

**MINUTES**  
**ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING**  
**CITY COUNCIL CHAMBERS**  
**124 Old San Antonio Road**  
**Boerne, TX 78006**  
**Wednesday, June 20, 2018 – 5:30 p.m.**

1. ADMINISTER OATH OF OFFICE FOR NEW MAYORAL APPOINTMENTS TO THE BOARD

- a. New Chairman Scott Lowry
- b. New Vice-Chairman Jim Terrian
- c. New Regular Members Cayman Gentry and Richard McCormick
- d. New Alternate Member Alan Thompson

2. CALL TO ORDER

Meeting was called to order at 5:30 p.m.

3. ELECTION OF BOARD SECRETARY

Jon Paul Bergman nominated Richard McCormick, Jim Terrian seconded. All were in favor.

4. APPROVE MINUTES OF MAY 30, 2018

Jim Terrian made a motion to approve the minutes, Richard McCormick seconded. All were in favor with one abstention. Alan Thompson did not want to vote on the minutes because he was not present for last meeting.

5. DESIGNATE VOTING MEMBERS

Chairman Lowry designated all members to vote this evening.

6. CONFLICT OF INTEREST DECLARATION

There were none.

7. PUBLIC HEARINGS:

Receive comments on Variance No. 18-03, Lot 112, Heart of Boerne (102 Greyhound Circle).

Stacey Schill and her brother Michael Westfall approached the podium. Michael explained the request for the variance. He said Stacey & her husband Ben met with Code Enforcement and

presented their survey with an architectural sketch of where they wanted the proposed structure. After this meeting, they felt confident in moving forward and had trees removed and the electric service relocated while final building plans were being produced. Their plat shows a 5' side setback and a 20' front setback. It had the appearance that everything was good according to plat and the HOA. When final plans were submitted, it was brought to their attention that they needed to have 10' side setbacks and needed to ask for a variance. He said they did put other things into consideration and there is an opportunity to move it, but it would have to go farther back on the lot, more trees would have to come down, and it would impede the neighbor's view. Vice Chair Terrian asked about the power line. Michael said the electric is served from the back, it is underground and it has been relocated for the proposed garage. He said it used to cut diagonal across the back of the property and now it is more of an "L" shape. Member Bergman asked if the City rerouted the electric and Michael said yes. Member Bergman also asked if the city did this reroute after their meeting with Code Enforcement and that's why they had this done. Michael said yes, the meeting with the City was the first thing and that is what triggered the power relocate and plans to be drawn up. Vice Chair Terrian asked about the tree. Michael explained there is another cluster of trees in the back. And, we were told that the structure can't be within 8' or 10' of the new structure. Vice Chair Terrian asked how the garage will be used. Michael replied that the existing garage will be converted to a bedroom and the new garage will be a two car garage and a two story structure with storage and a work area. Secretary McCormick asked if it will be an apartment. Michael said no. Member Thompson asked if it was the City of Boerne that relocated the electric. Michael Westfall said it was the City of Boerne. Member Bergman wanted to confirm that the homeowners requested the City to relocate the electric because it had previously been looked at by Code Enforcement. Michael Westfall said that is correct, after they met with Code Enforcement they got a permit to move the electric, but it was before official building plans were turned in. Member Bergman asked if any plumbing was going into the storage unit. Michael said no. Member Thompson

asked what the original date of the plat was. Member Bergman read from the application that the home was purchased under the assumption of standard lot dimensions from the original survey from the sale of the property in 1992 as well as the survey from the purchase of the house in 2012. Member Thompson asked about the 10' setback line and Mike Mann said the Planning Director is here to explain that. Member Thompson also asked when the applicant purchased the house. Was it before or after the 10' setback. Laura Talley, the Planning & Zoning Director approached the podium and explained the 10' setback. In 2007 we updated the ordinance to provide a range of lot size and setbacks based on impervious cover. The larger the lot, the larger the setbacks. When the property was originally platted, it showed 5' setbacks, but under the law the current zoning ordinance applies, nothing is grand-fathered and it has been a point of confusion for a lot of property owners. They have surveys and plats that show the old setbacks. In this case it is 10' on each side. We looked at articulating the building. We looked to see if there were any additional side setback area to articulate on one side or another. Unfortunately, they encroach by a few inches on the west side of the property. They are at 9' 8" on east side they are required to have 10'. Total combined sides is 20' and they encroach on the west side of building as well, no room to move back and forth on this property. We looked at different options, they could put it behind their house but they don't want to impede their neighbors view. They could attach to existing structure that would take care of the issue completely, but there was some electrical work on the inside of existing house. When they came in for the actual permit itself that is when we got into the detail of where the structure was going to sit and how to position the building. And we talked about the 10' setbacks. Another option would be to decrease size of the garage. None of these options were appealing to them. It appears the hardships in this case are inconvenience, financial and the issue to the neighbor next door. Member Bergman asked what else besides making it smaller can they do? Laura said they can attach it to their existing structure. Vice Chair Terrian asked about the City definition of what is a hardship. Mike Mann said what the law refers to is a hardship that is specific to

the property and that a literal enforcement of the ordinance a hardship on the applicant . What is the special condition that cause the hardship. Laura Talley said we look at if it is a self imposed hardship or is it a hardship of the property itself, like elevations. Secretary McCormick asked if the hardship would be the neighbors view. Laura said she sees it as self imposed because there are other options. Member Thompson asked about the 10' rule in 2007, home was purchased in 2012. Laura said the other thing to understand whatever the HOA enforces is not what we enforce, we enforce the ordinance. Sometimes we are more stringent than the HOA. Our regulations are more restrictive. Member Bergman said they went to the City and the City said it was ok. Laura said the initial discussion was everything looked good according to the survey. The survey is not reflective of current zoning ordinance. Member Bergman confirmed the Ordinance from 2007 for everyone in the City. Laura said yes. He also asked if anyone has a 5' setback. She said yes, smaller lots. We have a range of lots. This lot triggers anything over 7800 sq. ft. to 10,890 sq. ft. is how it's defined. Those lots smaller than that have 5' setbacks, anything between 10,890 up to 1/2 acre lot have 10' setbacks. The larger the lot, the larger the setbacks. Member Bergman said if it is commonly known to the City, then someone should have checked it. Neighboring property owner Robert Harlan approached to speak in favor. He said he would be the guy who sees this the most. He's happy they will leave a big tree up and allow them to expand their living space, get their cars off the street and have more living space. Stacey Schill approached the podium and discussed the possible other options and said that they wanted to attach it the house, that was their ideal option. Based on the way our lot is, the house is tilted one way and our lot line comes back the other way. If you attach it to the house you run into issues. We would need to make it narrow in the back and wider in the front because our HOA says we need to have a two car garage. The electric meters/panel is on the wall (outside the house) where we would attach the new building. We would have to move everything attached to the house to a different location on the new building. We tried to get this done before my husband deployed and another child on the way. If we were to move

the new structure back we would have to shorten it and place it sideways to stay out of the 10' utility easement, we would have to redo the driveway and take down more trees. We have thought of other options. Member Bergman wanted to confirm their challenges. Michael Westfall approached the Board with a drawing to explain the challenges of fitting the structure within the setbacks. He explained that a lot of things would need to be moved. Vice Chair Terrian said he is a home designer by trade. He said you could place a new garage, the same size as the one they have now in the same location they are proposing and it wouldn't go any further back and it would fit within the 10' sideyard. It just wouldn't be the 35' they hoped for, they wouldn't block the neighbor or need to take down trees. It is possible. Michael Westfall approached Vice Chair Terrian and Vice Chair Terrian explained other options to make the structure fit. Member Bergman asked if they brought in the 5' setback to Code Enforcement. Stacey said we brought in the survey of the house from 2012. Member Bergman also asked if they had to pay to have the electric relocated in the backyard. Stacey said yes. There were no other comments or questions. Hearing closed at 6:09.

#### 8. ITEMS FOR DISCUSSION/ACTION

Consider Variance No. 18-03: A request from Benjamin & Stacey Schill, requesting a variance to the City of Boerne Zoning Ordinance to allow for a 5-foot encroachment into the required 10-foot side setback for Lot 112, Heart of Boerne (102 Greyhound Circle).

Member Bergman said at times it's difficult to define a hardship. We have residents going a certain direction and money spent. Vice Chair Terrian said he looks at the project and sees other options available and can maintain the 10' side setback. Member Thompson said it appears there are other options for them to use, but they spent money, financial hardship is not a reason for hardship. Vice Chair Terrian said money spent to move electric would have been needed anyway. Member Bergman asked if the AC unit could be moved more

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forward. Vice Chair Terrian said it is possible. Chair Lowry asked if we have received any more feedback from the neighbors. Andrea Rivera replied that everything has been received. Member Thompson moved to deny the variance, Vice Chair Terrian seconded. Three were in favor, two were opposed. Mike Mann explained it takes a 75% action of the board to grant a variance, but does not take a 75% to deny. If the motion was to approve, the variance would take 4/5 vote to approve. The variance was denied.

9. ADJOURNMENT

Meeting was adjourned at 6:16 p.m.

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Chairman

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Secretary