

## MINUTES OF MEETING

### HOOVER BOARD OF ZONING ADJUSTMENT

**Date:** February 28, 2022  
**Time:** 5:30 P.M.  
**Place:** Hoover Municipal Center  
**Present:** Mr. Curtis Jackson  
Mr. Dan Mikos  
Mr. Kyle Puchta  
Mr. Jim Brush  
Mr. Lawren Pratt

**Absent:** Mr. David LeCompte  
Mr. TJ Dolan

**Also Present:** Mr. Mac Martin – City Planner  
Ms. Vanessa Bradstreet – Zoning Assistant

#### 1. CALL TO ORDER

The meeting was called to order by Mr. Mikos. The secretary had the roll call and a quorum was present. Mr. Mikos announced the voting members for this meeting would be Mr. Jackson, Mr. Pratt, Mr. Brush, Mr. Puchta, and himself.

2. APPROVAL OF MINUTES: Mr. Mikos announced they would look at approving the Special Called meeting, January 5, 2022, and January 24, 2022, regular meeting minutes. Mr. Mikos asked if anyone had any additions or corrections. There being none, the minutes were approved by acclamation.

The following case was continued at the January 24, 2022, meeting:

3. BZA-0122-01 –Mr. Tim Lawson is requesting a 33.9’ variance to his front setback along Farley Road, which would adjust the required setback to 35’ at property located at **301 Park Avenue**. Section 9.02.03.B.2 of the Zoning Ordinance requires the front setback of his lot to match that of his neighbor to the east since the street frontage of the block is over 40% developed. Mr. Lawson is the property owner and the property is zoned R-1 (Single Family District). (CONTINUED)

Mr. Tim Lawson, 2215 Oak Ridge Circle, was present to represent the case. Mr. Mikos stated they would really like to see some plans. Mr. Lawson explained the case to the board. He stated what he would like to do was to face the house to Park Avenue and the driveway would come off Farley in the rear of

the home. Mr. Lawson stated in the process of the subdivision of the property, an extra 10' of right-of-way was donated to the city. Mr. Lawson stated if they needed a plot map, he would get it. Mr. Puchta added what they needed was more information to consider the options.

It was then discussed with Mr. Lawson to continue the case to gather some more information. Mr. Pratt suggested that in Mr. Lawson's packet there was a survey that shows the lot and thought it would be helpful for them to see the outline of the building in relation to the lot and also to show the current setbacks on the lot so they could see that and also just to the north or east of the lot the houses to the east; it would be good for that information to be shown as well so they could see the big picture.

Mr. Martin stated the width of the building envelope was approximately 40' wide but was not survey grade. Mr. Martin stated what the applicant was asking for was an additional 25' for a total of 65' width. Mr. Mikos stated what he had was basically a 40' wide buildable area. Mr. Martin agreed this was correct in order to match the 35' setback off the current property line.

Mr. Mikos stated this case would be continued until the March 28, 2022, meeting.

**4. BZA-0222-03 - Mr. & Mrs. Russell Stringer** are requesting a variance to allow a swimming pool to be built 5' off the property line instead of the required 10' on the left side of the lot at property located at **1545 Wilborn Run**. Mr. & Mrs. Stringer are the property owners and the property is zoned PR-1 (Planned Single Family District). **(CONTINUED)**

Mr. Russell Stringer, 1545 Wilborn Run, was present to represent this case. Mr. Stringer stated the fiberglass pool company they found to build the pool in the next year, as opposed to the next 3 years, was their inventory currently had a pool that was 33 feet long and it was the only one they could put in this area. Mr. Stringer stated in order to put that pool in, if they built it with the 10' offset on the southwest side, it would be right up against the existing fireplace, 18" to be exact, and he stated he knew there was a rule it would have to be 5' from any existing structure, so they were hoping to move it to the left 5' so they could have some clearance between the existing fireplace and the water.

Mr. Stringer added in January, they were granted a variance for the rear of the back fence, now they were asking for the same kind of symmetry on the left side.

Mr. Mikos stated he felt their feelings back in January on the variance on the back, the way the lot was structured and with the drainage area, it wasn't causing any encroachment on anything to allow that variance. Mr. Mikos stated that in this case, 5' to the other lot line, it wasn't very much.

Mr. Stringer asked if they would need a variance for in between the existing fireplace and the pool as it was 18". Mr. Mikos asked the City Planner what his opinion was.

Mr. Martin stated that in looking at the survey in that particular drawing, they would need to confirm the actual distance between the pool and fireplace. Mr. Martin stated in scaling it, it seemed pretty close to 10 ft. Mr. Stringer stated he thought the drawing wasn't exactly accurate. He stated they had a stone storage for firewood and the whole thing covered the patio. He stated it was not on the interior.

Mr. Mikos asked Mr. Stringer if the pool company didn't have a smaller pool. Mr. Stringer answered they did not have one that would fit their footprint and he could get this pool in the month of March or April; otherwise, it would be into the next year or the year after.

Mr. Martin stated the survey was only showing the fireplace. Mr. Stringer stated that was correct and added the fireplace storage went all the way to the end of the patio. Mr. Martin asked how wide the wood storage box was. Mr. Stringer answered he actually had never measured it.

Mr. Pratt asked Mr. Martin if the wood storage part would be considered a structure under our ordinance and if so, perhaps that portion of the fireplace storage box could be removed. Mr. Martin added that it would be considered a structure under the zoning ordinance.

Mr. Mikos asked if their existing fence was on the lot line. Mr. Stringer answered it was on the lot line. Mr. Mikos asked what was on the right side. Mr. Stringer answered it was a gas grill with natural gas line. Mr. Mikos asked if Mr. Stringer could adjust his wood storage box perpendicular to the fireplace and make it an "L" shape? Mr. Stringer answered he would have to ask a contractor.

Mr. Brush and Mr. Mikos asked about the height of the knee wall compared to the front of the fireplace. Mr. Stringer answered it was fairly close.

Mr. Stringer stated they had spoken to their neighbors on the left side and they didn't have a problem with it.

Mr. Mikos asked the City Planner, Mac Martin, if he had any ideas. Mr. Martin replied the issue he was having was he was trying to determine what the physical hardship was on the site because there were other options/products out there that would provide relief on the situation even though they might not be available now. Mr. Martin added that knowing there were other options such as adjustments that could be made considering the fireplace structure, it was hard for him to make a recommendation. Mr. Martin stated that if the applicant wanted to continue the case in order to research other options, then that would be fine.

Mr. Stringer stated if he could confirm moving the pool 5 feet from the existing structure without having to demo what is already there, and if he could get a 2' variance on the left side which he thought would be maybe 2' or 3' rather than 5', would that be acceptable, as he was looking at costs, too, but was willing to do whatever it takes.

Mr. Martin addressed the Chairman and stated that staff would be in a better position if they had some measurements and more information. Mr. Mikos stated to Mr. Stringer that he would try to find a 30' pool. Mr. Stringer stated he had tried, but would be glad to get with the Engineering Company and ask for specific measurements. Mr. Brush agreed to get all the existing structures in the backyard to scale. Mr. Mikos asked if Mr. Stringer if he wanted to continue the case for another month. Mr. Stringer answered yes. Case continued until the March 28, 2022, meeting.

5. **BZA-0222-04** - Mr. James Newman is requesting a variance to allow a fence to extend into the accessory front yard setback to the property line at property located at **1109 Guinevere Circle**. Mr. Newman is the property owner and the property is zoned R-1 (Single Family District). **(CONTINUED)**

Ms. Audrey Bence, 1109 Guinevere Circle, was present to represent the case and stated she was requesting a variance to build a fence to control the dogs running through her neighborhood and yard which to protect her young son. She stated she also had submitted a police report in which a police officer had to discharge her weapon next to her yard in which she and her son were playing to defend them against a loose dog.

Ms. Bence stated the problem was dealing with loose dogs and they felt the solution was a fence; hence, she was asking for the variance to be granted in order

for them to build a fence on the flat part of their yard where her family stayed most of the time and the son had his toys.

Mr. Mikos stated the BZA had in the past had several fence requests from applicants with corner lots with similar cases and with that being said, the board had never approved one. Mr. Mikos stated it caused sight problems and basically was putting a fence in the front yard of somebody else. Mr. Mikos stated it appeared to him that she had quite a bit of property, part of which already was fenced off.

Mr. Mikos stated they tried to help people with a foot here or there, and it appeared there was plenty of yard to fence without going into the setbacks.

Mr. Robert Maddox, representing Ms. Bence, then addressed the board members to say that he felt the way this case was uniquely different from the prior cases heard was that the reason Ms. Bence was requesting this variance was due to the roaming dogs through the neighborhood. Mr. Maddox brought up the fact that the police officer had to discharge her weapon twice right next to where Ms. Bence and her son were outside playing. Mr. Maddox pointed out that the fence did not go to their front yard or to their side yard. Mr. Maddox stated the hardship of their property was the property slanted to the north, and in the pink outline of the map provided was where the son played on the flat area.

Mr. Maddox stated the fence didn't start until the dogs roaming through the neighborhood created a problem and they felt the fence was the solution. Mr. Maddox stated the topography of the land due to the sloping nature is the reason for the physical hardship itself. Mr. Maddox stated they would welcome an opportunity for a walk by examination, rather than a drive by to show the slope itself, if it would please the City Planner. Mr. Maddox added he felt this is the critical piece of information they were all looking for to try to find a solution for this problem. Mr. Maddox stated he understood the double front yard and also pointed out there was written documentation from the neighbors on all sides to state they did not have a problem with the fence request. Mr. Maddox respectfully requested them to look at the property itself and pointed out a large oak tree that they could possibly move it back some to possible 30' and still claim most of the flat lot. Mr. Maddox stated he understood the precedent already set, but did point out this was a different request making the precedent different.

Mr. Mikos stated that Hoover did have Animal Control, which he had used before, and he felt a phone call to Animal Control would signal for them to show up and pick the dog up.

Mr. Maddox asked what about if that was too late. Mr. Maddox again pointed out the physical hardship of the sloping of the topography of the land and they would request a look at the property and would appreciate their thoughts on ways to negotiate a good solution.

Mr. Pratt asked the City Planner for clarification, what the allowable fence location for this corner lot was. He asked if would be the left side of the home projected straight back or where would the allowable fence be on the roadside? Mr. Martin stated the allowable location, as they had communicated to the applicant, would be at the 35' front setback line. Mr. Maddox added he felt this was the small orange area inside of the pink dotted line on the map provided, and thought this would considerably reduce the flat area where the child was playing substantially, which they were trying to get more of that due to the topography going down the hill.

Mr. Puchta stated he felt this was a big ask and he understood the sloping of the land as he had this on his property as well. Mr. Mikos stated he didn't feel the topography was really the issue here and cited several other cases in which the board did not approve due to the corner lots and slopes in their yards.

Ms. Bence stated they felt this would be their "forever home" and couldn't have that with the roaming dogs in the area and letting their son go outside to play. Mr. Mikos asked Ms. Bence if she had utilized Animal Control and she answered she had. Ms. Bence stated this had been going on for a couple of years and realized this was a huge ask, but they were asking for it.

Mr. Mikos asked if anyone else had any questions. Mr. Jackson asked if anyone else in the neighborhood had a fence that close to the road. Ms. Bence stated there was and had submitted a picture of the same kind of home on the corner with the fence. Ms. Bence added her fence would be more aesthetically pleasing.

Mr. Martin added that the fence in the picture was most likely there before this area was annexed into the City of Hoover. Mr. Mikos stated most of these houses were built in the early '60's. Mr. Maddox pointed out they didn't really know when that fence or other early fences in the area were truly built, and asked what other type of variance could be granted outside of the 35'?

Mr. Pratt commented if he had been in the same situation, he would have built a fence that complied with the ordinance two or three years ago. Mr. Pratt asked why that had not been done. Ms. Bence stated they had attempted to do this back in April of 2019 but COVID hit and this was the first time they had been able to find somebody to install the fence.

Mr. Mikos asked if the person building the fence got a building permit. Ms. Bence stated he had not obtained a permit and she didn't know that was necessary.

Ms. Bence then explained the process she had been through to bring her to this meeting requesting the variance.

Mr. Jackson asked Ms. Bence if she had thought about not building the fence that close to the street. Ms. Bence then explained her rationale about putting the fence in that location was that this was the only area of flat yard for her son's toys to fit. Mr. Maddox interjected that they would consider moving the fence closer in.

Mr. Pratt asked Ms. Bence if she had considered creating a flat area in her yard. Ms. Bence stated that financially she didn't think they could afford to do that when she had a large yard to work with. She indicated she had spent almost \$17,000 on fence material.

Mr. Mikos explained to Ms. Bence that the problem with granting her a variance was the precedence of other cases. Mr. Maddox pointed out that there were other fences in the yards in the area and nobody knew when those were built and asked if they could show them other ones in the area, perhaps that would help.

Mr. Jackson added he felt that the fence to the road would really stick out in the neighborhood. Ms. Bence stated they had spent \$2,000 on indigenous vegetation to hide the fence. She added that this would not impede the sight line from any way around her house. Mr. Jackson asked the height of the fence and she answered 6'.

Mr. Maddox stated they were formally asking for a continuance but were asking for any suggestions they could come up with so they could work on them before the next meeting. Mr. Puchta asked Mr. Martin if he felt there was a way the city could provide some assistance from the Director of Animal Control to sit down with this family to try to come up with a plan to deal with this. Mr. Martin stated he would certainly do some inquiries.

Mr. Jackson asked about how far back the big oak tree was from the road. Ms. Bence stated she did not know the measurement of this tree, but would certainly find out. She added, too, that she had spoken with Animal Control, and they told her that was all they could do.

Mr. Brush asked Mac Martin, City Planner, if he could tell by a drawing, how far the existing fence would be by the tree. Ms. Bence answered that was at the 35' setback.

At this point, it was decided they would continue the case until the March 28, 2022, meeting. Mr. Mikos asked for Ms. Bence to please get the measurement on how far it would be to the big oak tree. Ms. Bence agreed.

6. **BZA-0222-05** - Mr. & Mrs. Will Pearson are requesting a variance to allow a swimming pool in their side yard at property located at **504 Park Avenue**. Mr. & Mrs. Pearson are the property owners and the property is zoned R-1 (Single Family District). (**APPROVED**)

Ms. Jennafer Collins, Landscape Architect, 2445 Coronado, 35226, was present representing Georgia and Will Pearson. Ms. Collins stated the house was built about 6 years ago and was on a large, irregularly shaped lot. She stated the house was placed and oriented so that the side yard felt like the back yard. She then pointed out structures already placed in the yard. Ms. Collins stated they were requesting a variance to place a swimming pool in the side yard of this property. She pointed out the natural buffer of the side yard. She added they had submitted documentation from both side neighbors of their support for this project.

Mr. Mikos asked if they were planning on building any out buildings in conjunction with this project. Ms, Georgia Pearson answered yes; they were planning to build a pool house eventually.

Mr. Mikos asked the City Planner, Mac Martin, if that would be an issue. Mr. Martin answered the accessory building would not be a problem if it was built outside of the setback, 10'.

Mr. Pratt asked for clarification of which two neighbors had sent approvals. Ms. Pearson confirmed that information.

Mr. Mikos asked if anybody else had any questions or comments. There were none. Mr. Mikos asked for a motion. Mr. Brush made a motion to approve BZA-0222-05 as presented. Mr. Pratt seconded the motion. With a roll call vote, the motion was approved unanimously.



With no further business, the meeting was adjourned.

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Vanessa Bradstreet, Secretary, Board of Zoning Adjustment