

MINUTES
ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING
CITY COUNCIL CHAMBERS
124 Old San Antonio Road
Boerne, TX 78006
Wednesday, November 20, 2019 – 5:30 p.m.

Board Members Present: Scott Lowry-Chair, Jim Terrian-Vice-Chair, Rich McCormick-Secretary, Alan Thompson & Matthew Janysek

Staff Present: Michael Mann, Andrea Snouffer, Betty Kwasneski, Barret Squires

1. CALL TO ORDER – 5:30 PM

Meeting was called to order at 5:36 p.m.

2. APPROVE MINUTES OF OCTOBER 16, 2019

Member Thompson moved to approve the minutes, Member Janysek seconded. All were in favor to approve the minutes.

4. CONFLICT OF INTEREST DECLARATION

There were none.

3. DESIGNATE VOTING MEMBERS

Chair Lowry designated all five members that were present to vote.

5. PUBLIC HEARINGS:

Receive comments on Variance No. 19-14, Lot 5, Block 4, Eastland Terrace (204 Shadywood).

Betty Kwasenski with Code Enforcement approached to represent the City. The carport permit was reviewed by Betty and she explained

and annotated on the permit the required setbacks. She said they poured the driveway after a stop work sign was posted. She informed Mr. Hill he needed a variance. Member Janysek asked if they pulled a permit. Betty said in the beginning they did not. We had to inform them. Mr. Hill told Betty he was fine with the 25' setback on the side. Member Janysek asked if they provided a plan for the permit. Betty said the plan is vague, but I marked the 25' setback on the property line and to stay within the setbacks from property line. Member Thompson asked if she believed it was clear that the setbacks were communicated. Betty said we expect them to put in right place after being issued the permit. Member Thompson asked in her opinion what would the remedy be for the carport. Betty said to move the carport. He also asked if they are they permitted to have flat work. Betty said yes with a ROW permit. Member McCormick asked if the setbacks were different in the past for this street. Betty said all the houses are 25' plus off the street. Denis & Connie Hill approached. Connie said it wasn't their attention to break any rules and that they applied for permits for all the work they were doing. We didn't know what the setbacks were prior to starting work. The structure went up in a day. We thought the permit for the driveway covered everything. Connie said we understood that it was 25' from the curb. It is a 16' ROW. There are other houses with side driveways down the street. Denis said we submitted application and two weeks went by and no permit and then we signed a contract on Sep 12th. Submitted a second one and two or three more weeks past. He calls Betty again and she said 25' from the street is what I heard and wrote. I received one email from her giving the setbacks that is the only thing I got in writing. We removed the front driveway and regardless if we move the carport we still need the driveway to park our cars. Why would the code be changed over the years. Denis asked to approach with additional photos of property. He showed pictures of other house. He said we would be looking at our carport if we were to move it 25' from property line. It would put it in the middle of the backyard. Member Thompson asked about the age of the neighborhood. Mike Mann said probably early seventies. Vice Chair Terrian asked about the drawing in the application confirming where the carport and driveway is

located. Denis said we misunderstood between curb line and property line. Member Janysek asked if contractor knew the setbacks. Denis told contractor what the setback are. Betty wrote the property line setback on the second permit application. They used the houses around them to confirm their decision. Member Thompson asked about their hardship. Connie explained the cost to take the structure down. Denis explained that it wouldn't look right, it would stand out in the neighborhood as well as financial to take down. Denis read an email communication between Rebecca in Planning and Betty in CE. The setbacks were explained in the email but they didn't mention whether it was from the property line or the street. Member Thompson asked if they knew the appropriate setbacks would they build the structure. Denis said he wasn't sure but that they do need a carport. Mike Mann explained setbacks is the distance between the property line and the structure. Mike asked if flatwork is allowed in the setback area. Betty said yes. Betty said yes. Member McCormick asked if they had any comments from the neighbors regarding the structure. Denis and Connie mentioned a lot of their neighbors loved it. Chair Lowry mentioned three responses came in my mail, email or drop off and all three were opposed. Member Thompson asked about the Staff's response. Mike Mann explained all were opposed due to a lack of hardship.

Receive comments on Variance No. 19-15, Lot 5, Block 4, Eastland Terrace (204 Shadywood).

Open public hearing at 6:17. Betty said it is the same timeline as the side setback. The rear setback is cloudy and we measured from the base of the chain link fence to the edge of the bump out of the carport. We posted a stop work order. Vice Chair Terrian asked if any professional survey was done. Betty said no. So assumptions were made that the chain link fence was on the property line. Betty said yes we used the survey that Mr. Hill provided. Member Thompson asked what is a bump out? Betty said they bumped out with concrete and structure. It was not in their original plans. Denis

explained this bump out was for a trash can. Denis said the measurement taken is from where the fence is leaning. He provided another photo. Member Janysek said if you sell the house you would need a new survey with what you have added. Vice Chair Terrian said regardless of what City or contractors say if your survey is wrong the bank will make you get a variance. Member Thompson said he can see the pin near the chain link fence on the photo. Member McCormick said you wouldn't need to have us vote on the second variance since the first one was denied. You have the option to withdraw this request. Mike Mann said there would be no harm even if the board denied and it was found out that they were in compliance. Denis asked about leaving the flatwork. Betty said she would ask her supervisor. Member Janysek asked about tabling the decision. Member Thompson asked if there is a utility easement. Mike said we aren't aware of one. Chair Lowry said he understood that flatwork is not a structure. A slab is not a structure. Betty said yes that is correct. Denis Hill decided to withdraw this request.

6. ITEMS FOR DISCUSSION/ACTION

Consider Variance No. 19-14: A request from Constance & Denis Hill, requesting a variance to the City of Boerne Zoning Ordinance Article 5, Section 4, Table 5-2, to allow for a side setback of 9-feet 2-inches rather than the required 25-foot side setback for Lot 5, Block 4, Eastland Terrace (204 Shadywood).

Vice Chair Terrian said the property line to street is owned by the City and has no bearing on setbacks. All setbacks are always from the property line, never from the curb unless the property line is the curb. Any builder understands that. Member Janysek said this should be brought up with the contractor during initial permit application. Most general contractors would know to discuss the setbacks. Member McCormick said Zoning has been changed and there are neighbors within that 25'. Vice Chair Terrian said those other properties have no bearing on this case. Member Thompson said rules have changed. Mike Mann said not sure when it was changed. Vice Chair Terrian

said the 25' setback would be needed on a corner lot in case someone would build and orient the building to face the opposite street. Member Thompson moved to deny, Vice Chair Terrian seconded. All were in favor to deny the variance 5-0.

Consider Variance No. 19-15: A request from Constance & Denis Hill, requesting a variance to the City of Boerne Zoning Ordinance Article 5, Section 4, Table 5-2, to allow for a rear setback of 4-feet 6-inches rather than the required 5-foot rear setback for Lot 5, Block 4, Eastland Terrace (204 Shadywood).

Member Janysek said we could table it. Chair Lowry said we can table for further information or they can withdraw. Denis Hill said they are going to withdraw their request. No action needed by the board. Variance 19-15 withdrawn.

7. ADJOURNMENT

Meeting was adjourned at 6:38 p.m.

Chair

Secretary