

BOARD OF ADJUSTMENT

MINUTES

May 4, 2023 @ 5:00 p.m.

The Board of Adjustment held a meeting on Thursday May 4, 2023 at 5:00 p.m.

Members Present

Wendell Miller, Chairman
Don Jacimore, Vice Chairman
Wayne Cummings
Josh Stroud

Members Absent

Justin Cothren

Visitors Present: City Planner Sara Jondahl, Planner I Victoria Marchant, Planning Assistant Caden Lemley, Ira Weimer, Carrissa O'Bryant, Greg Long

Welcome Visitors

The First Order of Business is a request to review and approve the minutes of the Board of Adjustment April 6, 2023.

Member Cummings made a motion to approve the minutes as written. The motion was seconded by Member Stroud and passed unanimously.

The Second Order of Business is a Variance from Article 4.1 to allow a 6' fence in the front yard despite the 3.5' height limit. Submitted by William and Laura Wetzel. (VARI-0423-000349)

Planning Assistant Lemley stated that this is a variance from the fence height requirement located at 9 Pleasant Hills Drive. He stated that the existing conditions are that located within the Marina Heights, this is a Single Family Home. He stated that it is an R-1, Single Family Residential zoned property surrounded by other R-1 zoned properties. He stated that surrounding properties include other single family homes and Lake Dardanelle. Planning Assistant Lemley stated that the application is to allow the construction of a fence in the required front yard that is 6 feet tall instead of the maximum allowed of 3.5 feet. He stated that his fence would replace an existing fence of the same height that was knocked down in a storm earlier this year. Planning Assistant Lemley stated that staff has found that the applicant has demonstrated that special conditions exist as this fence is replacing an existing fence that predates the current fence height requirement. He stated that the proposed use is in conformance with the Table of Permitted Uses and that the granting of this variance is in harmony with the purpose and intent of the code.

Staff recommends approval of this application as a result of the findings below:

1. The applicant has demonstrated that special conditions exist; and
2. The applicant has met all of the other variance requirements.

Member Cummings made a motion to approve the application as presented. The motion was seconded by Member Stroud and passed unanimously.

The Third Order of Business is a Variance from Article 14 requesting a 5' Variance from the front yard setback requirement to allow a 20' front yard setback. Submitted by Christopher John Palmer. (VARI-0423-000350)

Planner I Marchant stated that this is a variance from the front yard setback requirement at 401 Mountain View Court. She stated that the existing conditions are that located within the Marina Heights District, this is the proposed site of a new single family home. She stated that the property is zoned R-1 surrounded by other R-1 zoned properties, and surrounding properties include single family homes, a cell tower, and Fire Station 2. Planner I Marchant stated that The applicant is requesting a variance to the front yard setback requirement due to the unique shape of their lot and concerns with being able to fit their septic lines in. She stated that staff has found that the applicant has demonstrated that special conditions exist due to the unique lot layout. Planner I Marchant stated that the proposed house location meets the front yard setback requirement for the adjacent subdivision. She stated that additionally, the proposed front of the house is 40' back from the other side of the front yard.

Staff recommends approval of the variance request with the following conditions:

1. The applicant shall submit for a property boundary verification and may have to complete an Incidental Subdivision if the property cannot be confirmed.

Based on the findings below:

1. The applicant has demonstrated that special conditions exist; and
2. The applicant has met all other variance requirements.

Member Cummings made a motion to approve the application as presented. The motion was seconded by Member Stroud and passed unanimously.

The Fourth Order of Business is a Variance from Article 4.3 requesting relief from the privacy fence requirement. Submitted by HTW Architects, Engineers, and Planners on behalf of MARVA Workshop. (VARI-0423-000354)

Planner I Marchant stated that this is a variance from the privacy fence requirement at 1205 S Arkansas Ave. She stated that the existing conditions are that located in the South Arkansas Commercial Corridor, this site is the location of the existing MARVA Workshop. She stated that

it is a C-2 zoned property surrounded by C-2 and R-2 zoned properties including uses such as a church, retail stores, and residential properties. Planner I Marchant stated that the applicant has received building permits for a 4,000 square foot building addition on their site. She stated that as a result they have been required to come into the privacy fence requirement of Article 4.3. She stated that there is an existing chain link fence however it does not meet the requirements of Article 4.3. Planner I Marchant stated that staff has not found that the application has demonstrated that special conditions exist as the two reasons cited by the applicant for the variance could not be considered. She stated that the first being financial strain, staff cannot consider the financial burden as a special condition. She stated that the second reason cited were the other commercial properties in this block that abut residential uses/zones and do not have privacy fences. Planner I Marchant stated that staff cannot consider other non-conforming uses in the area as grounds for granting this variance. She stated that lastly the applicant cited the existing fence. She stated that the current fence is not compliant and compliance with the fence requirement is being required due to changes to the site that are being done.

Staff recommends denial of the variance request based on the findings below:

1. The applicant has not demonstrated that special conditions exist; and
2. The granting of this variance is not the minimum variance allowing reasonable use of the land; and
3. The variance is not in line with the purpose and intent of the Zoning Code.

Member Jacimore asked if they had reached out to the adjacent landowners and if they had had any response from them. Planner I Marchant stated that as a result of the new Zoning Code updates they do not have to notify the landowners anymore for variances but for special use permits and stuff that goes before the Planning Commission. She stated that they had it posted on their property, but they did not hear anything. She stated that she believes MARVA did send out letters. Planner I Marchant stated that staff has not heard of anything, but it was published in the paper. Member Jacimore replied that a friend of his who owns nearby property called him and said that he did not mind the fence.

Member Jacimore asked how many linear feet is the fence. He asked if it was just between MARVA and the housing or if it was the whole length of the property.

Member Cummings asked if this was a privacy fence that was being replaced with a chain-link fence. Planner I Marchant stated that it is not a privacy fence but that currently there is a chain-link fence.

Planner I Marchant stated that she would check on the linear footage of the fence. Member Jacimore replied that based on the information given to him, he could not tell. Planner I

Marchant stated that this does not apply to the entire portion of their property, only the portion that abuts the residential zoning or uses.

Member Stroud asked if they were wanting to replace a chain-link fence with a chain-link fence rather than replacing it with a privacy fence. Planner I Marchant stated that they are not proposing to replace a fence at all. She stated that part of the requirements for making the addition is replacing the fence with a privacy fence abutting residential uses.

Member Cummings asked why it says on the drawing that the fence is going to be replaced but they are saying that they do not want to. Planner I Marchant stated that they said that on the drawing so that they could move forward with obtaining building permits.

Carrisa O'Bryant, Marva Executive Director, stated that they notified all of their neighbors, and she believes that all of the residential properties that abut their property are rentals. She stated that they had reached out to the owners of those properties, and they have spoken to their board president that they have no problems with the fence. MARVA Executive Director O'Bryant stated that the portion of the fence is roughly 800 linear feet. She stated that it has been there for many years and that it is intact and in good shape with no problems. MARVA Executive Director O'Bryant stated that their mission is providing employment options for people with disabilities. She stated that all of their money, as a non-profit organization, they try to pour into their mission. She stated that they had received a grant to help them build a new building. MARVA Executive Director O'Bryant stated that they are out of space, so to keep their workplace safe they need this addition. She stated that it will be towards the front of their property, while the residential uses are towards the northeast and the east side, and this would be on the west side. She stated that the current fence, while it does not meet this requirement, did meet code requirements when it was built, and this would be taking down a perfectly good fence. MARVA Executive Director O'Bryant stated that the main thing is safety for their clients. She stated that currently if a client was to wander away, they would have a good line of vision to see them on the other side of the fence. She stated that a privacy fence would put them at risk of taking longer to locate the client. She stated that they have not had anybody wander off during her time there but she had worked in the disabilities field for about twenty years and she has seen it happen. MARVA Executive Director O'Bryant stated that she wants to keep her clients safe and that she humbly requests the approval of this variance.

Ira Wiemer, architect, asked if the board had any technical questions. The board did not have any technical questions.

Member Jacimore made a motion to approve the variance. The motion was seconded by Member Cummings and passed unanimously.

The Fifth Order of Business is a Variance from Article 3.22.5 requesting relief from the Commercial Building Design requirements. Submitted by Crafton Tull on behalf of Quick Truck Wash. (VARI-0423-000353)

Planner I Marchant stated that this is a variance from the Commercial Building Design Standards at 43 Interstate Drive for Quick Truck Wash. She stated that the existing conditions are that located in the East Main Commercial District this site is the location of Quick Truck Wash. She stated that it is a C-2 zoned property surrounded by other C-2 zoned properties including uses such as a Truck Repair business, a travel center, and offices. Planner I Marchant stated that the applicant has applied for building permits for an addition for a “touch-up” area. She stated that the portion of the addition that faces the Interstate Drive Right-of-Way is open and is not required to meet Commercial Building Design because there is no facade. However per the code, “the forward eight feet of any side perpendicular to a street” shall meet Commercial Building Design. Planner I Marchant stated that as a result of this staff is requiring the applicant to meet Commercial Building Design for the first 8 feet of the addition that runs perpendicular to Interstate Drive. Planner I Marchant stated that staff has not found that the applicant has demonstrated that special conditions exist as the intent of the Zoning Code is for buildings to come into compliance as they redevelop. She stated that the existing non-conformance of the structures within the immediate area cannot be considered as grounds for granting a variance.

Staff recommends denial of the variance request based on the findings below:

1. The applicant has not demonstrated that special conditions exist; and
2. The granting of this variance is not the minimum variance allowing reasonable use of the land; and
3. This variance is not in line with the purpose and intent of the Zoning Code.

Greg Long, Crafton Tull, stated that Quick Wash is located on Interstate Drive. He stated that it is an existing facility that washes trucks. He stated that the truck wash gets very busy in the afternoon and evenings. Mr. Long stated that sometimes a driver might notice where they missed a spot, so instead of making the driver go to the back of the line and wait for it to be cleaned they would have them pull over to the side to clean the missed spot using a water hose. He stated that Code Enforcement saw what was happening and told them that since they were washing a truck they had to catch the wash water even though it was very little. Mr. Long stated that the solution is to build a trench drain like you would inside the bay to catch the water. He stated that the problem then would be that the trench drain cannot be open to the elements. He stated that to protect the trench drain, they are proposing a canopy. Mr Long stated that it would be an open canopy with the exception of the south wall they would have a skirt wall coming down from the side of the building for a distance of about ten feet. He stated that it would be about seven feet off the ground. He stated that that was to keep the sideways falling rain from getting into the trench drain. He stated that he had photographs of what it would be similar to.

Member Jacimore asked if the inwalls were going to have a skirt wall coming down from the roof about ten feet leaving no bottom area to put a facade. Mr Long confirmed that that was correct.

Mr Long stated that they were doing the same thing as in the picture provided except that it would not be as tall. He stated that in his discussion with City Planner Jondahl, they had to use an alternate material. He stated that one of the alternative materials was wood, but his office being across the street, Mr Long stated that he would rather look at the metal building than wood pickets. Mr Long stated that when a business is expanding, it is a good thing, and he is just trying to comply with Code Enforcement as this does not add any value to his business.

Planner I Marchant stated that to clarify they are just requiring Commercial Building Design standards on the south portion where the skirting will be.

Member Jacimore asked Planner I Marchant what another material would be that they could use other than metal and wood. Planner I Marchant stated that acceptable materials are glass, brick, and a few other options.

Mr Long stated that another option would be to leave it all open so that they would not need a facade, but they do not believe that is the best option.

Member Jacimore made a motion to approve the variance. The motion was seconded by Member Stroud and passed unanimously.

Meeting Adjourned

Chairperson