

MINUTES
ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING
CITY COUNCIL CHAMBERS
124 Old San Antonio Road
Boerne, TX 78006
Wednesday, October 17, 2018 – 5:30 p.m.

1. CALL TO ORDER – 5:30 PM

Meeting was called to order at 5:34 p.m.

2. APPROVE MINUTES OF AUGUST 15, 2018

Member Harris moved to approve the minutes. Vice Chair Terrian seconded. All were in favor.

3. DESIGNATE VOTING MEMBERS

Chair Lowry designated all regular members to vote. Alternate Members Bergman & Thompson to take part in discussion only.

4. CONFLICT OF INTEREST DECLARATION

There were none.

5. PUBLIC HEARINGS:

Receive comments on Variance No. 18-07, Lot 14, Block 11,
Woods of Frederick Creek Unit 2 (205 Chisholm Dr.)

Kent Phillips, owner of property approached the podium. He said he wanted to improve his property with an accessory structure. He said he identified an ideal spot for the structure within the fenced area that is level and not affected by the elements. He explained his property is unique and with heavy rains a small creek forms and the topography

causes a substantial amount of water to cross his property. He said he needs adequate storage for lawn equipment. He said he believes that the hardship is not self imposed because he did not grade the property. He said he installed a french drain and it helps, but in heavy rains it is overwhelmed. He wants to maximize his use of the property and is asking to encroach. Member Bergman asked if the structure is already built. Kent said yes, but it is coming down and a new structure will go up. Member Bergman asked what the height of the new building will be. Kent said it will not be over 8 feet tall. Member Harris asked if it was on a slab. Kent said no, it is on top of paver stones. Member Harris asked about the height of the existing building. Kent said it is 11 feet. Vice Chair Terrian explained there are options of elevating the structure over the water. Kent said that could be an option, but overtime could be compromised because of the water. Vice Chair Terrian said a storage building can't have a permanent base anyway. Vice Chair Terrian explained the reason there are five foot setbacks. Member Harris said there are other storage sheds that come with foundations and will elevate to go above the water. Vice Chair Terrian asked about what the new structure will look like. Kent said he would like to get the variance first and then he could determine the type of structure. Secretary McCormick asked if it will be the same size as the existing structure. Kent said no, it will be about 8 by 10 in size. Secretary McCormick said you could get the 5 feet in the rear with a smaller structure. Chair Lowry asked if the current structure is 5 feet away. Kent said it is on all sides but the rear. Chair Lowry asked if the new structure will come down. Kent said yes. Chair Lowry confirmed that if Kent gets the variance then he will still want a 2 foot variance. Kent said that is correct. Laura Talley, City Planning Director approached and clarified that you can have a permanent foundation for an accessory structure but you still need to have separation from the home and separation of 5' from side and rear and the height must not exceed the height of the home. Neighbor Evon Rodriguez approached and said her home faces the property. She said she understands the issue with the water. She said her husband and owner had a discussion about the structure. She said they filed a complaint with HOA about the shed. She said she knows

he did not have a permit for the structure and believes he is looking for a variance because he has gone around the HOA and City policies. She said HOA would have told Kent he was only allowed to have an 8 by 8 structure if he asked them. She believes he is asking for variance for what he has already built on the property. The homeowner that lives behind the property approached. She said Kent had no consideration for his neighbors when placing this structure. She said it was supposed to be a small shed and he has no consideration for protecting home values. She said if he is allowed to keep the shed it will send a message to the neighborhood that rules can be broken. She said Kent watched the structure be built and the neighborhood is very upset. She said all she sees is a 12 foot building. Brian that lives on Chisholm approached. He said it sets a very bad precedence. He said Kent made no effort to keep his neighbors in mind. He said it is an eyesore and it's been two months since it was built. Member Thompson asked about the date of purchase of the home. Kent said in July 2012. Member Thompson asked if the setbacks were shown on his plat and asked about the 20' setback shown. Laura Talley said the main building setback is 20 feet and an accessory structure has a lesser setback. Member Thompson asked if the foundation was paver stones. Kent said yes and there is sand crete in the grout and it can be removed. Member Bergmann said HOA does not set the ordinance. He said to always get with City ordinance. Member Thompson said this board does not go by HOA rules. The board replied correct. Laura Talley said sometimes the HOA rules are more stringent, but you still have to follow City ordinances regardless.

6. ITEMS FOR DISCUSSION/ACTION

Consider Variance No. 18-07: A request from Kent Phillips, requesting a variance to the City of Boerne Zoning Ordinance to allow for a 2-foot encroachment into the required 5-foot rear setback for Lot 14, Block 11, Woods of Frederick Creek Unit 2, (205 Chisholm Dr.).

Chair Lowry explained neighbor responses that have been added and for the board to review. Member Bergman said he has never seen so many responses. Vice Chair Terrian said we are not here to review covenants of HOA. Chair Lowry said we are here to vote on the setback. Member Thompson asked about Staff comments. Sean Reich, City Engineer, said there was not a clear unique circumstance that warranted an approval of the variance. He said the building was installed and it was self imposed. Secretary McCormick said they are taking down the structure and they can build a new one within City code. Chair Lowry said we are here to allow or not allow the 2 foot encroachment. Member Harris said he can do something to avoid the hardship. Secretary McCormick motioned to not approve the variance, Member Harris seconded the motion. All not in favor. Variance was denied 5-0.

7. ADJOURNMENT

Meeting was adjourned at 6:05 p.m.

Chair

Secretary