

## MINUTES OF THE PROPERTY OWNERS APPEAL BOARD

MONDAY ~ JUNE 12, 2023 ~ 11:00 A.M.

BLUE LION, 101 NORTH 2ND STREET, ROOM B

The meeting was called to order by Chairperson Megan Raynor, presiding. The meeting convened at 11:05 a.m. to allow time for the applicant, Mr. Ted Lodes, to arrive.

*Note: Mr. Lodes never arrived.*

On roll call, the following members of the Property Owners Appeal Board (POAB) were also present: Bobbie Woodard-Andrews, Jack Swink, and Justin Sparrow. Karen Lewis was absent. Chairperson Raynor declared a quorum present.

The following City of Fort Smith staff were also in attendance and introduced themselves as noted below:

- Jimmie Deer, Director of Building Services
- Shawn Gard, Property Maintenance Supervisor
- Pablo Mendez, Property Maintenance Inspector
- Sherri Gard, City Clerk

The minutes of the July 11, 2022 meeting and September 7 and 8, 2022 appeal hearings were presented for approval. Sparrow, seconded by Woodard-Andrews, moved approval of the minutes as written. The members present all voting aye, Chairperson Raynor declared the motion carried.

Item No. 1 was consideration of Variance No. 23-0001, which pertinent details are provided as follows:

Property Location: 917 North 6th Street  
Applicant: Ted Lodes, owner  
Parcel No.: 13375-0009-00002-00  
Regarding: Parking of Commercial Vehicles on Residential Streets and Properties ~ *Fort Smith Municipal Code Section 14-54(a)(b)(3)(4)* ~

Mr. Gard briefed the POAB on the item advising the subject property maintains a Residential Multi Family Medium-Density (R-3-MF) zoning classification. Mr. Ted Lodes,

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owner, submitted the proposed variance request to allow a commercial school bus to remain on the residentially zoned property as he attempts to convert such into a motorhome. Such is a violation of Section 14-54(a) and Section 14-54(b)(3) and (4) of the Fort Smith Municipal Code, which are provided as follows:

*Sec. 14-54. - Parking of commercial vehicles on residential streets and properties.*

- (a) Restricted parking. It shall be unlawful to park or leave parked, standing, or unattended any commercial vehicle on any street or right-of-way classified as residential or as a residential collector by the city master street plan or on any property zoned residential or developed or utilized for residential purposes.*
- (b) Commercial vehicles defined. For the purposes of this section, a commercial vehicle is defined as any of the following:*
  - (1) Any solid waste collection vehicle, truck tractor, truck trailer, tractor truck/trailer combination, heavy construction equipment, backhoe, dozer, skid steer, dump truck, concrete mixer truck, garbage truck, pump-out truck, chemical/gasoline truck, fuel or oil truck, or similar vehicle designed to transport waste, hazardous, or noxious materials;*
  - (2) Any vehicle with three or more axles;*
  - (3) Any commercial vehicle that has a gross vehicle weight rating (GVWR) greater than 16,000 pounds;*
  - (4) Any vehicle originally designed to transport 16 or more passengers including the driver;*
  - (5) Any box or straight truck that has a gross vehicle weight rating (GVWR) greater than 8,000 pounds. A box or straight truck is one that has a high cubic feet of storage volume with a box or storage container built onto the chassis typically used for hauling appliances, furniture or other cargo. Familiar terms used to describe box or straight trucks include cargo trucks, container trucks and moving trucks.*

Mr. Lodes, owner, was not in attendance; however, Mr. Gard advised a current court case regarding the matter is underway in the Fort Smith District Court so he urged

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the POAB to consider the variance request despite the owners absence. Such will allow him to provide the POAB's determination to the Judge.

Chairperson Raynor inquired why the matter was filed in the Fort Smith District Court prior to the proposed variance request and how long Mr. Lodes has been working on the bus.

Mr. Gard clarified that Mr. Lodes was presented with the option to either file the variance request with the POAB or proceed with determination in the Fort Smith District Court. Mr. Lodes opted to proceed with Court action, which the matter was presented in Court on April 19, 2023. The Judge then recommended the matter be presented to the POAB prior to judicial consideration, which is what prompted Mr. Lodes to submit the variance request in May 2023. He added that Mr. Lodes advised of his intent to relocate the vehicle upon completion of both interior and exterior renovations.

Mr. Mendez advised the issue was first reviewed in October 2022 whereby the owner advised he only needed a couple of months to complete the noted renovations. The matter was revisited in January whereby the violation remained; therefore, a *30 Day Inoperable Vehicle(s) Notice* was provided, which indicated the vehicle must be removed and if such is not accomplished, formal action would be initiated. The violation remained in February; therefore, a certified letter dated February 9, 2023 was sent to Mr. Lodes. As aforementioned, Mr. Lodes ultimately opted to proceed with Court action.

Mr. Swink extended understanding that the noted renovations would take time to accomplish; however, he conceded that progress has been limited and such is a direct violation of the Fort Smith Municipal Code.

Chairperson Raynor noted the absence of the owner citing she would've liked to have heard his appeal for the requested variance.

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Swink, seconded by Sparrow, moved to deny the requested variance. The members present all voting aye, Chairperson Raynor declared the motion carried.

Mr. Gard advised that Notice of the denial will be provided to Mr. Lodes, as well as to the Fort Smith District Court Judge citing the next court date is set for June 21, 2023. It's anticipated the Judge will grant a presently undetermined time for removal whereby if such is not accomplished, daily fines will likely be extended.

Mr. Swink noted recollection of the last variance denial on Geren Road for a subdivision development and requested an update.

Mr. Deer advised that due to the POAB's variance denial, the developer redesigned the development to ensure compliance with all requirements of the Fort Smith Municipal Code.

Chairperson Raynor simply inquired if all members of the POAB would be available to meet at the regularly scheduled annual meeting set for 11:00 a.m., July 10, 2023 at the Blue Lion. All those in attendance conveyed no objection to the aforementioned date, time and location for the annual meeting.

There being no further business to come before the Property Owners Appeal Board, Sparrow moved that the meeting adjourn. The motion was seconded by Woodard-Andrews. The members present all voting aye, Chairperson Raynor declared the motion carried and the meeting stood adjourned at 11:22 a.m.

**APPROVED:**

  
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**CHAIRPERSON**

**ATTEST:**

  
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**CITY CLERK**