



December 7, 2011
TECHNICAL ADVISORY COMMITTEE
OF THE
BENTON COUNTY PLANNING BOARD
MINUTES

- 1. Call to Order:** The meeting was called to order by Chairman Lane Gurel at 6:00 p.m.
- 2. Roll Call:** Lane Gurel, Ken Knight, Jim Cole, Mark Curtis, Cindy Jones and Starr Glenn were Present. Staff was represented by Elizabeth Bowen, Christopher Ryan, Richard McKeehan, Douglas Wyatt and Donna Fallin

3. Planning Board Member Reports:

4. Old Business:

- A. Vincent Xavier, 8030 LaCroix Road, Decatur, AR. Request for RV Park, Project 11-124, JP District 11 (RM)

STAFF COMMENTS--Planning staff has conducted a thorough technical review of the plan and accompanying application materials and has found that the applicant has met all of the requirements for application submittal and the plan meets all of the technical requirements of a site plan.

Staff will advise the Building Inspector and Road Dept. to inspect the road cut and backfill of trench. If satisfactory, the road cut bond posted with the Building Dept. shall be refunded to the Applicant. Finally, the Board may wish to determine what method of disposal the applicant proposes for the wastes generated by the business. Perhaps some recognition on the part of the applicant related to what they are required to do and how they intend to carry it out.

Conclusion and Recommendations--Therefore, staff recommends that the Planning Board consider the following stipulations as part of a decision:

1. That the applicant provides confirmation that trash shall be handled by the local trash hauler which presently serves this area.
2. That the septic system be installed per the ADH approval, inspected and to notify Planning Staff of its completion.

Reviewed by: Richard McKeehan, PE

Date: 12/02/2011

6. New Business:

- A. Donald Hernandez, 8001 Byers Road, Centerton, AR. Request for a Variance to Setback, Project 11-149; JP District 11 (DTW)History and Description

STAFF COMMENTS--The property at 8001 Byers Road is at the intersection of N. Coffelt Cemetery Road and Byers Road. It is on the south side of Byers Road. It is described as parcel #18 - 11378-001. It is also within section 13 of township 19 and range 32 (Attachment A).

During late October of 2011, Building Inspections staff noticed that a new utility building had been constructed within the northeast corner of parcel #18-11378 -001. Upon further research, staff determined that our office had not issued a building permit for the structure. As measured from the centerline of Byers Road, staff also determined that the property owners had constructed the new structure forty -seven (47) feet from the road centerline . The section of Byers Road serving this property does not sit within any right -of -way. Byers Road sits on the north boundary of this parcel and the south boundary of the adjoining parcel , #18-11362 -002. Byers Road is classified as a "local road".

Variations Needed -- Section 54-58, entitled "Minimum setback" (revised by Ordinance O-2004-09) states that ; (a) No manmade structure shall be constructed within the following

minimum setback areas: (3) Local roads, 50 feet measured from the centerline of the fronting road or 25 feet from the fronting property line, whichever is greater.

Because the structure was constructed forty -seven (47) feet from the road centerline, a variance of three (3) feet is needed.

Proposal--The applicant now petitions this board for a three (3) foot variance from the provisions of Section 54-58, entitled "Minimum setback".

Staff Review: Staff's review of the requested variances is based upon Section 54-59 entitled "Variance permitted". Section 54-59 states; The board of zoning adjustment may vary the requirements of this article if strict enforcement of this article would cause undue hardship due to circumstances unique to the individual property under consideration and grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of this article. In deciding whether to grant a variance for the reconstruction of a destroyed building, which building existed in the setback area on the effective date of the ordinance from which this section derives, the board of zoning adjustment may consider the historical significance of the destroyed building and the economic hardship on the owner of the destroyed building. (Ord. No. 86-27, art. VI, 11 -13-86; amended by Ordinance O-2004-09)

The property is rectangular in shape and measures approximately 470' x 283' for an area of 3.05 acres. The site slopes from the southwest corner of the property to the northeast corner. Staff does not believe that the property itself is unique or provides an exceptional situation to persons using such land. If the applicants, of this variance request, had come to the Benton County Planning Office and applied for a building permit before they constructed the utility building, staff would have ensured that the building would be fifty (50) feet from the road centerline . Any resulting hardship that the applicant now suffers, from not first seeking a building permit, is "self -imposed".

The Planning Board has three different options that it could choose from to remedy this situation; 1. Fail to grant a variance and take no further action. The current situation would become a new non-conforming use. 2. Fail to grant a variance and take action to bring the violation into conformance with a fifty (50) foot setback. The new building would have to be moved three (3) feet to the south. 3. Grant a variance to the applicant based upon the fact that the violation committed was "minimal" or " De minimis".

Planning Staff took front and side perspective pictures of the new building (Attachment B). Within the immediate area, there are few other buildings. A difference of three (3) feet does appear to be "De minimis". The intent of Section 54-58, to provide adequate building setbacks, would be upheld if this board granted the applicants a variance. Now that the building is constructed, compelling the applicant to move it, so that it completely complies with a fifty (50) foot setback, would create more of an effort for the applicant than the infraction suffered by the general public.

Recommendation-- Based upon the above analysis, staff recommends that this variance request be granted. Such action should not be deemed to set precedent. Members of the public are expected to apply with their local planning office before developing their property or building structures thereon.

Reviewed by : Douglas T. Wyatt, AICP Date: 12/02/2011

- B. Mark C. Weidler, 14745 Smith Ridge Road, Avoca, AR. Request for a Large Scale Development, Project 11-151; JP District 01 (DTW)

STAFF COMMENTS-- Planning staff is conducting a thorough technical review of the plan and accompanying application materials . We believe that the plan will meet all of the technical requirements of a site plan by the official Planning Board meeting on December 21 st , 2011. It is anticipated that the proposed use of an automotive repair and machine

shop may result in some nuisance due to noise. The residence to the north of the subject property is located 270' from the proposed commercial structure while the residence to the southwest is 340' from the proposed commercial structure. Screening should be provided along the north and south property lines to buffer the commercial activities of the proposed business and parking lot. According to the applicant's plan, there will not be any signage upon the property or along Smith Ridge Road.

Conclusion and Recommendations --Therefore, staff recommends that the Planning Board consider the following stipulations as part of a decision: 1. Please include an inset map that shows parcels 18-04573-000, this parcel 18-04573-002, Smith Ridge Road, and 62 Highway. 2. Please include a north arrow. 3. Please provide a title block that lists the project's title (ex. "Weidler Automotive and Gunsmithing Shop"), address of property, general location (ex. "within the NE/4 of NW/4 of Section 15, Township 20N, Range 29W").

4. Please provide a paragraph and block for your parking calculations ... Auto Service: 1 space per 300 s.f. 3600 s.f. provided / 300 s.f. = 12 spaces. Other Commercial: 1 space per 200 s.f. (gunsmithing) 600 s.f. provided / 200 s.f. = 3 Spaces. 15 spaces total.

5. Please depict all parking spaces on the plan. Parking spaces must measure 19'L x 9'W for 90 degree parking. A 25' wide driveway aisle must be maintained for each row of 90 degree parking spaces. Please indicate this driveway aisle on the plan. Please dimension the parking space and driveway aisle. (See Appendix B of the Benton County Regulations).

6. As some of your parking area will be gravel, note that these parking spaces will be denoted by an 8' long concrete or timber bumper block. Please provide this note on the plan. 7. Please provide one Americans with Disabilities Act (ADA) signed "handicapped" parking space with immediate access to the building. An 8' wide (cross striped) access aisle should be provided on the driver's side of the handicapped space. Designate the space with the universal symbol (Chapter X, Sec 2, B.1.E)

8. Landscaping The 25' setback at the front/north boundary of the property must be used as green space. It may not be used to park vehicles directly up to the north property line. Tables 2 and 3 in Appendix B, of the Benton County Subdivision Regulations, states that when a parking lot adjoins a property used for residential purposes, two (2) rows of shrubs and one (1) row of trees will be provided to buffer the residence from the commercial parking lot.

Please depict a row of trees planted 20' on center and two rows of shrubs planted 10' on center.

Depict this landscaping within the northern 25' setback. The gravel parking lot may need to be

extended further to the west. The aeriels of 2011 depict that there is some tree coverage along the

north boundary of your property line. You may depict this as part of your dedicated landscaping.

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Along the south boundary line, a row of trees should be planted to buffer the building from the

residence to the south. This row of landscaping should probably extend fifty (50) feet to the west

from the west building line. Trees should be planted 20' on center.

Landscaping should be planted so as to survive to full maturity. Please place a note on the plan

that you will be responsible for maintaining all landscaping depicted on the plan. A good rule is

to plant trees that are 2 inches in trunk caliper as measured one foot above the ground and about 6

feet tall at the time of planting. Shrubs should be about 2 feet tall at the time of planting and

reach a mature height of 6 feet.

Reviewed by : Douglas T. Wyatt, AICP

Date: 12/02/2011