



City of Jonesboro

Municipal Center
300 S. Church Street
Jonesboro, AR 72401

Meeting Minutes Board of Zoning Adjustments

Tuesday, December 15, 2015

1:30 PM

Municipal Center

1. Call to Order

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2. Roll Call

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3. Approval of Minutes

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November 17, 2015 Meeting Minutes

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A motion was made by Jerry Reece, seconded by Sean Stem, that this matter be Approved . The motion PASSED with the following vote.

4. Appeal Cases

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Marla Boyer requests a variance for property located at 509 Bartonvale Ct. to waive the fence height and front yard requirements to allow a 6ft. privacy fence.

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Ms. Boyer, 509 Bartonvale Court, I want to put a 6 ft. fence connecting to my back fence out to the edge of the ditch, on the north side of my property.

Mr. Spriggs: Chairman this is brought before you because privacy fencing is required to be in the side or rear yard, but because she is bringing it forward into the front yard for privacy reasons that is why the appeal is being brought before you. One requirement is that she has to face the good side out and because this is a 6ft. request, 2 ft. over the requirement, that is why it is being brought before you.

Donna Hall, 506 Bartonvale Court, my husband had a stroke in March, he just had one this Thanksgiving I lost him then they brought him back. Ms. Boyer came in my yard on July 13th and attacked me. I have a no contact order against her; she is to leave me alone. I went to court September 1st; and they were going to postpone it until October 7th. Judge Blackman gave me a 6

month restraining order against her, I have done nothing to this women. I would like to see a survey stop, so I can see where the property line is. I don't want this lady on my property.

Mr. Miles: You understand that the only thing this board can do is give a variance or not give a variance.

Donna Hall: I want to see a survey stop, so it can be on the property line. After it goes up, I don't want this lady back on my property. She needs an opening so she can go back to the back of the property so she won't have to go on mine. I want her off my property.

Mr. Sean: Considering what your neighbor is asking, I would consider getting a survey. If you put it on the wrong side you will have to take it down. Would you be opposed to getting a survey?

Ms. Boyer: Yes, I would because all she is doing is trying to cost me more money. The center of the ditch is the property line.

Mr. Spriggs: What we will be willing to do is work with the Engineering Department and look at the easement of the drainage and determine where the property line is to the best of our ability.

Ms. Boyer: I was told that the center of the drain ditch was the line.

Mr. Spriggs: Ms. Boyer, are you opposed to putting some type of gate access at the back of the property?

Ms. Boyer: Yes, I am.

Mr. Reese: I think you're headed towards a civil matter down the road if you don't get the survey. It will save you money and headache if you do the survey before you put the fence up.

Ms. Boyer: So I couldn't take the word of the City Engineers?

Mr. Miles: I would not. I would take heed what this committee is trying to share with you to keep from a grievance down the road. Have that survey done, have it down properly, do it one time only and be done with it.

Carol Duncan: Legally, you can't rely on the Engineers. The city will not be liable if the fence goes up in the wrong place. They will tell you to rely on the survey, that's why it's important.

Mr. Spriggs: She's required to pull the fence back so there's no site obstruction to the view of the neighbor pulling out of the driveway, so she has to stop it shy of the property line. Anywhere from the front wall of the house is considered the front yard.

Mr. Stem: How far is it from the street?

Mr. Spriggs: I believe 10-12 ft. from the right of way. Is that correct?

Ms. Boyer: Yes, utilities have come out and marked everything. It is my

understanding that I can go up the front of the drainage ditch.

Mr. Miles: Before the fence is put up, have him stake it first and let the city look at it to make sure that it falls within the governing areas.

Ms. Boyer: Ok.

Ms. Hill: I have a stop at the back; my property comes into a pie shape. Matter of fact I think her flower bed is 3 ft. over on my property.

Mr. Miles: That's why we are requesting from her to have a survey done on the property. To make sure she's not on your property.

Mr. Stem: I make a motion we pass the variance and make a condition that she backs the fence up to allow room to take care of weeds and a survey is required.

Mr. Chair Mr. Miles.

Mrs. Sean I move to pass the variance as long as Ms. Boyer backs the fence up to allow the taking care of weeds between her and the property. Survey is required as well.

Cesar Islas requests a variance for property located at 350 N. Airport Road to allow an expansion of an existing non-conforming use to include a hookah lounge as an accessory to the existing private club- Diamond Grill.

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Cesar Islas, 305 Airport Rd.

Mr. Spriggs: In my absence I had the opportunity to read the record, apparently there were a lot of questions from the board. This is a nonconforming use that is located on Airport Rd., formally the Eagles; Mr. Cesar is requesting to enhance what he's doing now. He's trying to add hookah lounge as an accessory use to that property under that same non-conformancy. That is what has been brought to the Board of Zoning and Adjustments, to entertain if whether or not the hookah lounge would be within the spirit and intent of the nonconforming and would not cause a greater impact on that area other than what activity that is going on right now. In terms of what the City is doing, the Planning Commissions has developed a sub-committee to look at hookah lounge which does not exist in our zoning code. We are trying to update our code to deal with uses that are considered new and not a part of the old code. We created a typical definition for hookah lounge, we are relying strictly on the laws that handed down by the state that regulate those form of uses in terms of hookah lounge which is a form of vapor, a tobacco product. Think there was some question as to the impact of use, how to separate the uses. If there are some outstanding questions, please feel free to ask. I also invited Ms. Carol Duncan, City Attorney, to address and legal questions.

Cesar Islas: This is my manager; he can answer all of those questions. He is the one running the club.

Westin Wagner, Diamond Grill Manager, 3571 Hwy 349.

Mr. Sean: The non-conforming use is the only thing we are looking at; we are not approving what he will be doing in there, right? The State regulates that, correct?

Mr. Spriggs: That state regulates the use in terms of hookah lounge, liquor license; all of those are regulated by the state so they have strict requirements in terms of Fire codes and such. They are requesting a permit to enhance the space to provide those separations required by the State. You have to have 2 entrances and then the age requirements have to be adhered to, which are handed down by the State. The board had some questions, as to how do you keep the 18 year olds out of the bar area; those are the questions you need to answer.

Mr. Wagner: According to ABC Law, if you have an open kitchen and serve food, you can technically have anybody in there. We are an 18 and up club, when they come in we check their ID, if they are 18 or under they get a white band. If they are 21 and over they get an orange band, basically saying they can drink. It would be the same with our hookah bar. They would come in and get their ID checked and get banded. If they are 18-20 they can smoke but can't drink alcohol. And of course, there will be security there to watch just like any other night.

Mr. Reece: Is the entrance the same to the hookah bar to the lounge or dance floor?

Mr. Wagner: We have a front entrance which will go to hookah lounge and a back entrance that goes to the club part but there is an entrance in the middle of those two. We also have JPD that works there on nights the club is open.

Mr. Miles: Does the band dictate where they can and cannot go?

Mr. Wagner: It dictates whether they can drink or not. Technically since we have an open kitchen, and serving food, anybody can come in but we are strictly 18 and up that's by ABC Law.

Mr. Reese: So the 18 year olds can go all over the place?

Mr. Wagner: Yes, but they cannot drink up and security is strictly enforced.

Mr. Dacus: Are there other clubs in town have this same set up?

Mr. Wagner: Yes. Brickhouse is 18 and up, Cregeen's is 18 and up.

Carol Duncan: They are all 18 and up.

Mr. Wagner: They may do it similar to use. We band everyone. I'm not sure how they do it but we band and mark with x's.

Mr. Spriggs: So the question before the committee is to whether or not approve the transfer of non-conformancy to allow the Diamond Grill to do have a hookah lounge, formally known as the Eagles.

No Public input.

Mr. Sean: Otis is this strictly a question for our board. This doesn't go before the council?

Mr. Spriggs: No it does not, the Board of Zoning Adjustments has the authority to handle the non-conforming uses as part of your functions, and you have the ability to expand or bring up to code. When one use discontinues for more than one year, it will expire and revert back to original zoning. However, if there is not a lapse in the continuation, then you have the ability transfer that use to something less intense or equally intense. We have a similar case to date that we will entertain as well.

Mr. Sean: We don't really have a hookah zoning or ordinance. It's something they have to vote first?

Mr. Spriggs: No, you're not creating new use today; it is the same as what you would see in a bar. We do have one lounge similar to what they are trying to do that we have allowed in a C-3 zoned area because it's similar to what you see typically in a bar. Just as long as it's in compliance with State law and we can interpret that as a equivalent use there is nothing the City can do. We are just updating our definitions so in the future there is clarity in the code.

Mr. Reese: There need a building permit.

Mr. Spriggs: It requires a building code because they are manipulating the space; separation is required to comply with Fire Department and ABC Law. They have a pending building permit and they cannot move forward until the use is approved by this board.

Tie Vote, request does not pass. You can ask for it to be tabled and ask for a full board but other than it does not pass. My suggestion to you is to visit with me this week to consider revisiting this case with a full board. Just give me a call and we will set up an appointment.

David Gambill requests a variance for property located at 452 Southwest Dr. to waive maximum pole sign height requirements and allow for a 15 ft. pole sign.

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David Gamble, 1702 Smoot Drive, I have a jewelry store on Southwest drive and I'm wanting to raise the height of my sign. I believe the code limits signs to 15 ft. My sign is currently 12ft. tall and it sits further back from the road in the parking lot. My sign is lower than the signs around it so when driving down the road, the trajectory, you can't see my sign. The elderly customers complain and tell me they can't see my sign or find the store. We have several people that complain about our sign, and we just want my sign raised above the signs around it. That way it won't affect the surrounding signs and people will be able to see it.

Mr. Spriggs: He is requesting a 5 ft. variance.

Moss Fencing on behalf of Jeff Brechline requests a variance for the property located at 3403 Windover Garden Circle to waive the fence height requirements to allow an 8ft. privacy fence.

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Mr. Josh Moss, on behalf of Jeff Brechline, 3403 Windover Garden Circle, requesting a variance to put 8ft. privacy fence where 6 ft. is normally allowed both fences are 8 ft. Most of the fences in the neighborhood are 8ft. So we will be putting an 8ft. fence to replace an existing 8 ft. fence.

Claudia Shannon requests a variance for the property located at 1409 E. Nettleton to allow a non-conforming use request to transfer from Monument Business to Interior Designer Office/ Display Area.

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Claudia Shannon, my address of record would be 1408 Twin Oaks; we are discussing 1409 E. Nettleton. Last December Nikki Macon bought the building but from the beginning it was for this purpose. I have a business named Shannon design. Been in business in Jonesboro since 1974 and I've shown on this piece of paper the kinds of locations we have been set at, most have been very quiet. My Husband and I are set up like an architectural firm. We went out of retail business in 1990. Now, we only sell accommodation sells, such as, if a client cannot get fabric and we could order it for them, we would. We thought we could add some art in there, because there are 2 big rooms. The consignment part that is mentioned is because people have said to me for years that they have some things of value that they would like to sell, but don't know how. Robert Van, he suggested that we put a big TV screen in there, have it photographed and put it on the screen but it's also on internet. We show them the art on the screen and we can sell the art on the internet but it will be there for someone to walk in to see. We are asking for continuation of use because it's been a retail business since before the city limits was that far. It's always been a retail business.

Mr. Sean: How many vehicles would be in and out of here daily?

Mrs. Shannon: I have had this business in my home for the last 12-15 years and I would and we would receive at least one visitor a month. We don't have a lot of traffic but we can have as many as three people working there at a time that are actually working. I don't want to say anything that will keep people from coming.

Mr. Sean: We had this property come before this board previously. There application was denied because of the type of business they were going to operate out of there.

Mrs. Shannon: We heard about that and we were told the neighbors were pleased that it wasn't going to be the plumbing business. And they were pleased with me occupying the building because they knew me and the type of business I had. We were we told that one individual even wrote a letter to the city approving this business. So we didn't realize until recently that we had any issues.

Montez Arnold, 1315 E. Nettleton, I have with me Derrick Hogue, 508 South McClure Street. He is currently the manager at the Jonesboro Country Club. He bought copies of the property.

Mrs. Arnold: Just like the last proposal, our concerns are with traffic. On the handout I highlighted the two main entrances to the homes and business in the area. We are concerned with traffic. I have to watch when coming from the

west, I have to watch really close and sometimes hit the hazard button just to turn into my driveway.

Derrick Hogue: As far as the clubs concern from a managers point of view, if she gets traffic in and out of there and they are coming in east from Country Club Terrace. If they slow down right there before you get to that hill and traffic gets backed up, eventually there will be an accident there. It's an egg waiting to break. If they are coming from the west it's not so bad because there is a turning lane they can get into. Going east is the concern, with an everyday retail business, which could cause some problems. We already have concern with our members coming in the exit. I've seen several accidents there, some that could have been fatal. We welcome the business across the street; I think it's a good thing. They fixed an eye sore up, which is good. I would ask that they make it by appointment only type business.

Mrs. Arnold: The letter that I got from Mr. Spriggs happened because I didn't realize what was going on down there. I didn't understand, the letter written to Mrs. Macon, it said you assured me this space it wouldn't be retail. It sounds so much like retail to me. I know that it says on here that she also had property on CR 353. So, I have a fear of the things what will be brought into that building will not be anything like it was before. Norman monuments then later Foster Monuments were in there. I called Fosters and talked to them it was only a satellite business. They carved the monuments in Goobertown, not in that building. It was mentioned that Memorial Park was selling lots there. I called and talked to the people that owned that cemetery, and that was developed by my father-in-law. Mr. Norman had another monument business inside the city. Mr. Norman bought the property and then He moved the business to 1409 E. Nettleton; I'm not sure when the building was moved there. The house was built in 1935; the Country Club across the street was built in 1919 country club. In 1953, my father-in-law decided that the city needed another cemetery. So He built one on Harrisburg Rd. and put a marquee, and started surveying, so we could have nice cemetery. They didn't sell the monuments there, the only thing they did was Mr. Norman and he sold lots for the cemetery. It took a long time to get the cemetery going so for a few years they were selling lots out of there. Maybe, two years. So many businesses in one place was also my problem, today they are saying it will be a TV so we won't see as much in there as we thought we would. I am concerned about the number of antiques that will be in there. Also, if people see a sign and decide to stop, how will you refuse a crowd? I'm worried about the traffic, I'm worried that it will be retail or resell store.

Mrs. Shannon: My research about what was sold and when, was from the library and city directory. When the property was sold a year ago, Mrs. Arnold called me and I explained to her what we were going to do. I don't understand why this is coming up now. I have been to all sorts of things that have a lot of traffic in and out of Mrs. Arnold and the country club.

Mr. Spriggs: The letter that I wrote after we all meet, I think you explained what you were going to do on the property. What I was to doing was trying and distinguish, if you were going use the property solely for retail business purposes. That's the purpose of putting it in writing. In terms of interior design, you can typically do these things like this inside your home. We are trying to nail down the amount of traffic. If you're going have an event that will have 30-50 cars, then you could have that type of function somewhere else.

Mrs. Shannon: There would be a day when I would like to have a party some day, but it won't be that many cars.

Mr. Dacus: This property is zoned?

Mr. Spriggs: This property is zoned R-1 Single Family, it was grand fathered in. Similar to the previous case, the board has the authority to but something in there that would not adversely impact the community while maintaining the continuity of what's there. I don't feel this type of business would adversely impact the community.

Mr. Miles: Knowing that letter states that this was assured to Otis that it would not be retail business.

Mrs. Shannon: I don't think I said that Otis. It would be a quiet commercial, not an outlet store.

Mr. Spriggs: Let me explain, I'm not saying you can't sell anything out of there. That's one on one consultation. An outlet store the sole purpose is sell things and people come there and shop. That's not what this business is, and that is what I was trying to convey in the letter. I'm not trying to limit that. I apologize for the confusion. You are not a sole source retailer.

Mrs. Arnold: If we do have a situation like that. I don't want to monitor, I just want to feel secure enough. If the sign could say by appointment only or make sure she doesn't have more than three cars.

Mr. Spriggs: I don't think we can tie her down to that. My suggestion is to you, is to call the office if there is an unreasonable amount of cars or traffic parked there. Then I can take it back to this board.

5. Staff Comments

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6. Adjournment

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