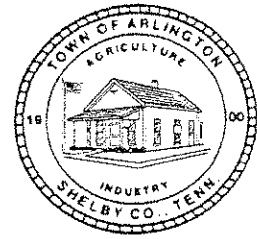


Town of Arlington

5854 Airline Road, Arlington, TN 38002



MINUTES

Board of Zoning Appeals

August 14, 2014

6:30 P.M.

I. INVOCATION

Russ Campbell led the opening prayer.

II. CALL TO ORDER AND ESTABLISHMENT OF A QUORUM

Present

Gerald McGee
Russ Campbell
Samuel Murrell
Don Hinkle
Josh Holtgrewe

Others Present

Gerald Lawson, Attorney
Heather Sparkes, Planner
See List

Gerald McGee called the meeting to order, and noted that a quorum was established.

III. APPROVAL OF MINUTES

Chairman McGee called for a motion to approve the July 14, 2014, minutes.

Motion: Russ Campbell made a motion to approve the minutes of the July 14, 2014, meeting as presented. Don Hinkle seconded the motion. The motion carried unanimously.

V. OTHER AS PROPERLY PRESENTED

There was no old business to come before the Board.

VI. NEW BUSINESS

- A. Reading of Request – A request presented by Justin and Ashley Onsby, Owners, of 5646 Stately Oaks Drive West, to consider a request for a variance regarding placement of a corner lot privacy fence for 5646 Stately Oaks Drive West.

Chairman McGee recognized Heather Sparkes, Town Planner, who provided the analysis (on file). She advised that the .388 acre property is located in the RS-18, Low Density

Residential zoning district. She stated that this is a request for a variance of six (6) feet for the existing privacy fence to be located nine (9) feet at its closest point from the public right-of-way. She explained that the Arlington Zoning Ordinance, Chapter 6, Section 6.7.1.8) states that on corner lots, fences exceeding the 48-inch height but not exceeding eight feet may be constructed in the yard abutting the street on the frontage other than where the entrance to the principal structure is located provided that the fence is set back a minimum of fifteen (15) feet from the right-of-way. Ms. Sparkes advised that this six (6) foot fence was installed nine (9) feet at its closest point from the public right-of-way. She stated that the fence was installed seven to eight years ago and the setback encroachment was discovered recently when the homeowners applied for a pool permit. She noted that the fence was installed without a permit. She advised that the homeowners have stated that they have landscaping and a dog kennel that would have to be relocated if the fence has to be moved. She stated that the homeowners submitted a letter with their application explaining the request. Ms. Sparkes advised that a review of Chapter 10, Section 10.5.4.30c0 of the Arlington Zoning Ordinances states that the BZA has the authority to grant variances based on eleven criteria (on file). She advised the Board members to refer to the criteria during their discussion. Ms. Sparkes noted that Staff recommended a condition be added that requires the homeowners to obtain a fence permit within seven (7) days. Ms. Sparkes advised that a public notice was published in The Commercial Appeal on August 7, 2014.

Chairman McGee called for a motion.

Main Motion: Russ Campbell made a motion to approve a request presented by Justin and Ashley Onsby, Owners, of 5646 Stately Oaks Drive West, to consider a six foot variance to permit a fence to be located nine feet at its closest point from the public right-of-way.

Chairman McGee called for discussion and noted that the owners were present. He recognized Mr. Campbell who asked if any similar issues have come up before. Gerald Lawson, Town Attorney, responded yes and referred to another fence issue that occurred about 18 months ago. He stated that the homeowner did not apply to the BZA, but it was the same type of situation regarding a corner lot fence that was too close. He explained that the homeowner was cited to court and ordered to relocate the fence. Chairman McGee recognized Ms. Sparkes who advised that the applicant provided photographs. Chairman McGee advised that he drove by the property and noted that sections of fencing were removed for installation of the pool and some of the bushes were dead. Chairman McGee asked the homeowners if they had anything further to add and they responded no. Chairman McGee noted that the location of the bushes and dog kennel creates an issue. Mr. Campbell suggested that the bushes would not need to be moved because the fence would be placed closer to the principal structure. Chairman McGee asked if moving the fence would require relocating the dog kennel. It was noted that the kennel is on a concrete slab. Chairman McGee asked for the distance from the edge of the concrete slab to the backside of the sidewalk, and it was advised that the slab is about three to four feet from the back of the existing fence. Chairman Campbell suggested that the Board consider criteria #5, which states, "The alleged difficulty or hardship has not been created by any person having an interest in the property after the effective date of this Ordinance," and asked the owners if they installed the fence. Mr. Onsby stated yes and that they thought the installer pulled the fence permit and for this reason, they were not

aware of the regulations. Mr. Campbell noted that there was no indication on the contract that a permit was pulled. Chairman McGee recognized Ms. Onsby who advised that she submitted letters from their neighbors stating that they had no issues with the fence location. Chairman McGee asked if in the other case mentioned by Mr. Lawson the fence was installed without a permit. Mr. Lawson responded yes. Chairman McGee stated that personally he did not have a problem with the fence location, but that was irrelevant because the Board has to consider the eleven criteria when making their decision. He noted that the motion is in the affirmative and a majority of yes votes approves the variance; however, a majority of no votes defeats the request. Mr. Holtgrewe asked Mr. and Mrs. Onsby if there is a Homeowners Association in their neighborhood. They responded no. Chairman McGee called for further discussion and reiterated that the motion is to approve and a yes vote approves the variance and a no vote disapproves the variance. Hearing no reply, he called for a vote on the main motion.

Roll Call Vote on Main Motion: Campbell – No; McGee – Yes; Holtgrewe – Yes; Hinkle – No; Murrell – Yes. Motion passed with 3-Yes and 2-No votes.

Conditions of Approval:

1. A fence permit shall be obtained by the property owner for the fence within seven (7) days.

Mr. Campbell noted that a fence permit must be pulled. Ms. Sparkes advised that the process has already begun.

B. Other as Properly Presented

No other new business was presented to the Board.

VII. ADJOURNMENT

Motion: Josh Holtgrewe made a motion to adjourn the meeting. Samuel Murrell seconded the motion. The meeting was adjourned.


Gerald McGee, Chairman

10-30-2014
Date

Submitted By: Theresa Smith