

MINUTES OF MEETING

HOOVER BOARD OF ZONING ADJUSTMENT

Date: January 02, 2020
Time: 7:00 P.M.
Place: Senior Center Center
Present: Mr. Curtis Jackson
Mr. Jim Brush
Mr. Lawren Pratt
Mr. Dan Mikos
Mr. David LeCompte

Absent: Mr. TJ Dolan
Mr. Kyle Puchta

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 would be Mr. Brush, Mr. Jackson, Mr. LeCompte, Mr. Pratt, and himself.

2. Mr. Mikos announced that the members had received copies of the December 5, 2020, meeting minutes and asked if there were any additions or corrections to be made. There being none, Mr. Mikos asked for the minutes to be approved by acclamation.

3. Election of Officers: Mr. Mikos stated it was time to elect officers for the upcoming year. Mr. Mikos asked for nominations. Mr. Brush made a motion to elect Mr. Mikos as Chairman and Mr. Kyle Puchta as Vice-Chairman. Mr. Pratt seconded the motion.

Ms. Bradstreet asked if there were any other nominations. There were none. Ms. Bradstreet stated they needed a to close the nominations. Mr. Mikos asked for a vote to close the nominations. A unanimous vote was taken to close the nominations. Mr. Mikos asked for a vote on the nominations made, and the vote was unanimous to elect Mr. Mikos as Chairman and Mr. Puchta as Vice-Chairman.

4. BZA-0120-01 - Gregory B. Comer is requesting a variance to allow an unpermitted fence to extend 25 feet into the required 60 foot secondary front yard at the property located at **1773 Deo Dara Drive**. The property owner is Gregory B. Comer and the property is zoned E- 2 (Estate District).

Mr. Greg Comer, 1773 Deo Dara Drive, Hoover, AL 35226, stepped to the podium to explain this request. Mr. Comer explained this was the result of a fence that was not permitted that was too far in their side yard setback. He hired a contractor who knew the fence was not in the setback. Mr. Comer explained the contractor told him he was going to get a permit and said that he did get a permit. Then three weeks after the fence went up, the contractor, Shelby Fence,

called and said they had a problem. Mr. Comer stated it was not as if he was trying to do something wrong.

Mr. Mikos stated they noticed the variance request was filled out on March 11, 2019, and wasn't turned in until December. Mr. Mikos asked if there was a reason for that. He talked as if he could get the permit. Mr. Comer thought that the contractor had the permit and he did not know that he had not obtained the permit. The letter from Robert Macke came and he realized that he had to deal with the problem directly and take care of this issue. He left the issue alone until it came to a point that it progressed. Mr. Mikos stated one letter from a neighbor stated this fence looked better than the one before and asked where this fence was. Mr. Comer answered there was a fence on both sides of his property. The section of the fence in question did not have a fence there originally. The fence on the other side of the house was a wooden fence, was unsightly, was removed, and the new fence replaced it. Then there was an existing wooden privacy fence that separated them from their next door neighbor. Mr. Comer stated that fence would come down and be replaced but that had not been done yet. Mr. Comer stated all the fence work came to a halt once they had to stop and get a variance.

Mr. Mikos stated that the BZA's job was to determine if there were hardships involved in order to grant variances and they had to be careful because once they granted one variance, another person came in with almost the same scenario. Mr. Mikos mentioned the BZA had a case like this around the corner about a year ago. Mr. Mikos stated fortunately for that resident, they had not built the fence yet, but had purchased the materials already. Mr. Mikos added this put them in a difficult situation.

Mr. Mikos asked Mr. Comer if there was anything else he would like to say. Mr. Comer answered no.

Mr. Mikos asked if there was anyone in the audience who would like to speak on the case.

Mr. Walter Israel, 1775 Deo Dara Drive, stated he had lived there for twenty-six years. Mr. Israel stated he felt everybody should be treated equally so there should be consistence across the board with everybody. He stated what he thought he understood was the fence was too close to the road. Mr. Martin, City Planner, stated that that it was about 30 feet into the required 60 ft required setback. Mr. Israel stated he liked Mr. Comer as a neighbor but it was unfortunate the fence was built where it was.

Mr. Dylan Levey, 3164 Star Lake Drive, stated they were going to hear similar problems on all corners, because they all had two front yards. Mr. Levey emphasized they needed consistency and it was unfortunate that the fence was built the way it was, but if Mr. Comer could build his that way then he himself could bring his out 30 feet into the lake. Mr. Levey stated he didn't think anybody wanted him to build his fence that way either. Mr. Levey stated they had many restrictions about what they could and could not do and there was a reason for that. Mr. Levey stated they needed to support that and thanked the board for the chance to speak.

Mr. Mikos asked if there was anyone else who would like to speak. He explained it takes a super majority vote to get the approval for a variance. There were five of them so four members would have to vote in favor to get a variance. Mr. Mikos asked for a motion.

Mr. Brush made a motion to approve the variance request as submitted.

Ms. Terri Levey, 3164 Starlake Drive, stated she had a question. She asked if they allowed this in one yard then would it not offset the other yards and would look different from all the other yards. She stated they already had one eyesore with Title Max, a business that was undesirable in the area. If they allowed this fence to stay in place, then it too would be an eyesore that extended itself into their neighborhood. Ms. Levey stated she believed in continuity.

Mr. Mac Martin stated he was going to speak from a zoning standpoint. Mr. Martin stated the zoning ordinance did not require a wooden fence nor wrought iron fence in this particular zoning district. Mr. Martin stated there might be a function of the neighborhood covenants that he was unaware of, but from the perspective of the zoning ordinance, both wrought iron and wooden privacy fences would be permitted.

Mr. Comer stated there were numerous accounts of wrought iron fences that were very similar to his. Mr. Comer stated his next door neighbor's fence was black wrought iron. Speaking of issues of continuity there were a number of fences that were in their immediate neighborhood on Star Lake Drive, Star Lake Circle and Hummingbird that had fences like his that extended in the set-backs. Mr. Comer stated he was sure that those fences were put up before the neighborhood was in the city limits. Mr. Comer stated that one of the concessions he would like to make for this board was to remove the fence on the other side of his property that went all the way in the setback to Deo Dara Drive and they would clean it up so that it would look better.

Mr. Mikos asked Mrs. Bradstreet to let the record show that Mr. Comer had asked if the Board members had reviewed his packet information regarding hardships and neighbor comments. Mr. Mikos stated each board member had reviewed the application paperwork submitted.

Mr. Mikos added that many of the fences in that neighborhood were from before this neighborhood was brought into the City of Hoover before it was incorporated.

Mr. Mikos asked for a motion. Mr. Brush made a motion to approve BZA-0120-01 as submitted and seconded by Mr. Puchta. With a roll call vote, Mr. Jackson, Mr. Pratt, Mr. LeCompte, Mr. Brush and Mr. Mikos voted "naye". The motion was unanimously denied.

Mr. Mikos stated that the fence variance request had been denied.

With no further business, the meeting was adjourned.