

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

**Wednesday, December 21, 2016 – 5:30 p.m.**

Regular Board Members Present: Bill Kessler-Chair, Scott Lowry-Vice-Chair, Jim Terrian-Secretary, Tom Harris, Jon Paul Bergman, Cayman Gentry, and Richard McCormick.

City Staff Present: Michael Mann-Public Works Director, Andrea Rivera-Assistant to the Public Works Director, and Sheldon Cravey-Information Technology.

Visitors Present: Howard Haworth, Addison Haworth, and Andrea Vernick.

**1. CALL TO ORDER – 5:30 PM**

The meeting was called to order at 5:32 p.m. by Chair Kessler.

**2. APPROVE MINUTES OF NOVEMBER 16, 2016**

A motion was made by Vice-Chair Lowry and seconded by Member Harris that the minutes of November 16, 2016 meeting be approved as written. The motion carried. All in favor.

**3. DESIGNATE VOTING MEMBERS**

Four regular members were designated to vote with Alternate Member Jon Paul Bergman designated by Chair Kessler as the fifth voting member.

**4. CONFLICT OF INTEREST DECLARATION**

Chair Kessler asked if there were any conflicts of interest to declare. There were none.

**5. PUBLIC HEARINGS:**

Receive comments on Variance No. 16-07, Lot 13, Serenity  
Gardens (142 Serenity Drive).

Mr. Haworth stated Betty Kwasenski was very helpful as well as Andrea Rivera throughout the whole process with the application and answering his questions. He began by providing details of the club house. He said it is a small 6 ft. by 8 ft. club house. It is 6.5 ft. tall and approximately 48 sq ft. It has asphalt shingles, there are no utilities, and the exterior is built out of fence that matches the neighborhood. He said this is not a permanent structure. It sits on concrete blocks. The purpose of the structure is for an arts and crafts room for his daughter and wife. There are no problems in regards to public safety or health. The fire station is about 1500 ft. away. There is also no food stored in it. He said his first hardship is in regards to his daughter Addison. He said since moving to Texas his daughter struggles with allergies and has asthma that was brought about by allergies. He said she was rushed to hospital after having trouble breathing. The doctor said she has asthma and needs shots 2 to 3 times a week. The allergy test reported she is allergic to grasses, nuts and cats. He said when building the club house, he decided to build it on mulch and under a magnolia tree for shade for the club house. He said his second hardship is that his wife has multiple sclerosis and stress and heat exasperate her MS. He read an excerpt from an article regarding MS and summertime. He said he placed the clubhouse in the most shaded area of his yard to consider his wife's and daughter's health. As my daughter gets older, the clubhouse will probably move. It is hidden by my fence. No one can see the club house from the street. It is a minimum risk for public safety and health. The location of the club house is very important to my family. Neighbor Andrea Vernick approached the board. She said she did not know about the club house until Howard showed her. She said she can't see it from her yard. She said they are a nice family doing the best they can for their kids and hopes the board will support them as she does. Member McCormick asked when the club house was built.

Mr. Haworth said it was finished last February and his daughter helped build it. It took about 4 to 5 months to build. Member Harris asked if the fence was the back of the clubhouse. Mr. Haworth said it is about a foot from the fence. Member Terrian asked where North is on the drawing and on the east side of the Magnolia tree what is there. Mr. Haworth said just grass. Vice-Chair Lowry asked how long has the structure been up. Mr. Haworth said about 10 months. Chair Kessler asked in regards to the responses, 6 were received. 5 were in favor and 1 opposed. There were no further questions. This hearing closed at 5:48 p.m.

6. ITEMS FOR DISCUSSION/ACTION

Consider Variance No. 16-07: A request from Howard & Anne Haworth requesting a variance to the City of Boerne Zoning Ordinance to allow for a 5-foot encroachment into the required 5-foot rear setback for Lot 13, Serenity Gardens (142 Serenity Drive).

Vice-Chair Lowry moved to approve the variance, there was a lack of a second, motion fails and variance is denied. Member Bergman said we had extensive conversation regarding a similar issue a couple of months ago. Member Harris said this is a self induced hardship. Mr. Haworth asked what defines a hardship. He built the house in the location because of his hardships. Chair Kessler said there is not a particular definition. He said we take it on a case by base basis. There are factors taken into consideration whether it was self induced whatever that may be. It is self induced if you are the one that created the hardship by building the structure. With respect to the definition of a hardship part of the guideline is that it can't be financial. He said it can't be a self induced hardship or financial hardship. Chair Kessler said you didn't seek permission from the City to erect the structure. Mr. Haworth said that is correct. Mr. Haworth said structures 200 feet or smaller didn't require a permit. Mr. Haworth read his letter from Code Enforcement. Member Bergman said yes, we discussed it at the last hearing, but what came down to was that

is was a danger. There is only 1 ft. from the structure to the fence. It is too close to the fence. Member Harris said it needs to be 5 ft. from the property line. He asked how close are you from the side. Mr. Haworth said it is not perpendicular to the fence, part of it may be 5 ft. and part may be 1 ft. Member Terrian said the 5 ft. was put in place for structures to have appropriate distance. He said whether or not you need a permit, the City could have provided guidance on the placement. Member Terrian said he could re-arrange his landscaping. He said hardships cannot be self induced. Member Terrian said they need to have a certified disability. Chair Kessler asked to entertain another motion. Vice-Chair Lowry moved to approve the variance. Motion dies because of a lack of second. Variance is denied.

7. ADJOURNMENT

The meeting was adjourned at 6:01p.m.

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Chair

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Secretary