



BOARD OF ZONING APPEALS AGENDA

November 18, 2014

10:00 a.m.

1. Call To Order & Roll Call

2. Approval Of Minutes

Documents: [7-10-14 BZA MINUTES.PDF](#)

3. CASE NO. 14-002-BZA PUBLIC HEARING TO CONSIDER THE ADVISABILITY OF ISSUING A VARIANCE FOR TWO ELEVATED SIGNS IN A C-1 GENERAL BUSINESS DISTRICT AT 2314 W CENTRAL.

4. Staff Items

5. Adjournment

BOARD OF ZONING APPEALS MINUTES

July 10, 2014

10:00 a.m.

Members Present:

Eddie Dean, Jr.
Larry Gaston
Albert Hogoboom
Jim Philips

Members Absent:

None

Staff Present:

Scott Rickard

Others Present:

Nathan White
Nick Badwey

ITEM NO. 1 – APPROVAL OF MINUTES

Albert Hogoboom moved that the minutes of the September 30, 2013 meeting be approved as presented. Jim Phillips second. Motion carried 4-0.

ITEM NO. 2–CASE NO. 14-001–BZA PUBLIC HEARING TO CONSIDER THE ADVISABILITY OF ISSUING A VARIANCE FOR BUILDING IN A 15 FOOT BUILDING SETBACK IN AN R-1 RESIDENTIAL-LOW DENSITY DISTRICT AT 302 NORTHERN

Mr. Dean stated he was going to abstain from this agenda item. Mr. Rickard stated that Nathan White is requesting a south side setback variance for property located in Prairie Land Estates 2nd Addition also known as 302 Northern. The plat requires a 15 foot building setback along the south property line. The applicant is requesting a variance to allow a 3 foot setback for constructing a new residence. Mr. Rickard stated that the duties of the board are to determine if this request is unique, how it affects the adjacent properties, if it creates a hardship on the owner, if it meets the public's best interest and if it meets the spirit and intent of the comprehensive plan. Mr. White stated he has been looking at the lot for several years and recently put his home up for sale and sold the property. Prior to purchasing this property he spoke to some city engineers, in particular Matt Perez, about the setbacks on the lot and if he could build the home he wants for him & his wife that would fit on that lot. Mr. White stated that the paperwork that the board received was different than the original paperwork that he filled out, the variance application that he filled out was asking for a variance for six foot off of the north side and six foot off of the south side. Mr. White stated that in a meeting with Mr. Perez on June 25th the city said they can't allow his request and recommended a ten foot setback on one side and three foot on the other. Mr. White said prior to that conversation with Mr. Perez, he spoke to some of the board members present to get their feeling on the setbacks. Mr. White stated he believes that the city has a program for neighborhood revitalization to build homes. Mr. White wants to take advantage of that and build a new home in El Dorado. Mr. White then stated what some of the homes in the area are appraising for and what their tax base and specials are. Mr. White has discussed with some of the local builders regarding price per square foot for the new home he wants to build and is estimating that his taxes and specials will be approximately \$5,900.00 per year. Mr. White has also received site approval by an architectural committee here in El Dorado and that he intends to build at 302 Northern. Mr. White stated he spoke to Matt Perez on May 28th about the setbacks on this

property, Mr. Perez said it won't be a problem, we just have to go through all the formality and have a meeting, but we don't have a problem with going six foot off of this side and six foot off of that side. At that time Mr. White called and met with each of the board members. Mr. White stated that after those conversations he set a contract for the lot with Prairieland Estates Enterprises on contingent of the variance was approved or denied. Mr. White said that after speaking with Matt Perez and him stating that there would be no problem, Mr. White then closed on the purchase of the lot. After closing on the lot, Mr. White then went back to the city and asked if there was anything else that he needed to do and at that time he was told that he could not get a variance off of the north side of the property. Mr. Perez wanted to change the variance request to three feet off of south side instead of the six foot from the north and south sides. Mr. White then stated he didn't care what they had to do; he wants to build his home on this lot. Mr. White stated that the six foot from those sides was intended so the home would be centered on the lot. Mr. Perez then called Mr. White and told him he was going to deny the request because the home could be turned and actually face 2nd Avenue, Mr. White said he couldn't do that because then the home wouldn't face the same way as the other homes on that street. Mr. Perez then called a few days later and stated the city would deny the variance due to the power lines on the south side of the property. Mr. White stated he has already been in contact with the oil company to make sure those lines are moved so it does not impede the approval of the variance. Mr. Gaston asked if the house would be three feet from the curb line. Mr. White said no it would be three feet behind the 60 foot easement for 2nd Avenue. Mr. White stated he researched the power lines and that there are no easements for those lines. Mr. Rickard stated that the power lines were for the oil lease and that there aren't necessarily easements for those lines. Mr. White stated that there are easements for injection wells & oil wells in Prairieland Estates 2nd, but none of the easements are for the power lines. Mr. White said that there is a transformer at 2nd & School and that's where the meter can is for the oil wells and talking with KGE it is actually the oil well line and also 2nd Avenue has a 60 foot wide easement. Mr. Rickard stated that the right of way is 60 feet wide Mr. Dean asked if the house would be set 18 feet from the curb. Mr. Rickard stated it would be 17 ½ feet from the curb but a 15 foot side yard setback requirement has been established since 1951. Mr. Rickard said most corner lots have a side yard setback of 15 feet and part of the variance application is to determine if this property is exceptionally narrow, shallow or if it has topographical conditions that make it unbuildable & this lot does not. Mr. Rickard stated that when Mr. White spoke about the 6 foot variance to the north the city actually has a 20 foot drainage & utility easement to the north and there is sanitary sewer and surface drainage in that easement, so that easement cannot be modified or built upon. Mr. Rickard said any request for a variance for a setback would have to come off of the south. Mr. White then stated that prior to the purchase of the lot he did discuss it with the city and they said it would not be a problem. Mr. Rickard stated that in the meeting he was in with Mr. White he said the purchase of the lot was contingent on the approval of the variance. Mr. White stated that he had the word of the city by Matt Perez that there was no problem and that it would pass. Mr. Dean asked if 2nd Avenue and the property on the corner lot to the east if it would be developed on the south side. Mr. Rickard stated that a developer would trigger that street to be developed. Mr. White stated that he tried to purchase that property and they would not sell. Mr. White also stated that in Prairieland Estate Commercial there is a right of way or easement for utilities on the oil wells that they are to be in. Mr. Rickard stated that anything to do with the oil wells is between the surface owner and the lessee they are required to set in easements and the KCC has setbacks on how far a structure can be from pump jacks or tank batteries, but as far as relocating they would only do it if they are paid to do such work. Mr. White stated he is going to speak to Mr. Lachenmyer after the meeting to discuss moving the line. Mr. Rickard stated that staff's recommendation for denying the variance isn't just the power lines. Mr. Rickard also stated that the lot is a vacant lot and it has known setbacks & easements it was laid out to accommodate a certain size home. Mr. White asked Mr. Rickard if he was in any of the meetings he had with Mr. Perez. Mr. Rickard stated he was in one that took place a couple of weeks ago. Mr. White said he is letting the board know what was discussed

with Mr. Perez since he is not at the meeting. Mr. Rickard stated that unfortunately Mr. Perez is no longer with the city, but what he said or not lead Mr. Rickard in a different direction from what is being communicated here today. Mr. Rickard also stated that city staff doesn't have authority to grant a variance and that is what this board is here to do, the variance must meet those unique conditions and hardship and how it adversely affects the properties in the area. Mr. White stated he has spoken with the land owners and no one has a problem with it, also they feel it is good to have more homes in the area.

PUBLIC HEARING

Mr. Dean opened the public hearing. Seeing no one, the public hearing was closed.

BOARD OF ZONING APPEALS DISCUSSION

Mr. Gaston asked Mr. White if he knew about the easement on the property when he bought it. Mr. White stated that he did and that's why he came to the city prior to purchasing the lot, the home he wants to build is 72 feet wide and he told Mr. Perez that the variance was the only way the lot could accommodate the house he wanted. Mr. Gaston said he sees the problem, but just through experience you can't take a verbal agreement anymore you have to get it writing. Mr. Gaston asked if the power line was going to be moved. Mr. White stated that it was. Mr. Hogoboom asked if he was sure. Mr. White stated that he was. Mr. Gaston stated that it would be expensive to move those lines and that he had concerns about that. Mr. Rickard stated that the building code requires a greater separation from the eave from the overhead electric. Mr. Gaston asked if he would be allowed to get a building permit. Mr. Rickard stated he could not build that close to the power lines because it would not meet building code. Mr. Gaston asked if the gentleman that Mr. White was meeting with was the pumper for the oil wells. Mr. White stated that he was meeting with the owner Mr. Lachenmyer. Mr. Gaston asked if the city ever opened up 2nd Avenue how far it would go. Mr. Rickard stated that the concept is to connect 2nd to School Road and to curve around the rear of the neighborhoods and then connect to 3rd with another cul-de-sac. Mr. White stated that the power pole is actually in the plotted street of 2nd and wanted everyone to know that. Mr. Rickard stated that it is in the road right of way. Mr. Badwey asked if the power line was a primary or secondary. Mr. White stated that it is a three phase after the transformer. Mr. Badwey said he was only asking because the clearances on secondary are less than primary. Mr. White stated the house would be four feet or less from the lines. Mr. Gaston asked Mr. White if he had any minutes from the meetings that he had with Mr. Perez. Mr. White stated that he did not. Mr. Phillips stated that the possibility of 2nd Avenue being completed are slim to none, but it could happen in the next 50 years and when Mr. White had spoken with Mr. Phillips it was to have a six foot variance on both sides and he didn't have a problem with that. Mr. Phillips also stated that he didn't know what Mr. Perez said and did not care what was said he said it's a corner lot it will be years before anything else will be built on the other side of the street and that he doesn't have a problem granting the variance. Mr. Phillips understands the conditions that are suppose to be considered, but also realizes that common sense plays a part in the decision so he believes that the city will be getting a new house and taxes from it and since a building permit will not be issued until the line is moved that will take care of that portion of the problem and understand that a hole cannot be dug until that is done. Mr. Phillips also stated that they all know lines can be moved and are done every day. Mr. Gaston doesn't have a problem with the variance except for legal wise, the codes are made to go by so not everyone builds wherever they want; he also stated that originally he thought the house was going to be only three feet from the curb. Mr. Hogoboom asked if there were any minutes from the meeting that Mr. White & Mr. Perez had. Mr. White stated that there were not. Mr. Rickard confirmed that there were not any minutes and he had recalled that the discussion he had with Mr. White was that he could not build in an easement and that the variance would be up to the BZA to approve and how staff felt on the variance and how the lot sale was contingent on the granting of the variance and Mr. Rickard also stated that he felt that message was very clear during

their discussion. Mr. White stated it was, however he had already closed on the lot the morning prior to the meeting that Mr. Rickard was referring to. Mr. Rickard also stated that on the copy of the contract that Mr. White provided was a sticky note that the land purchase was contingent on the approval of the variance. Mr. White stated that was correct. Mr. Gaston asked if Mr. White had contacted the neighbors. Mr. White stated that he had and if he needed to get the neighbors approval in writing he could do so. Mr. Phillips asked if the neighbors had been notified of the meeting. Mr. Rickard stated that they had been mailed a notice as well as a publication in the paper. Mr. Dean stated he had received a call from one of the neighbors regarding the direction the back of the proposed home would face, but from what Mr. Dean was hearing he believes that will not be an issue. Mr. Phillips stated that the home could be turned. Mr. White & Mr. Rickard both agreed that would not be allowed. There was no further discussion from the Board of Zoning Appeals.

MOTION

Mr. Phillips moved to approve the variance request for a three foot south yard setback at 302 Northern. Mr. Hogoboom second; motion carried 3-0. Mr. Dean abstained.

STAFF ITEMS

Mr. Rickard stated that the BZA has a vacant seat available.

ADJOURNEMNT

Mr. Dean moved to adjourn. Mr. Phillips second. Motion carried 4-0.

Meeting adjourned at 10:30 A.M.