

April 29, 2008

Board of Zoning Adjustment and Planning Commission

Board of Zoning Adjustment

Call to Order

Consideration of minutes: None

Old Business: None

New Business:

- 1. A variance request by Joel Kinlow to construct a cellular tower taller than allowed by ordinance located at on the west side of US HWY 79 South near Taft Street.**

Joel J. Kinlow, 7124 W. Sheridan Avenue, Milwaukee, WI, spoke for the variance request.

Michael Adams, of 4702 Linwood Drive, Pine Bluff spoke against the request. He stated he owned the property across the street from the proposed tower location. He stated that City ordinance limited height for towers and noted many houses adjacent to these towers. He observed it is in a floodplain. He stated the applicant will be placing large amounts of wire which could be dangerous in water. Also signals could interfere with other signals in the area. He noted such towers are generally located in rural areas, not in residential or business areas. Mr. Adams stated that the drawing he saw showed it could hit the houses across the way and asked if the proposal contained three towers.

The Chair indicated there was a single tower.

Mr. Adams stated there were three towers in the drawing.

The Chair stated they were various locations it could be placed and asked Mr. Kinlow how many towers were proposed.

Kinlow stated there were three towers.

Ms. George stated she was told of three possible locations.

Mr. Tucker stated that the applicant's letter referenced three towers.

Ms. George stated the property was un-developable and recommended the towers be located at least 200' from all property lines. Each tower is 197' tall. She noted such towers are constructed to collapse upon themselves. She added that the recommendation remained the same, whether one tower or three.

Ms. George recommended approval of the request for all three towers, subject to the towers being located at least 200' away from all property lines, and that the applicant must meet all other requirements set forth in City Code.

A motion and a second were made to accept staff's recommendation.

Commission unanimously approved staff recommendation.

- 2. A variance request by Lamar Outdoor Advertising to raise an existing billboard located at 2211 S. Olive St. to the height that is 5'-10" higher than allowed by ordinance.**

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Greg Criner, Lamar Outdoor Advertising, 42 Winner Circle in Cabot AR, spoke for the request. He stated the variance request due to two new signs constructed after his had compromised the visibility of Lamar's sign.

Ms. George recommended approval of the request.

A motion was made and seconded to approve staff request.

Commission approved the motion unanimously.

3. A variance by USA Drug to reduce the front yard setback for parking and the amount of green space required at the lot that is located at 1401 E. Harding Avenue.

James Robinson, USA Drug, 3017 N. Midland, Pine Bluff, AR spoke for the request. They proposed to construct a 4000 square foot new drug store and that they needed to reduce the green space requirement and front yard setback to achieve the needed parking.

A Commissioner asked for the total number of parking spaces.

Mr. Robinson replied 28.

The Commissioner asked where the overflow would park.

Mr. Robinson replied that many customers will use the drive through only, and experience indicated 28 are sufficient.

A Commissioner asked if there were two drive-throughs.

Mr. Robinson replied yes, that it will be similar to the Hazel store, with 25 parking spaces.

A Commissioner asked if the two stores are about the same size.

Mr. Robinson replied that they were.

No one spoke against the request.

Ms. George recommended approval of the variance request.

A Commissioner asked Mr. Robinson if they currently owned the property.

Mr. Robinson replied that they did not.

A motion was made and seconded to accept staff recommendation

The Commission approved the motion unanimously.

Board of Zoning Adjustment recessed to reconvene later to vote on a variance request by G. W. Smith.

Pine Bluff Planning Commission

Call to Order

Old Business: None

New Business:

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1. A Use Permitted on Review request by Joe D. Wood. to reside in a residential home in conjunction with the permitted use of appliance sales at 5425 Wood Avenue in a B-3 zone.

Joe Wood, 5425 Wood Avenue, Pine Bluff, AR spoke for the request, stating ne needed a use permit for appliances sales at his home.

No one spoke against the request.

Ms. George recommended approval subject to the requirement that outside storage of appliances should not be visible from the street. Without coming back to this board, no increase any storage of any appliances from current levels should be allowed.

The Chair asked Mr. Wood if he understood he may not store additional appliances beyond the carports. Mr. Wood replied yes.

A motion was made and seconded to accept staff recommendation.

The Commission unanimously approved the motion.

2. UPOR request New Fellowship Church to assemble in a B-4 zone at 811 W. 6th Avenue for the purposes of church services

Thurlon McKissic, 4131 Macbeth Road, Pine Bluff, AR spoke for the request.

A Commissioner asked if this was a new church or a one moving.

Mr. McKissic replied a new church.

The Chair asked if he had looked at other sites.

Mr. McKissic responded that he had.

A Commissioner asked how many people would be seated and what times of day are the services.

Mr. McKissic stated seven members, Sundays at 9:00am, 10:30am, 5:30pm; Wednesdays at 5:30; Friday night and Saturday.

A Commissioner asked what the building was used for until now.

Mr. McKissic replied adult day care.

A Commissioner asked if he anticipated modifying the building.

Mr. McKissic responded no.

A Commissioner asked if Mr. McKissic was working on the building now.

Mr. McKissic said yes, but stopped when he found out he needed a permit.

Ms. George stated that retail space taken up by non-retail uses could be a future problem and recommended denial of the request.

A Commissioner asked what else could be done with the space since there's not much retail in the area.

The Chair said that because an area is down at present doesn't mean it won't come back; dissimilar uses will slow down, potentially, any future revival of the area.

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A Commissioner asked if the request was to use the space permanently for church services.

Ms. George replied it was and that once a UPOR is approved it is a covenant running with the building, unless the Commission limits it to this applicant. She recommended the Commission approve it for this applicant only and that the space revert to commercial after this applicant leaves.

A motion was made and seconded to approve staff recommendation.

The Commission approved the request, with one commissioner opposed.

3. Rezone Request by Kenyatta Willis to rezone 1224/1230 N. Willow from RMF-12 to R-4 Residential.

Kenyatta Willis, Pine Bluff, AR spoke for the request, stating she needed to place a mobile home on her grandmother's property.

The Chair asked if it was a single or double wide.

Ms. Willis replied that it was a single wide.

No one spoke against the request.

Ms. George recommended approval of the rezone request.

A motion was made and seconded to accept staff's recommendation.

The Commission approved the request unanimously.

4. UPOR request by Beverly Murray to assemble in a B-4 zone at 1522 S. Main for church services

Beverly Murray spoke for the request, stating the building had previously been a church. It seats 32 people and has 18 rooms. She has a place for children & mothers. Noonday prayer is from noon to 1:00.

A Commissioner asked if there were enough parking spaces.

Ms. Murray stated there are two lots with 16 parking spaces, two handicapped and the street parking.

The Commissioner asked if those were shared parking lots.

Ms. Murray stated the lots are leased to the building.

The Chair asked Ms. Murray if she was operating there now.

Ms. Murray replied no, she's just been fixing the place up.

The Chair asked if Ms. Murray is buying the building.

Ms. Murray replied the owner will give her first option.

A Commissioner asked if there were another church a block away, to which Ms. Murray replied yes.

No one spoke against the request

Ms. George recommended denial of the request.

A motion was made and seconded to accept staff's recommendation.

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The Commission approved the motion with one commissioner voting against the motion.

5. UPOR by Mathew Ferguson & Charles Kelly to operate an auto repair garage at a previously existing garage location at 2815 Ohio in an R-1 zone.

Mathew Ferguson, 311 W. 29th and Charles Kelly spoke for the request. Mr. Ferguson stated he needed a place to do bodywork.

A Commissioner asked if the applicants knew the restrictions the staff recommendation would carry, namely being open only 8-5, no large trucks, and no outside storage of vehicles.

Dallas Craig, 2808 S. Ohio spoke against this request because it decreased his property value and was an eyesore.

William McGehee, 2819 Ohio Street stated the fumes and dust would impact him. He stated piles of old paint cans were left in the alley from the old occupant.

Sandra Luster, 2803 S. Ohio spoke against the request.

Ms. George recommended approval subject to the conditions concerning the hours, personal vehicles, no outdoor storage. The building is existing, but was there before zoning. It was operated until 2-3 years ago. Since it has been closed over 1 year, it has to come back to commission.

A Commissioner asked if it would need to be re-inspected before it could re-open.

The Chair said that it would.

A Commissioner asked if would need an environmental retrofit.

Mr. Tucker said it would have to meet all current code.

A motion was made and seconded to not accept staff's recommendation and to deny the applicants' request.

The Commission unanimously approved the motion to deny the application.

6. UPOR request for New Faith Missionary Baptist Church to build a church in an R-3 zone on E. 16th approx. 50 feet east of Missouri.

Mr. John Chapman spoke for the request. He wanted to build a church at this location and was waiting to purchase until after the UPOR was approved.

Ms. George stated that given the residential area, narrow street and the small lot, her recommendation was to not approve the request.

A motion was made and seconded to accept staff's recommendation.

The Commission unanimously approved staff recommendation.

7. Rezone request by GD Smith to rezone property between 8th and 11th avenue and from Blake to Fig Street from B-3 Commercial to B-1 neighborhood Business and from R-4 residential to I1 Light Industrial.

8. UPOR Request by GD Smith to operate an automobile salvage yard on property between 8th and 11th Avenue, and from Blake to Fig.

9. Request by GD Smith to close the following streets and alleys: 9th Avenue from Fig to Blake, 10th Ave. from Fig to Blake, Oleander Street from 8th to 10th alley located south of

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lots 1 & 2 and lot 14 of Houston & Roane Addition , alley located in Block 15 of Monk's Subdivision , alley located south of Lot 1 -6 in Block 6 of Lincoln Park Addition

10. BZA variance request to build a fence of material other than that allowed by ordinance

Robert Morehead spoke for the request and stated Mr. Smith understood his properties that are in non-conformance have been grandfathered in. He said this application was negotiated at the behest of the City and there was room for discussion. Mr. Smith has agreed to it. Mr. Morehead understood concerns about closing 10th Ave. from Fig to Blake. He indicated if that if were a problem, the street should remain open.

Chair stated the opposition shall limit their speakers to two as has been done all evening, approximately two minutes per speaker.

Dianne Williams, 1406 W. 46th Avenue spoke against the request. She stated her husband is the pastor of Prayer Gardens, located at 800 Apple St. She stated the area residents have improved their properties and that they built their \$250,000 church there to help the neighborhood. She said Blake Street was an embarrassment. In voting to approve Mr. Smith's request to close streets, Ms. Williams said the Planning Commission was affecting the property rights of all who live in the area. She had been told that any street closing presents an ambulance access problem to homes or businesses. She said it infringed on the individual's rights to a clean environment. Ms. Williams said there were three messages the Commission could send with a no vote. One, that all the citizens of Pine Bluff are important. Two, Pine Bluff was only as attractive as its most blighted area, and three, that the Commission took seriously the environment of the City.

Janice Roberts, 4th Ward Alderman of Pine Bluff, spoke against the request. She stated Ald. Stepps and Ald. Walker had joined her. She stated they were filing a petition of denial. She said the reasons were a failure to comply with the Zoning Code concerning auto salvage yards, illegal expansion on surrounding properties and across the street, violations of state solid waste, hazardous waste and groundwater law and endangerment of public health, welfare and environment of the area residents and the City of Pine Bluff. Mr. Morehead stated he understood the City initiated this agreement and that it will cost Smith about \$250,000 to comply. It included a 40' setback from the Blake Street and removal of all vehicles east of Blake.

Mrs. Roberts indicated the petition is against all four City actions. This proposal has not been before the City Council.

Ms. George stated that the mayor initiated this to resolve this so all parties could live with it and benefit the entire City. She stated Mr. Smith knew this agreement needed to go before the Commission and the Council. She showed an exhibit indicating its development over time.

The Chair stated the effort was to rezone and remove Smith's grandfather status so he will have to obey City ordinances concerning salvage yards within 120 days.

Ms George said Mr. Smith would remove everything east of Blake Street, move everything back 40 feet west of Blake Street and encircle the property with a metal roof screening fence in an earth-toned hue.

Ms. Roberts asked would Smith continue to live in his residence in the wrecking yard.

The Chair stated that the house would be a non-conforming use under this arrangement.

Ms. George stated the City was not rewarding him and that staff felt this was a good compromise, and that Smith has agreed to it in writing.

A Commissioner asked for clarification that there is nothing to be done about pre-existing, non-conforming ("grandfathered") uses here.

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Ms. George stated that Smith could not stack cars any taller than the fence and that if this proposal was not approved, everything would remain unless the city sued him.

A Commissioner observed that some of Smith's illegal expansion has been there so long he may have some right to be there.

Ms. George said no one could predict what would happen if it went to court.

A Commissioner asked if the commission adopted these proposals, would Smith lose his "non-conforming status.

The Chair replied yes.

Ald. Stepps asked who enforces violations.

Ms. George stated that would be with the City's responsibility.

The Chair requested be a minimum eight foot fence required.

Ms. George stated that it must be at least eight (8) feet and it could be ten feet. She added that no stacking of cars would be allowed above the fence line. She asked that the motion to accept staff recommendation include that amendment.

A motion was made and seconded to accept staff recommendation that an additional condition against stacking above the fence be added to staff recommendation.

The Commission approved unanimously the motion to add the condition prohibiting stacking above the height of the fence to staff recommendation.

Ms. Williams asked if the vote included closing all streets.

Chairman Taylor said it did. He said the Commission could remove 10th Avenue from the closed streets. Mr. Morehead assented to removing 10th Avenue from the list of closed streets.

The Chair stated that the Commission could approve staff recommendation with the stacking amendment and a second amendment removing 10th Ave from the list of closed streets.

A commissioner observed that it would not all be behind one fence.

Ms. George said Mr. Smith must completely fence and enclose every portion of the salvage yard.

A motion to further amend staff recommendation to remove 10th Avenue from the list of streets to be closed was made and seconded.

The Commission approved the second amendment to staff recommendation unanimously.

A motion was made and seconded to approve staff recommendation on the rezoning, the use permit, the street closing of 9th, Oleander from 8th to 10th, and the alley closings in Houston & Roane, in Monk's, and in Lincoln Park.

A commissioner asked what percent footprint reduction is achieved if we approve this request.

Ms. George stated approximately 25%.

A commissioner asked who is responsible for the clean-up.

Chairman Taylor replied it was Mr. Smith's his responsibility and that ADEQ could examine it.

The Commission unanimously approved staff recommendation, as amended.

The Board of Zoning Adjustment reconvened

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4. Variance request by G. D. Smith to construct a fence built of materials other than those allowed by zoning ordinance

No one is present to speak for against the request.

Staff recommended that the Commission allow Mr. Smith to construct a fence of metal roofing material to surround his salvage yard.

A motion was made and seconded to approve staff recommendation.

The Commission approved the motion unanimously.

Board of Zoning Adjustment Adjourned

Planning Commission Reconvened

Called to order

11. Proposed Ordinance amending zoning regulations in the Fifth Avenue Historic District

Ms. George stated that notice had been sent to all affected property owners.

Jim Buckner, Buckner Realty, 715 W. Fifth Avenue, Pine Bluff, AR requested that action be deferred until the end of the meeting

Chairman Taylor agreed.

12. Amendment of the City Code section 29-23 through 37 as it pertains notice and application to the Planning Commission

Ms. George stated this amendment would simplify application and noticing requirements.

A motion was made and seconded to recommend that City Council approve the amendment.

The Commission unanimously approved the motion.

(The Planning Commission returns to Item 11.)

13. Proposed Ordinance amending zoning regulations as they pertain to non-conforming auto salvage yards in the City

Ms. George stated that current regulations are adequate and only need better enforcement. She recommended that the Planning Commission form a committee to examine the issue and review the current ordinance prior to taking action. She stated that City Council had voted on the issue once to send it to the Planning Commission for review.

A motion was made and seconded to accept staff recommendation.

The commission approved staff recommendation.

11. Proposed Ordinance amendment to change the zoning regulations in the Fifth Avenue Historic District

Jim Buckner spoke against the proposed changes to the permitted uses in the district zoning regulation.

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Elizabeth Gaines, Fifth Avenue Historic District Commissioner, spoke in favor of changing the Fifth Ave. Historic District regulations.

Ms George stated that any existing use that is non-conforming would be “grandfathered in”.

A commissioner asked that a committee analyze the permitted uses proposed for the area.

Planning Director’s Report: None

Administrative Matters: None

Open Discussion: Chairman Taylor reminded commissioners to attend all the meetings all the time.

Commissioner Long asks that a planning study be conducted of the Grider Field/Ladd Road to examine what might be the appropriate zoning along this road.

Meeting Adjourned