months or so is too long to go before it gets painted?

Mr. Knox: Having once worked in the construction industry I know the difficulties of the weather, so I hate to give a truncated amount of time to do that. You are not really going to be painting in November or December so realistically by the first of November it should be complete.  
I would modify my motion to be painted by the first of November.  
(Mr. Ramirez seconded the motion.)

Chairman Weidlich: Do we have any further deliberation or amendments to the motion?

(No further discussion was presented; Mrs. Huber polled the Board of Zoning Appeals Members and with 6 “aye” votes and 1 “no” vote the request was approved with conditions.)

- C. Chairman Weidlich: We will now move on to the screen-room addition on the east side of the home at 584 Observatory Drive, as the other variance.

Mr. Matt Hood: The screen room itself that is existing now, has a problem with the roof leaking and there are some structural issues. We are basically going to go in and remove all of that and put in a proper roof and proper footings and foundations and as we were doing that, he asked if we could make it bigger. It is going to be a glass enclosure, windows, doors, roof and walls. It is slightly larger. We are going to be putting in the proper footings 30” deep, around the new concrete that we are going to pour. I believe it takes us down to 19’ from the fence to that. Being on that side we didn’t have anywhere else that we could extend out otherwise. So we wanted to take out the old structure that was there that is having problems and basically improve upon it.

Chairman Weidlich: Mr. Campion already read us the Staff comments on this. We will now open the floor to the public for communication on behalf of the screen-room addition?

(No one from the audience came forward to speak concerning this variance request and this portion of the hearing was closed.)

Mr. Ramirez: How much larger is the proposed new screen room as opposed to the current?

Mr. Matt Hood: I believe we are going out an extra nine feet.

Mr. Reichert: We were given a brochure from Patio Tech; is that the company you work for?

Mr. Matt Hood: Yes, that is my company. That is a good representation of the glass room that is going on the back. It is a studio style, straight out and not the gable-style roof.

Chairman Weidlich: The siding below the windows, is that going to match what you are doing on the north-end, as well?

Mr. Matt Hood: Yes, same siding.

Chairman Weidlich: Paint and everything will blend in and you will have the white framed windows?

Mr. Matt Hood: Yes.

Mr. Reichert: You are going to have siding on the room addition that we just approved?

Mr. Matt Hood: That is correct; vinyl siding.

Mr. Reichert: But he is not planning to do vinyl siding on the rest of the house to match it, just painting it to match?

Mr. Matt Hood: That is correct.

Chairman Weidlich: If we have no further questions or discussion among the Board Members, could we have a motion on the sun-room addition?

Mr. Knox: If we allow this, several other people in this City will want the exact same thing and I am a great believer in precedent, plus I really don't like getting within 19' of that fence with the bushes on that side of it; therefore I am going to be voting against it because I don't think it is a good thing for the City.

Mr. Reichert: I make a motion that we grant a variance for 584 Observatory Drive for a screened-in porch to fall within 19' of the back property line, as described by the diagram and the dimensions were stated as 9' X 11'-6".  
(Mrs. Ghantous seconded the motion.)

(With no further deliberation, Mrs. Huber polled the Board of Zoning Appeals Members and with 2 "aye" votes and 5 "no" votes the variance request was denied.)

## XI DISCUSSION

- A. Chairman Weidlich: We have one item for discussion this evening (continued discussion from the April 17, 2012 BZA meeting, concerning definition of vegetation at 12134 Kenn Road).

Mr. Champion: I talked to Bill McErlane and what he felt was clear that the Board wanted, was to have the building screened from the neighbors and that the vegetation should remain in place to screen the building from the neighbors and not necessarily from his own house. He didn't feel that the variance needed to be changed, the language is o.k. and we will enforce it that way. If he removes vegetation to the right of his building or between any of his neighbors, we will enforce that part of the variance. He didn't feel that there was a need to change it and no further action is required by the Board.

Chairman Weidlich: O.K., good. Anyone else have anything for discussion?

Mr. Knox: Will a comment be added to the variance to make sure the people don't miss that 50 years from now?

Mr. Champion: Yes. From the discussion I had with you and the discussion I had with him we kind of got an idea for what the Board wanted and I think that was to screen the building from the neighbors. I guess we can put a note in the file and we can add the minutes from our discussion to it, so that it will be clear in the future.

- B. Mr. Hawkins: I am going back to item IV, I don't think we actually voted on our Minutes. Just as a point of order, I wanted to make sure we called a vote.

Chairman Weidlich: I thought we did.

Mr. Hawkins: I don't think we actually did, just for the sake of clarity for these Minutes.

(At this time there was a unanimous affirmative vote from the Board of Zoning Appeals Members to approve as written the April 17, 2012 BZA Meeting Minutes.)

- C. Mr. Reichert: I would like to make a comment added to the Minutes that the way the structure of this Board of Zoning Appeals has been set up since I have been a Member is that the Members have an appointed position, by one way or the other; Council is represented by two Members and the Planning Commission is represented by one Member. I, for one, have been disappointed that we don't know what it going on in Planning Commission since this has been new terms for everyone; I have totally lost contact with what is going on with the Planning Committee. Many times those things eventually wind up here. There was a purpose of having that liaison, just as well as there is a purpose for having Council Members here so that they can take information back and forth. I would very much like to hear reports from the Planning Commission.

Mrs. Ghantous: I will make sure you have a report. I was unsure what kind of information would be wanted, so I am happy to provide that for you and I will be sure to do that at the next meeting.

Chairman Weidlich: Just a kind of synopsis like Mr. Hawkins does about Council meetings so the Board Members have an idea what is going on.

Mrs. Ghantous: No problem.

D. Mr. Hawkins: Along the lines of taking information back, for the sake of Mr. Knox and I, as we will have more discussion with regard to terms for Planning Commission and BZA: The main focus has been for Council Members, but there was some discussion from the Charter Commission that they had looked at the other Members on the Boards and Commissions, as well, and it didn't seem like there was a high likelihood that they are going to change the other Board Members but there is a good likelihood that we would look at changing the Council Members. Do you guys have any input with regard to the non-Council Members for those Boards and Commission being two years versus four years? Again, I think most folks on Council would probably support four years for you guys; is that your take Mr. Knox?

Mr. Knox: I don't think there is a great movement to change the non-elected people.

Mrs. Ghantous: I think though, it takes four years to learn what is going on. Two years is not a very long time when it is always different issues, so it is not that you are hearing the same issues every month or every other month, it may be the only time in the four years that you hear that one particular set of circumstances. So, to me it was vital to my learning how everything works but two years wouldn't have been long enough for me to feel like I was making a contribution to Planning Commission. There is a lot to learn.

Mr. Reichert: Is there any guidelines? I have been on here and a Council Member has been here for awhile and maybe he gets voted off Council and we have new people come in, has there been a time limitation for that? I don't think I have ever seen anyone from Council be here four years.

Mr. Hawkins: The rules of Council indicate that we have two main things for Board of Zoning Appeals and Planning Commission, and those are the only ones that have these set terms by Charter: There is supposed to be one Member who is voted in at large and one Member that is voted in by District, so they are going to have overlapping terms and you must have them serve a four year term on BZA and Planning Commission respectively. Our rules of Council mirror that. That can change and there is nothing that says that Council Members can come off of that if they want to, but they are set. What happens every two years is the President of Council will put Council Members on Boards and Commissions. They will either renew or change folks on every Board and Commission; there will be two spots that will not be touched every two years and that is one member on Planning Commission and one member on Board of Zoning Appeals. At the same time they will put one person on Board of Zoning Appeals and one person on Planning because of the overlap with the District Reps and the at large Reps. That is something that is in place and it hasn't been like that forever; it was something that Council changed by Charter probably twelve years ago.

Mr. Reichert: So it is set for a four year term for both but they are staggered terms, overlapping terms.

Mr. Hawkins: Yes.

Mr. Reichert: My feeling is two years is probably long enough for a Council Member because he has other tasks and other appointments that I would like to see him get involved in instead of just being focused here for four years and maybe not

be on another committee or something like that. I feel two years is a sufficient amount of time for a Council representative. And again, how do you do that on staggered every two years, I don't know; that is a little tough. My other question pertaining to this, was there any discussion in this meeting or during that discussion about term limits, not necessarily Council Members but all Members of the Board of Zoning Appeals?

Mr. Hawkins: No, we did not discuss that and I think that the two countervailing points were the rationale for changing it to two year terms is about letting Council Members get some more variety with regard to what they are helping out with. The countervailing point for not changing it is about maintaining consistency within. The idea of putting term limits on for non-elected officials within those Boards and Commissions, I think would even create more concern particularly if we are potentially moving Council Members every two years. Just because we have it there doesn't mean they have to move. With regard to Planning Commission and Board of Zoning Appeals, they are probably the two most important Boards and Commissions that we have in terms of laying out the City and having vision for the City and folks executing it. You guys are very, very important in doing that and as elected officials come and go the hope is that our residents that are on these Boards and Commissions are going to be able to maintain some continuity that is going to be able to lead and carry out that vision regardless of who is elected and who is sitting here, because that is going to change.

Mr. Reichert: That is why I am going to express my agreement to that, that there has to be some continuity; in that, I would not favor term limits for other non-Council Members. That is my personal opinion.

Mr. Knox: To Mr. Hawkins' point, there is nothing that will drive the President of Council from changing people every two years; it will be up to him or her as what they see fit. As an election comes along someone might be elected who is very, very strong in one area and if there is somebody sitting already on a four year term then there is no way to put that person in there. So, it does give the President of Council a lot more latitude. Also there may be somebody on one of the Boards who wants to get off of that and get on something else so it does give more flexibility.

Mr. Reichert: Again, with what Mr. Knox just said I am in agreement with the possibility of someone having some expertise. But I also, sitting on here, was very happy for having some people get off in two years. I am not mentioning any names but I think two years is appropriate.

Mr. Ramirez: For the sake of the record, I pretty much agree with Mr. Reichert's comments.

## XII ADJOURNMENT

Mr. Hawkins moved to adjourn, Mr. Ramirez seconded the motion and the Board of Zoning Appeals meeting adjourned at 7:59 p.m.

Respectfully submitted,

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

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