

MINUTES
ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING
CITY COUNCIL CHAMBERS
124 Old San Antonio Road
Boerne, TX 78006

Wednesday, October 21, 2015 – 5:30 p.m.

Minutes from the Board of Adjustment and Appeals meeting, Wednesday, October 21, 2015, 5:30 p.m.

Regular Board Members Present: Bill Kessler - Chair, Scott Lowry - Vice-Chair, Jim Terrian - Secretary, Tom Harris and Chris Taylor.

Alternate Board Members Present: Devin Fitzpatrick and Jon Paul Bergman.

City Staff Present: Michael Mann - Public Works Director, Patti Behrendt - Recording Secretary, Andrea Rivera - Assistant to the Public Works Director, Chris Turk - Planning and Community Development Director and Antony Moy - Information Technology.

Visitors Present: Toby Vicknair, Tonya Vicknair, Leo Mills, Vincent Hutson, Laura Gray, Joseph Greer, Karli Kennell, Monique Beecroft, Mitchell Schappert, Matt Beecroft and Hunter Kennell. Mason Schappert was present, but did not sign guest list.

1. CALL TO ORDER – 5:30 PM

THE MEETING WAS CALLED TO ORDER AT 5:32 P.M. BY BOARD CHAIR KESSLER.

2. APPROVE MINUTES OF SEPTEMBER 16, 2015

A MOTION WAS MADE BY VICE CHAIR LOWRY, SECONDED BY SECRETARY TERRIAN, THAT THE MINUTES OF THE SEPTEMBER 16, 2015 MEETING BE APPROVED AS WRITTEN. THE MOTION CARRIED 5-0.

3. DESIGNATE VOTING MEMBERS

Chairman Kessler designated all Regular Board Members as voting members.

4. CONFLICT OF INTEREST DECLARATION

Chairman Kessler asked if there were any conflicts of interest to declare.

There were none.

5. PUBLIC HEARINGS:

Chairman Kessler opened the public hearing at 5:34 p.m.

The purpose of the public hearing was to receive comments on Variance 15-06, Lot 7,

Block 1, Tehas Subdivision (204 Becker).

Toby Vicknair presented request and began by explaining the history of his previous request that was presented in July. He stated that the variance was denied and it was suggested by Board Members to flip floorplan, which he did. He explained to the Board that the reason for the request was for the preservation of an Oak tree's 18" caliper limb and was requesting to move the house forward on the lot to avoid cutting the limb. Mr. Vicknair further explained that he spoke with a gentleman from Dan's Tree Service regarding the preservation of the tree. He stated that if the house was moved forward nine feet, it would put the garage at 21-feet. Doing so would move the slab away from roots and not get into the root system. Cutting limb would create an unhealthy tree because the tree would become unbalanced.

Tonya Vicknair addressed Board, addressing some of the neighboring property owner concerns from July. She stated that in regards to pedestrian safety, a sidewalk will be built with the home construction and would be safer for pedestrians. She stated that the home will change neighborhood, contributing to the Becker Street revitalization. Mrs. Vicknair explained to the Board that she felt the aesthetics will not be affected by variance, but the removal of the tree would affect aesthetics. She stated that she and her husband had contacted neighboring residents in order to educate them regarding the request and that all that they talked to were in support of the variance.

Secretary Terrian posed questions to the Vicknairs regarding the floor plan, the roof line on the back porch, the tree limb and existing conflicts on the property.

Board Member Bergman asked the Vicknairs if they moved forward with the design as presented in their July request, would the encroachment be different. The Vicknairs stated that flipping the floor plan would help, but the house would end up 10 feet over to the north.

Secretary Terrian confirmed the floor plan as Birchgrove and asked if any customization could take place. Mr. Vicknair state that modifications could be made at a cost, but he did not know if full custom plans could be done and the pricing of such.

Karli Kennell, neighboring property owners addressed the Board. Mrs. Kennell stated that she wants to save tree, but does not want to sacrifice the aesthetic of Becker Street. If granted as written, she would be concerned about how the encroachment is applied, as well as safety concerns.

Matt Beecroft, neighboring property owner at 210 Becker addressed the Board. Mr. Beecroft stated that he would rather see tree go than his view obstructed.

Board Member Taylor asked Mr. Vicknair if the problem was the slab as well as roof line. Mr. Vicknair stated the slab and roof line would be conflicts. Board Member asked if the porch could be a deck instead of a slab. Mr. Vicknair stated that a deck would not give

same look as a porch.

Secretary Terrian asked if a design change could be made to take 8-feet off the porch or if changes to the roof line could be made. Board Member Fitzpatrick asked Mr. Vicknair if he had approached the builder about the changes and if the features were customizable.

Mr. Vincent Hutson, Wilshire Homes Sales Counselor addressed the Board stating that changes could be made, but there would be an architect fee and would result in more out of pocket for the Vicknairs. He stated that changes could be made to the house.

Laura Gray, neighboring property owner in Woodside Village addressed the Board stating that aesthetically, garage sticking out additional nine feet would be better than taking out trees and that she did not see any safety issues.

Joe Greer, neighboring property owner in Woodside Village explained to the Board that he welcomes the transition that new homes bring and that Wilshire is doing a good thing by keeping tree.

Matt Beecroft readdressed the Board stating that he believed there to be a safety issue due to kids coming down Becker Street from Curington Elementary.

Tonya Vicknair readdressed the Board and restated that the front of the house will still be at the 30-foot setback line and that the garage is the only portion of the house that will encroach.

Mason Schappert, the Beecroft's son addressed the Board stating that his parents spend a lot of time on their front porch. He stated that the Woodside Village sign is in the way, but they can still see down the street.

Chairman Kessler closed the public hearing at 6:27 p.m.

6. ITEMS FOR DISCUSSION/ACTION

Chairman Kessler confirmed with Mrs. Behrendt that for the neighbors that received public hearing notices through mail, four were in favor and two opposed.

Secretary Terrian stated that moving the house forward would barely save limb. Modifying the porch would save limb, even without a variance. For the purpose of saving the tree, a variance is not needed if simply modifying the plan. If left plan as-is, tree would be inches from the roof and notching the porch would resolve issue, even if the house is within the setback area.

Board Member Harris stated that with the addition of a 5-foot sidewalk, the pedestrian issue should be eliminated. He also asked if the tree in question was a Heritage Tree. Mr. Mann stated that he had asked if the tree preservation ordinance apply would apply in

this situation and was told that due to the lot being residential and the size of lot, the tree was not an issue. Mr. Turk explained to the Board that the tree had multiple trunks and that each could be measured individually and added together.

A MOTION WAS MADE BY MEMBER TERRIAN, SECONDED BY VICE CHAIR LOWRY, THAT THE REQUEST FOR A 9-FOOT REDUCTION INTO THE 30-FOOT REQUIRED FRONT YARD SETBACK BE DENIED. THE MOTION FAILED BY LACK OF A SUPERMAJORITY VOTE WITH BOARD MEMBERS HARRIS AND TAYLOR OPPOSING THE MOTION.

The Chair accepted additional discussion.

Board Member Taylor asked if the Board had the option to granting variance to a lesser encroachment.

Secretary Terrian referenced field measurements that he had taken and the drawing. He believed that the variance could be denied and the limb cut, but the tree would still be there. To save limb, the porch could be modified. Either way, he felt the house could be built within the setback area.

Secretary Terrian asked the Board what they saw as the hardship, the tree or a design issue. He felt that either way, the hardship self-imposed.

Chairman Kessler stated that he believed the requestors could comply with the ordinance.

Chairman Kessler called for a new motion.

A MOTION WAS MADE BY MEMBER TERRIAN, SECONDED BY MEMBER HARRIS, THAT THE REQUEST FOR A 9-FOOT REDUCTION IN THE REQUIRED 30-FOOT FRONT YARD SETBACK BE DENIED. THE MOTION CARRIED BY A VOTE OF 4-1 WITH BOARD MEMBER TAYLOR OPPOSED TO THE MOTION.

7. ADJOURNMENT

MEETING WAS ADJOURNED AT 6:49 P.M.

Chair

Secretary