

# AGENDA

**PROPERTY OWNERS APPEAL BOARD  
MONDAY, SEPTEMBER 9, 2013 ~ 11:00 A.M.  
CITY OF FORT SMITH OFFICES  
PLANNING DEPARTMENT CONFERENCE ROOM  
623 GARRISON AVENUE, ROOM 326**

**I. Call to Order**

**II. Roll Call**

- Karen Lewis (Chair)    Megan Raynor    Scott Monroe  
 Dolores Chitwood    Joel Culberson

**III. Statement of Qualifications and introduction of City Staff**

**IV. Approval of minutes of the July 22, 2013 meeting**

**V. Items of Business**

**1. Variance Request**

Property Location: 900 South 68<sup>th</sup> Lane  
Property Owner: Wade E. Hopkins  
Regarding: Section 14-55 of the Fort Smith  
Municipal Code regarding "Parking of  
Recreational and Utility Vehicles on  
Residential Streets and Properties"

**2. Proposed amendment to the Fort Smith Municipal Code**

Change the annual 90 day delinquency date from July 15 to June  
30

**VI. Other Business**

**VII. Reports/Staff**

**VIII. ADJOURN**

**Gard, Sherri**

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**From:** Sharp, Susan  
**Sent:** Wednesday, August 28, 2013 3:12 PM  
**To:** Karen Lewis  
**Cc:** Deer, Jimmie; Gard, Sherri; Andrews, Brenda  
**Subject:** Variance Request - 900 South 68th Lane



## Neighborhood Services Division

P.O. Box 1908, 623 Garrison Ave., Fort Smith, AR 72902

August 28, 2013

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**To: Karen Lewis, Chairperson  
 Property Owners Appeals Board**

**Re: Variance Request #2013-3**

### NOTICE OF PUBLIC HEARING

Notice is hereby given that the following owner(s) or agent for the owner(s) has filed with the Supervisor of Neighborhood Services a written application pursuant to Ordinance 33-08, Section 14-55 of the City of Fort Smith Municipal Code to secure the following variance(s).

Request has been made for a variance of Ordinance 33-08, Section 14-55 – Parking of Recreational and Utility Vehicles on Residential Streets and Properties

Wade E Hopkins, Owner  
 Lot 27; Rivercrest Addition, Fort Smith, AR 72903  
 More commonly known as 900 South 68<sup>th</sup> Lane

The applicant will present said application at the regular Property Owners Appeals Board meeting on September 9, 2013 at 11:00am in the Stephens Building, 623 Garrison Ave., 3<sup>rd</sup> floor conference room #326.

Respectfully,

*Rick Ruth*

Property Maintenance Supervisor  
 Neighborhood Services Division

Phone: (479) 784-1027  
 Fax: (479) 784-1030  
 E-Mail: [rruth@fortsmithar.gov](mailto:rruth@fortsmithar.gov)

**See attached for additional information.**

**To: Property Owners Appeals Board**

**From: Neighborhood Services Division**

**Re: Variance Request #2013-3;** A request by Wade E Hopkins for Board consideration of a variance from ORDINANCE 33-08, Section 14-55: Parking of Recreational and Utility Vehicles on Residential Streets and Properties

**Requested Variance**

Mr. Hopkins is requesting to allow his trailers to remain parked next to his driveway located at 900 South 68<sup>th</sup> Lane. The applicant cites his hardship as if he were to park his trailers in his backyard it would take up all of the useable space leaving his children with no place to safely play. If not allowed, he will have to take his children to a park to safely play and by allowing this variance it would alleviate the hardship.

**Lot Location**

The subject property is located in the Rivercrest addition of the city of Fort Smith.

**Surrounding land use**

The property is centrally located in a RSD-2 zone.



- Refer to the Complete Ordinance beginning on the following page:

**PARKING OF RECREATIONAL AND UTILITY VEHICLES ON RESIDENTIAL STREETS AND PROPERTIES**

**Sec. 14-55. Parking of recreational and utility vehicles on residential streets and properties.**

(a) *Recreational and utility vehicles.* For the purposes of this section, recreational and utility vehicles are defined as travel trailers, folding tent trailers, motor homes, truck campers removed from a truck or pickup, horse trailers, boat trailers with or without boats, and utility trailers. It shall be unlawful to park or leave unattended a recreational and utility vehicle:

- (1) On any street or right-of-way classified as residential or as a residential collector by the city master street plan; or
- (2) In a front or exterior side yard setback area as defined in chapter 27 of the Fort Smith Municipal Code on any property zoned residential or utilized for residential purposes.

Any recreational and utility vehicle properly parked pursuant to the preceding sentence shall be maintained in a clean, well-kept state which does not detract from the appearance of the surrounding area. At no time shall a parked or stored recreational and utility vehicle be occupied or used as a dwelling unit.

(b) *Exemptions.* The following exemptions to the provisions of subsection (a) shall apply:

- (1) A recreational and utility vehicle may be temporarily parked in the identified building setbacks or in the identified street right-of-way for no more than four (4) days.
- (2) A recreational and utility vehicle may be parked under a carport or structure approved by the board of zoning adjustment or that exists as a non-conforming structure as defined in section 27-39(d) of the Fort Smith Municipal Code.

(3) Guests may reside in a recreational and utility vehicle on the host's premises for a period not longer than two (2) weeks in any ninety-day period. The vehicle may be parked in the building setback areas during the two (2) weeks.

(c) *Variances*. In instances where strict enforcement of the requirements of subsection (a) would cause undue hardship due to circumstances unique to the individual property under consideration, and the granting of such variance is demonstrated to be within the spirit and intent of the provisions of this ordinance, the property owners appeals board may grant a variance of the requirements of the section according to the following guidelines:

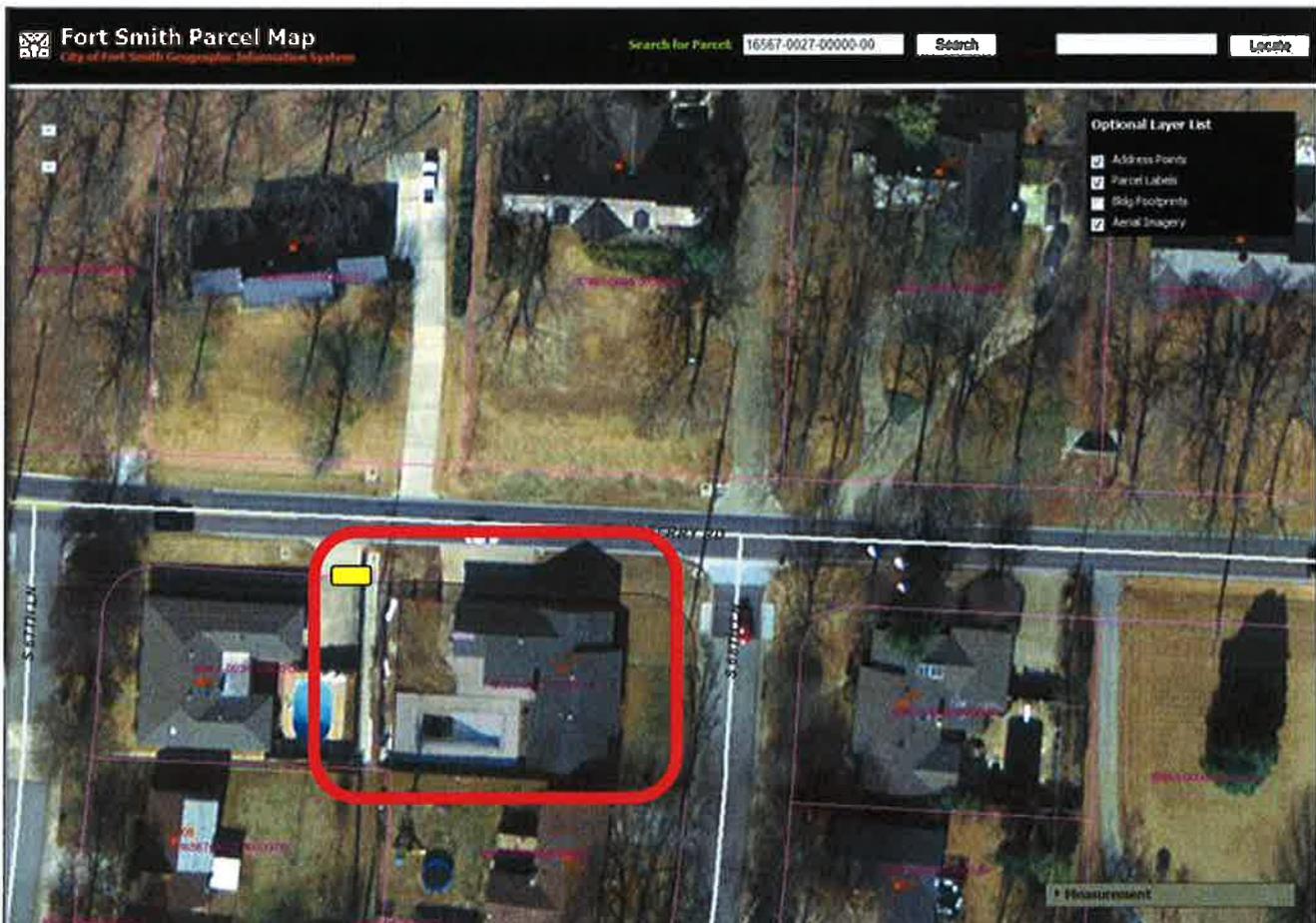
(1) Upon the showing required by (2) below, the property owners appeals board may modify the requirements of subsection (a) to the extent deemed just and proper so as to relieve such hardship, provided that such relief may be granted without detriment to the public interest.

(2) When the applicant can show the property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of the piece of property, the strict application of the provisions of subsection (a) would prohibit or unreasonably restrict the use of the property, and the property owners appeals board is satisfied that the granting of a variance would alleviate a hardship, as distinguished from a special privilege or convenience sought by the applicant, such variance may be granted; provided that all variances shall be in harmony with the intended purpose of this section.

(3) Any party owner aggrieved by the property owners appeals board in granting or denying a variance may appeal the decision to the court of jurisdiction within thirty (30) days of the property owners appeals board's decision.

(Ord. No. 33-08, § 1, 7-15-08)

Secs. 14-56--14-60. Reserved.



Red outline is property location / Yellow block is trailer location / \*See Pictures below:









Trailer is parked on other side of fence marked by the yellow circle



Two of the houses on Free Ferry facing 900 S. 68<sup>th</sup> St. exterior side yard



## MEMORANDUM

To: Property Owners Appeal Board

From: Sherri Gard, City Clerk

Date: September 6, 2013

Re: Proposed Amendment to the Fort Smith Municipal Code  
90 Day Delinquency from July 15 to June 30

As you know, the City of Fort Smith provides the opportunity for appeal for delinquent property cleanup liens on an annual basis whereby Section 16-15 of the Fort Smith Municipal Code specifically states, *“Any property owner who is ninety (90) days delinquent on the payment of abatement fees as of July 15 of each year...”*

The City Clerk’s Office receives a month ending report of all accounts that are ninety (90) days delinquent as of June 30. Due to the July 15 date, each year city clerk staff must request an additional listing of all accounts that are ninety (90) days delinquent from July 1 through July 15 as well, which typically results in approximately 15 to 20 new accounts that must be added to the original list from June 30.

Staff recommends the Fort Smith Municipal Code be amended to change the July 15 ninety (90) day delinquency deadline to June 30. The proposed amendment is attached. Since the 2013 appeal process has already been initiated, the proposed amendment would not become effective until the 2014 appeal process.

Upon recommendation of the Property Owners Appeal Board, an ordinance authorizing same will be prepared and presented to the Fort Smith Board of Directors for consideration in the near future.

If you have any questions, please let me know.

**Sec. 16-15. - Property owners appeal board.**

(a) Right of appeal. Any property owner who is ninety (90) days delinquent on the payment of abatement fees as of ~~July 15~~ ~~June 30~~ of each year shall have the right of review of such matters by the property owners appeal board in accordance with the procedures set forth in subsection (i) below.

(b) Establishment. There is hereby established a property owners appeal board in and for the city.

(c) Appointment, term of office. The property owners appeal board shall consist of five (5) members. One (1) of the initial members shall be designated as chairman and shall be appointed to a term of one (1) year beginning from the date of appointment; two (2) members shall be appointed for a term of two (2) years; two (2) members shall be appointed for a term of three (3) years. Upon expiration of the term of office of a member of the board, their successor shall be appointed for a term of five (5) years. Any appointee to the board may be reappointed to the board.

(d) Chairman. After the expiration of the term of the initial chairman, the property owners appeal board shall select its chairman from among its membership by a majority vote.

(e) Powers, duties generally. The property owners board of appeals has the power and authority and is charged with the duty:

(1) To review the city ordinances relative to clean up of lands for the purpose of making recommendations to the board of directors concerning amendments thereto.

(2) To hear appeals of delinquent property owners charged by the city for abatement costs who feel themselves aggrieved by action of the city.

(f) Frequency of meetings. The property owners board of appeals shall meet to hear appeals twice annually during the month of September. The property owners board of appeals may meet on call for the purpose of fulfilling duties other than hearing property owner appeals.

(g) Quorum. Four (4) members of the board shall constitute a quorum. To grant an appeal shall require the affirmative vote of three (3) members.

(h) Record of proceedings. The city clerk shall attend meetings of the appeal board and keep minutes of said meetings. Such minutes and other records of the appeal board will be considered public records to be maintained in the office of the city clerk.

(i) Notice, hearing. After ~~July 15~~ ~~June 30~~ of each year, the city clerk shall send a notice to all property owners who are 90 days delinquent on abatement charges informing them that said charges are subject to collection through the property taxes of Sebastian County. The notice will include two (2) hearing dates during the month of September at which the property owner may appeal the charges to the appeal board. The appeal board will then make a recommendation to the board of directors on the disposition of each appeal.

(j) Appeal to board of directors. Property owners who are 90 days delinquent on ~~July 15~~ ~~June 30~~ and who remain delinquent as of September 1 of each year will receive written notice from the city clerk of the public hearing before the board of directors in accordance with the provisions set forth in section 16-11 of this Code.

(Ord. No. 11-97, §§ 1-9, 4-15-97; Ord. No. 39-09, § 1, 5-19-09)