

BOARD OF ZONING ADJUSTMENT
MINUTES
FOR MEETING HELD AUGUST 25, 2009

MEETING: Shown herein is a summary of action taken at the Pine Bluff Board of Zoning Adjustment Meeting held August 25, 2009 at 4:00 p.m. in the City Hall Chambers.

QUORUM: Those members present included: Lou Taylor, Evelyn Blunt, Joe Clement, Frank Hartwick, Jesse Kearney, David Lausten, Gordon Reese, and Don Scott.

OTHERS

PRESENT: Others present include: Jerre George, Regional Planner, Lakishia Hill, Zoning Official, and other concerned citizens.

CALL TO

ORDER: Chairman Taylor called to order the Pine Bluff Board of Zoning Adjustment meeting for August 25, 2009.

**CONSIDERATION
OF MINUTES:**

July 2009 minutes were adopted.

OLD BUSINESS:

NONE

NEW BUSINESS:

Item 1: Appeal of Zoning Administrator's Decision by Nellie Burnett to operate a shelter for foster children at 3106 S. Indiana Street in an R-2 Residential zone.

Ms. Nellie Burnett spoke for this request.

Ms. Burnett stated the following: I am before you this evening to get a house at 3106 S. Indiana Street rezoned. This is to be a house for children to come into care under state protection. This is for children who have been taken away from their birth parents. They will stay at this home for both short-term and long-term periods, depending on their circumstances. The environment of this shelter will be homeless. There will be curfews, house parents who live there twenty-four (24) hours a day. The children will have chores such as cleaning the bedrooms and kitchen. School age children will be transferred to school by house parent, Nellie Burnett, and the same for daycare age children. Also, they will be transported to their churches. The homework assignments will be supervised by the house parent. Children will be taken to activities of their interest by house parent.

This type of shelter is needed here in Arkansas to keep children from being shifted from the Jefferson County area. Also, in order to keep children in the Pine Bluff Schools.

There will be a Christian environment. Clothing material for proper hygiene and school material will be supplied by the house parent, Nellie Burnett.

Fire extinguishers, sprinklers and proper exits will meet code in order to run this house. A full security system will be installed for protection. No pets will be allowed. Fire and tornado drills will be performed on a monthly basis. This shelter will only house females.

Commission Chair Taylor asked if commissioners had questions of Ms. Burnett.

Since there were none, Commission Chair Taylor asked if there was anyone else present who would like to make a statement in regard to this matter. Since there were none, he asked for staff recommendation.

Regional Planner Jerre George stated: First of all this is an appeal of the zoning official's decision to not allow her to put that use in her home because it is not zoned for the use. As I have said on numerous other applications for appeals of zoning decisions, this can not be heard in this zone because it is not listed in this zone as a UPOR. It is listed in other zones as a UPOR. Therefore, it can't be heard in this zone. So, we recommend that the zoning official's determination be upheld.

Commission Chair Taylor asked if there were any questions of staff. Since there were none, he asked all in favor of upholding the zoning official's decision to signify by saying Aye. All opposed signify with the same sign. The zoning official's decision was unanimously upheld.

Commission Chair Taylor stated: Ms. Burnett, your appeal has been denied. The zoning official was correct in her decision not to allow a use permit on review for a child care foster care center at that address. That use is allowed in two zones, a B-3 and B-4. If you can find a location that is zoned B-3 or B-4 a Use Permit can be heard but not in an R zone.

Mrs. Rosetta Thomas asked: What is an R?

Commission Chair Taylor answered: Residential

Mrs. Thomas stated: I am with the Department of Human Services. I was told that a shelter can not be in a residential zone. Everywhere we send our kids there are residences all around them.

Commission Chair Taylor stated: If you look at the zoning map you will find that those locations are B-3 or B-4.

Mrs. Thomas stated: I am not familiar with all that.

Commission Chair Taylor stated: In the zoning office there is a map that will inform you of the zone by address.

Mrs. Thomas asked: There is no way you can rezone it?

Commission Chair Taylor stated: That would be considered spot zoning, which is considered against the law. You would need to have a larger piece of property in order to apply for rezoning. Notice to all neighbors and people within 1000 feet would have to be noticed. A public hearing would have to be heard and the council would have to approve the rezoning.

Mrs. Thomas asked: Can we go through those steps?

Commission Chair Taylor stated: You would have to have a big enough piece of property. It would need to be at least two (2) acres.

Regional Planner George stated: We can't have businesses operating in residential areas. That is why we have the zoning ordinance. An emergency residential shelter is a business. We are not talking about foster homes where a child is being placed with a family. This is a business.

Commission Lausten stated: We would be more than happy to approve something along these lines. It sounds like a wonderful plan. It has to fall within the requirements of zoning in the B-3 and B-4 zones.

Item 2: Variance request by G&M Holdings, LLC to eliminate the ten (10) foot green space requirement on the west property line of a parcel of property located on the southwest corner of Olive Street and Mallard Loop.

Mr. Ken Bethge spoke for this request.

Mr. Bethge stated: I am here today on behalf of G&M Holdings, LLC. G&M is the developer of the property on the west side of Olive Street across from Wal-Mart Supercenter. The property lies immediately north of the Exxon Super Stop and the southern leg of Mallard Loop. We have been approached by a developer who wishes to purchase this particular tract. They wish to construct a building with two bays, one of which will house a national tenant. There is a portion of the zoning ordinance that requires a ten 10' setback on the rear of the site. We are showing parking that goes up to the property line and that is why we are asking a variance on the setback. We are asking to shift the setback further west onto the next property.

Commissioner Reese asked: Does that mean a twenty (20) foot setback on the property behind it?

Mr. Bethge answered: Yes

Regional Planner George stated: Actually, it would be a fifteen (15) foot setback because there is a five (5) foot side yard setback on the other property in addition to the ten (10) foot rear yard setback of the subject property.

Commissioner Reese asked: Will you put this in writing on the deeds?

Mr. Bethge stated: We are trying not to put the cart before the horse. Before we put anything in writing and on the record we need to get approval. Before the transaction closes we will get lot split plat approvals and simultaneously we will put in writing what we are doing in conjunction with this transaction.

Commissioner Reese stated: We will have to have something in writing.

Regional Planner George stated: We would also request that it be placed on the plat.

Commission Chair Taylor asked if anyone else would like to speak on this matter. Since there were none, he asked for staff recommendation.

Regional Planner George stated: Staff recommends approval of the request. It meets the intent of the ordinance to provide the green space.

Commission Chair Taylor asked if there were any questions of staff. Since there were none, he asked all in favor of granting the variance to signify by saying "Aye". All opposed signify with the same sign. The variance was unanimously approved.

ADJOURNMENT:

Commission Chair Taylor entertained a motion to adjourn.

The motion was made and seconded.

Commission Chair Taylor adjourned the meeting.

THESE MINUTES ARE ADOPTED THIS 29TH DAY OF SEPTEMBER 2009.

CHAIRMAN

SECRETARY