



**CITY OF NORTH LITTLE ROCK
BOARD OF ZONING ADJUSTMENT
AGENDA
SEPTEMBER 26, 2019
1:30 PM**

Agenda Meeting: - Roll Call and finding of a Quorum

Administrative: - BOA Hearing Procedures on the back of the Agenda

Approval of Minutes: - August 29, 2019

Public Hearing:

- A request for Reasonable Accommodations to waive North Little Rock Municipal Code, Chapter 8, Section 3.4.18.1 to allow the installation of a double cylinder deadbolt lock 10710 Richsmith Lane #508, NLR, AR by Pamela Abrams, Housing Staff Attorney, Legal Aid of Arkansas on behalf of Dianna Mathis.

Public Comment & Adjournment:

Reminder to all present:

- Turn off cell phones
- Visitors sign-in with both name **and** address

**NORTH LITTLE ROCK
BOARD OF ZONING ADJUSTMENT
HEARING PROCEDURES
(1/1/2019)**

Order of the Public Hearing: The regularly scheduled public hearing is generally held on the last Thursday of each month at 1:30 PM in the Planning Department Conference Room, 120 Main Street. All meetings are open to the public. Typical hearings begin with roll call and finding of a quorum, approval of the previous meeting minutes, correspondence and staff reports, committee reports, unfinished business, new business, public comment and adjournment.

Voting: There are five members of the Board. A quorum consists of three members present. "Robert's Rules of Order" apply unless the Board has outlined alternative procedures. All business must be approved by a minimum of three votes.

Procedure to allow a person to address or approach the Board:

1. No person shall address or approach the Board without first being recognized by the Chair.
2. After being recognized, each person shall state their name and address for the record.
3. All questions and remarks shall be addressed through the Chair.
4. All remarks shall be addressed to the Board as a whole and not to any individual Board member.
5. When a group of citizens are present to speak on an item, a spokesperson may be selected by the group to address the Board. If multiple individuals of the group desires to speak, the Chair may limit each presentation to three minutes.
6. No person other than members of the Board and the person having the floor shall be permitted to enter into any discussion, either directly, indirectly or through a Board member, without permission of the Chair.
7. Once the question has been called, no person in the audience shall address the Board on the matter at hand without first securing permission to do so by a majority vote of the Board.
8. At least 24-hours prior to the public hearing, anyone wishing to submit exhibits for the record shall provide staff with copies of the exhibits for each Board member, one copy of the exhibit for staff to place in the permanent file and one copy of the exhibit for the legal department.
9. At least 24-hours prior to the public hearing, anyone wishing to read a statement into the record shall provide staff with a written copy of the statement.

North Little Rock Board of Zoning Adjustment Minutes

August 29, 2019

The meeting of the North Little Rock Board of Zoning Adjustment was called to order by Vice-Chairman Tom Brown at 1:32 P.M. in the Planning Office (Conference Room B). Roll call found a quorum to be present; a quorum being three members present.

Members Present

Mike Abele
Tom Brown, Vice-Chairman
Gardner Burton
Tim Giattina
Steve Sparr

Members Absent

None

Staff Present

Donna James, City Planner
B.J.Jones, Administrative Secretary
Shawn Spencer, Planning Director
Marie-Bernarde Miller, Deputy City Attorney

Others Present

Matt Stagg, 6907 Pontiac Dr., NLR, AR
Paul Stagg, 5016 Calico Creek Cove, NLR, AR
Thomas Pownall, Thomas Engineering, 3810 Lookout Rd., NLR, AR
John Leszczyna, 2804 Cedar Creek Rd., NLR, AR
Mike Tabor, 5126 Lakeview Rd., NLR, AR 72116

Administrative

Mr. Brown recognized Mr. Sparr, who noted the passing of Chairman Carl Jackson and formed a motion to nominate Mr. Brown as Chairman and nominate Mr. Giattina as Vice-Chairman. Mr. Brown asked those in favor to speak and there was no dissent.

Mr. Spencer added Carl Jackson had been on the Board of Adjustment for forty-one years and was the longest serving volunteer on any City Board.

Approval of Minutes

Mr. Sparr formed a motion to approve the minutes from the previous meeting May 23, 2019. There was no dissent.

**North Little Rock Board of Adjustment Minute Record
August 29, 2019**

Old Business

None

New Business

1. **BOA 2019-15** – A variance to allow a structure to extend beyond the platted building line for property located at 5126 Lakeview Road and legally described as Lot 23, Block 208, Park Hill Addition to the City of North Little Rock, Pulaski County, Arkansas.

Ms. James introduced the applicant's request and provided photos of the property. She added elevations had been submitted to staff as requested in the write-up. She also noted the neighbors were supportive of the applicant's request. Ms. James concluded staff felt the applicant had not provided a hardship. She requested the Board consider conditions recommended by staff if the Board approved the applicant's request.

The Chairman asked the applicant to state a hardship.

Mr. Tabor responded he had only moved in a couple of months ago during the time there was so much rain in the area. He explained boxes had been stored in the carport during the move and had gotten wet. He stated the desire for an enclosed space was to feel more comfortable and secure.

Mr. Brown asked if he was stating his hardship was security.

Mr. Tabor replied in the affirmative.

Mr. Abele asked if any neighbors objected to the request.

Ms. James replied she was in receipt of one email from a neighbor supporting the request.

Mr. Giattina asked if there was a crime issues in the area.

Mr. Tabor noted when he had asked about crime in the neighborhood, he had been told most issues had been with the homes with only a carport.

Mr. Sparr formed a motion to approve the applicant's request as filed. The motion passed with a unanimous vote.

2. **BOA 2019-16** – A variance to allow the placement of a six-foot fence within the front yard setback of property located at 2904 Seminole Trail (a vacant lot) legally described as Lot 33, Block 11, Overbrook Subdivision (2804 Cedar Creek Road) and Lot 14, Block 1, Indian Hills Subdivision (2904 Seminole Trail).

**North Little Rock Board of Adjustment Minute Record
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Chairman Brown asked the applicant to state his name for the record.

Ms. James introduced the request and provided photos of the property noting a change to the drawing shown. She pointed out a chain link fence to be removed and replaced with wood. She explained staff was supportive of a three and one half foot picket fencing in the front setback and a six-foot fence from the front setback to the rear yard area. She noted the applicant did not have a valid hardship so staff could not support the request. She requested the Board honor the conditions staff had requested in the packet if the Board approved the request. Ms. James noted a vacant lot was not typically allowed to be fenced. She suggested replatting the property into a single lot if the fence was approved. She also asked the installation of the fence be moved back to not block any view of neighbors getting out of their drive.

Mr. Giattina echoed concern for the neighbor safety and asked the applicant to state the hardship.

Mr. Leszczyna replied his hardship was security and safety. He noted cars parked in the area, leave beer cans and cigarette butts, littering the area and the vacant house across the street attracted vagrants which made him concerned for his family's safety. He recounted a story of a stranger entering his open garage, leading to police being called and the ensuing arrest complete with screaming and cussing. The incident left him wary regarding security of his property stored in the garage. He explained the requested fence would limit sight and access into his property. He added neighbors were supportive of his request.

Mr. Brown asked if the requested fence was ten feet from the curb or center of street.

Mr. Leszczyna replied the measurement was from the curb.

Ms. James asked the applicant if he would like to show his slides for further explanation of his request.

The applicant explained he was showing other fences in his neighborhood and demonstrating he takes care of his property. He stated he was proud of his home and the open vacant lot.

Mr. Abele asked if the other fences he was showing were front or side yard fences.

Mr. Leszczyna replied they were side yard fences, and then demonstrated a six-foot fence would still allow a view into his yard. He stated a three and one-half foot fence would not supply any security or safety.

Mr. Abele asked if he had considered placing a fence along the rear property line of his existing home and lot.

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The applicant replied he liked the lot the way it looked now so he had not considered placing a fence on the rear property line of the lot with his home. He stated the vacant lot would be unsecure.

Mr. Abele asked if he had considered the use of large rocks to prevent any unwanted traffic.

The applicant replied in the negative stating mowing would be more difficult.

Mr. Sparr formed a motion to approve the applicant's request.

Mr. Giattina questioned what the motion included to approve.

Mr. Sparr specified approving a ten-foot setback and not require the condition of replatting the lots into one property.

Mr. Spencer cautioned ten foot from the curb did not necessarily place the fence on the applicant's property line and a survey would be required to assure placement on the applicant's property.

Mr. Brown asked the applicant if he had any problems furnishing a survey.

The applicant indicated he did not.

Mr. Spencer reiterated if a ten-foot setback was approved, one must know where the property line was located.

The Deputy City Attorney recommended the Board base their approval on a hardship.

Mr. Brown replied the applicant had indicated lack of security was his hardship.

Mr. Giattina seconded the previous motion and asked the motion be clarified in the record to include staff requested conditions.

Mr. Sparr noted his previous motion was intended to grant the applicant's request as filed.

Mr. Giattina suggested the motion include the survey requested by staff.

The motion was passed with four approving votes. The one dissenting vote came from Mr. Abele.

3. **BOA-2019-17** – A variance to allow the placement of a structure within the front 40-foot building setback of property located at 5116 JFK Boulevard and legally described as Lot 8, Block 200, Park Hill Subdivision, to the City of North Little Rock, Pulaski County, Arkansas.

**North Little Rock Board of Adjustment Minute Record
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Ms. James introduced the applicant's request regarding two canopies on the property. She noted the owner agreed to remove the electronic sign if this Board approved the requested variance.

Mr. Brown asked the purpose of the tallest canopy pictured.

Mr. Stagg responded the current structure was fifty years old and the carwash had been in business twenty-five years with a dozen of those years at this location. He stated the site and structure were in need of an update to freshen the appearance.

Mr. Sparr asked if the design was purely aesthetics.

Mr. Stagg replied in the affirmative and added the current triangle design was just ugly. He explained the roof top triangle was made of glass, therefore very hot under it inside the building. He stated they had painted the glass to try to block out heat but the problem persisted. He added the electronic sign was unattractive as well. Mr. Stagg elaborated the building was just tired and old and they want to remove the existing triangle and signage and were willing to spend almost a million dollars to upgrade and improve the look. He added his employees were working on asphalt in the summer and the pace was exhausting in the heat. He stated he hoped to furnish shade for them.

Mr. Brown asked if the canopies were metal or canvas.

Mr. Stagg responded the cover was constructed of metal for durability. He stated his desire was to construct a nice addition to JFK Blvd and protect his employees.

Mr. Burton asked about the second canopy.

Mr. Stagg explained the existing structure would be torn down if the new proposal was approved. He stated the new structure was needed due to the changing nature of the carwash business to remain profitable.

Mr. Abele asked if the applicant's request could be impacted by future highway improvements.

Ms. James explained the process for such proposed improvements.

Mr. Brown asked the applicant to state a valid hardship to the Board.

Mr. Stagg cited the need to protect employees from the elements.

Mr. Sparr formed a motion to approve the applicant's request.

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The Deputy City Attorney asked if the applicant had stated a hardship and requested the hardship be articulated in the motion.

Mr. Sparr cited the need to take care of his people and questioned why they had never been asked to articulate a hardship in the past.

Mr. Burton seconded the motion and it passed with a unanimous vote.

PUBLIC COMMENT/ADJOURNMENT

Mr. Brown asked for a moment of silent reflection regarding the passing of Chairman Carl Jackson.

Mr. Giattina formed a motion to adjourn at 2:10pm. There was no dissent.

PASSED: _____ **RESPECTFULLY SUBMITTED:**

Tom Brown, Chairman



The City of
NORTH LITTLE ROCK
 OFFICE OF COMMUNITY PLANNING
 120 Main St. • North Little Rock, AR 72114-2134
 Phone (501) 975-8835 • Fax (501) 975-8837

Application to the Board of Adjustment on a Request for Reasonable Accommodations

The signer(s) of this application request from the Board of Adjustment of the City of North Little Rock, Arkansas as outlined in the Zoning Ordinance of the City of North Little Rock on a request for reasonable accommodations.

Please provide an explanation of the conditions of the request for reasonable accommodations (attach separate sheets if necessary):

Please see attached request for a reasonable accommodation to waive a North Little Rock City Municipal Code, Chapter 8, Section 3.4.18 in the Building Security Section. The granting of this waiver would allow a deadbolt lock to be placed on a door in the apartment that the rent is federally subsidized through the North Little Rock Housing Authority. This lock will provide extra safety inside the apartment to prevent my son who has autism from eloping and putting himself at risk.

This request for reasonable accommodations involves the following legally described property (an attached map may be used):

Peaks at Country Club 10710 Richsmith Lane North Little Rock, AR 72113

It is requested that a hearing be held on this matter, in which the applicant must appear in person to present to the Board sufficient evidence as to why the application of a land use, zoning or building regulation policy practice or procedure restricts fair housing opportunities.

We, the undersigned, do attest to the truth and correctness of all facts and information presented with this application.

Applicants information:

Name of current property owner: Richsmith Properties

Applicant's name: Dianna Mathis Status: Owner [] Agent []

Mailing Address: Apartment #502 Zip Code: 72113

Telephone No. 501-680-1670 Fax: _____ Email: dmathisob@gmail.com

Applicant's signature: *Dianna Mathis*

Office Use Only:	
Case No.	
Date Filed	<u>9/16/2019</u>
Received by	<u>CA</u>

Office Use Only:	
Date of Public Hearing:	
	<u>9/26/2019</u>

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August 27, 2019

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Amy Fields
City Attorney
116 Main Street
P. O. Box 5757
North Little Rock, AR 72119

RE: *Dianna Mathis, 10710 Richsmith Lane #508*
North Little Rock, AR 72213
Second Reasonable Accommodation Request

Dear Ms. Fields:

Legal Aid of Arkansas, Inc., was contacted by Ms. Mathis, through the Medical Legal Partnership at Arkansas Children's Hospital, regarding the denial of her reasonable accommodation request by the Section 8 Program of the North Little Rock Housing Authority on August 3, 2017. Ms. Mathis receives Section 8 rental assistance. She has a 17 year old son, Solomon Cotton, who has the following diagnoses: autism spectrum disorder (ASD); auditory processing disorder; and obsessive compulsive disorder. Solomon is an elopement risk despite having adult supervision at all times. The fact that he is non-verbal puts him at a significantly higher risk, should he escape or leave his home without adult supervision. The reasonable accommodation request was to allow Ms. Mathis to have a double cylinder deadbolt lock on a certain door in her home to prevent her son from eloping. Inside the apartment there is a second door that does have a simple bolt lock on it that could be used to exit the apartment in the event of a fire. Due to Solomon's past elopements, Ms. Mathis has been reported and investigated by the Arkansas Department of Human Services for neglect. Ms. Mathis provides close supervision of her son; however, there are times when she is in the bathroom or asleep that the deadbolt is used to prevent Solomon from eloping.

According to the letter dated August 3, 2017 from the Section 8 Program Manager, one of the reasons given for the denial was the North Little Rock Housing Authority has a policy that "double cylinder deadbolt locks are not allowed." This policy is permitted by HUD requirements according to the denial letter. The denial letter also cited the North Little Rock City Municipal Code, Chapter 8, Section 3.4.18 Building Security, and Part 3.4.18.1 Doors, that allowing the deadbolt would be a violation. This second reasonable accommodation letter is requesting a waiver of the city code regarding deadbolts locks in this case.

Arkansas Children's Hospital
1 Children's Way, Slot 695
Little Rock, AR 72202-3500
501-978-6479 – Fax

Harrison
205 West Stephenson
Harrison, AR 72601

Helena-West Helena
622 Pecan
Helena, AR 72342

Jonesboro
714 South Main Street
Jonesboro, AR 72401

Little Rock
711 Towne Oaks Drive
Little Rock, AR 72227

Newport
202 Walnut Street
Newport, AR 72112

Springdale
1200 Henryetta
Springdale, AR 72762

West Memphis
310 Mid Continent Plaza
Suite 420
West Memphis, AR 72301



Once the requestor has shown that the accommodation she needs is "reasonable," the burden shifts to provide case-specific evidence proving that reasonable accommodation would cause an undue hardship in the particular circumstances. We do not feel allowing the deadbolt lock would create an undue hardship on the City of North Little Rock or the North Little Rock Housing Authority.

We are submitting updated medical documentation to support this second reasonable request dated 6/24/19 from Dr. Lourie Battles at the Pediatric Clinic located at 1525 Country Club Road, Sherwood, AR 72120. Dr. Battles states that there was a recent incident on 5/22/19 when Solomon eloped placing him at high risk. Dr. Battles states that Ms. Mathis should not be hindered in her attempt to keep her son safe.

There is also a second letter from one of Solomon's medical providers, Dr. Jill Fussell at the UAMS James L. Dennis Developmental Center dated 6/7/19. The letter from Dr. Fussell verifies the need for the deadbolt because of Solomon's diagnoses, especially if Ms. Mathis is willing "to document/sign that she understands the risk she is taking by using this lock."

The Fair Housing Act (FHA) reasonable accommodation mandate applies to any "dwelling," 42 U.S.C. § 3602(b), regardless of whether it is federally subsidized or not. Landlords who have no connection to federal funds other than the acceptance of a Housing Choice Voucher (Section 8) as partial payment of a tenant's rent is required to provide reasonable accommodation when requested to do so. Accommodations might require a landlord to alter its policy or rules, in this case, the reasonable accommodation request is in the form of altering the policy or rules of the North Little Rock Housing Authority and the City of North Little Rock regarding the installation of a deadbolt lock in the apartment. There is a direct link between the need for the accommodation and Solomon's disability.

If you have any questions or concerns, please feel free to contact me at 870-972-9224, ext. 6319, Monday – Wednesday between the hours of 8:30 am – 5:00 pm.

Sincerely,

Pamela Abrams
Housing Staff Attorney

Cc: Dianna Mathis
Nakesha Primus, Section 8 Program Manager