

**MINUTES OF THE REGULAR MEETING
CITY OF RIVER OAKS
ZONING BOARD OF ADJUSTMENTS
OCTOBER 13, 2014**

MEMBERS PRESENT:

ROYCE SHIELDS, CHAIRMAN, PLACE 1
RON TOVAR, VICE-CHAIRMAN, PLACE 2
CORNELL ADDINGTON, PLACE 3
STAN CUMBERLEDGE, PLACE 4
JASON MARTINEZ, ALTERNATE 1
JOHN CLARIDGE, ALTERNATE 2
MARY TIPTON, ALTERNATE 3
RAUL RODRIGUEZ, ALTERNATE 4
STEVE HOLLAND, COUNCIL LIAISON

STAFF MEMBERS PRESENT:

MARVIN GREGORY, ZONING ADMINISTRATOR
SUSAN STEWART, ZONING SECRETARY
BUILDING INSPECTOR STEVE SANDERS

MEMBERS ABSENT:

CONNIE ADAMS, PLACE 5 (NO RESPONSE) (OUT OF TOWN)

1. CALL TO ORDER

Chairman Shields called the Regular Meeting of the River Oaks Zoning Board of Adjustments to order at 7:30 p.m. on Monday, October 13, 2014 at the River Oaks City Hall, 4900 River Oaks Blvd., River Oaks, Texas 76114.

2. INVOCATION AND PLEDGE

Council Liaison Holland delivered the Invocation. Member Cumberledge led the Pledge of Allegiance.

3. MEMBER ROLL CALL

Roll Call was recorded as follows: Member Adams was absent without excuse.

It was announced that Alternate Member Martinez and Alternate Member Claridge would serve as voting members for this meeting only due to the continuance of the public hearing and Member Cumberledge would serve as the 5th voting member.

4. APPROVAL OF MINUTES FROM THE REGULAR MEETING OF SEPTEMBER 8, 2014

ZS Stewart stated that Member Addington had contacted staff by email prior to the meeting on September 8, 2014 of her absence and therefore could be considered absent with excuse.

Member Claridge moved, seconded by Member Martinez, to approve the minutes of September 8, 2014 with the change of the excused absence. All voted "Aye."

5. STATEMENT OF APPOINTED OFFICIAL AND OATH OF OFFICE FOR THE ZBA 2014 MEMBER APPOINTEES INCLUDING STAN CUMBERLEDGE (PLACE 4)

ZS Stewart administered the Statement of Appointed Official and the Oath of Office to Stan Cumberledge, Place 4 Member.

6. OATH OF TESTIMONY

ZS Stewart administered the Oath of Testimony to Juan Gallardo (5016 Thurston), Inspector Sanders and ZA Gregory – all slated to give testimony in the upcoming Public Hearing portions of the meeting.

7. PUBLIC HEARING CONTINUED FROM SEPTEMBER 8, 2014: PUBLIC INPUT REGARDING THE VARIANCE REQUEST OF JUAN GALLARDO AT 5016 THURSTON RD. IN ORDER TO CONSTRUCT A 240 SQUARE FOOT (24 X 10) METAL CARPORT TO THE EXISTING PRINCIPAL STRUCTURE AND WOULD BE LOCATED WITHIN 0-FEET OF THE SIDE PROPERTY LINE IN VIOLATION OF SECTION 10 "R-3" "SINGLE FAMILY RESIDENTIAL DISTRICT" SUBSECTION C "DEVELOPMENT REGULATIONS" # 5 OF THE RIVER OAKS ZONING ORDINANCE IN THAT THERE SHALL BE A SIDE YARD OFF NOT LESS THAN 5-FEET ON EACH SIDE. (CASE # 2014-07)

Chairman Shields announced that this public hearing is continued from September 8, 2014.

ZA Gregory summarized the items requested by the board from the previous meeting as follows: 1) a written affidavit from the property owner of the adjacent property; 2) a plan for the removal of the one of the current accessory structures; 3) a plan to shorten the length by 4-feet from the front. ZA Gregory stated that the affidavit from the adjacent property has been received. ZA Gregory added that the plan for removal of one structure and the plan to shorten the carport have not been received. ZA Gregory stated that the proposed carport would be in positioned at the side property line which is in violation of the zoning ordinance side-yard setback requirement of 5-feet.

Member Cumberledge inquired about the hardship for this case. Mr. Gallardo stated protection of his vehicle from the summer sun and heat as the reason for his request. It was noted that there is an existing carport in the rear portion of the yard. Member Claridge offered lot size as a hardship since the current driveway is at the property line and the rear yard does not allow for a turn-around area. ZA Gregory stated that a carport may be able to be erected behind the fence at an angle. Much discussion occurred related to a utility pole on the property and required access to that pole. ZA Gregory stated the utility company will gain access if necessary and is not responsible to replace any accessory structures or fences that are removed.

At 7:52 p.m. Chairman Shields closed the public hearing.

8. ACTION FROM PUBLIC HEARING: CONSIDER APPROVAL OF THE VARIANCE REQUEST OF JUAN GALLARDO AT 5016 THURSTON RD. IN ORDER TO CONSTRUCT A 240 SQUARE FOOT (24 X 10) METAL CARPORT TO THE EXISTING PRINCIPAL STRUCTURE AND WOULD BE LOCATED WITHIN 0-FEET OF THE SIDE PROPERTY LINE IN VIOLATION OF SECTION 10 "R-3" "SINGLE FAMILY RESIDENTIAL DISTRICT" SUBSECTION C "DEVELOPMENT REGULATIONS" # 5 OF THE RIVER OAKS ZONING ORDINANCE IN THAT THERE SHALL BE A SIDE YARD OFF NOT LESS THAN 5-FEET ON EACH SIDE. (CASE # 2014-07)

Member Claridge moved to approve the variance request. Motion died for lack of a second.

Member Cumberledge moved, seconded by Member Martinez, to deny the request. Members Cumberledge and Martinez, VC Tovar and Chairman Shields voted "Aye." Member Claridge voted "Nay." Motion passed, request denied.

9. OTHER ITEMS FOR DISCUSSION:

- PROCEDURAL REQUIREMENTS FOR DEBATE AND VOTE IN THE ZBA RULES OF PROCEDURES – ZA Gregory explained there is some question as to whether or not a motion to deny a request would require a super majority vote of the board. ZA Gregory stated that the upcoming training session would clarify some of the questions related to the rules and procedures.
- ZBA TRAINING ON OCTOBER 29TH AT 6:00 P.M. IN WHITE SETTLEMENT, TEXAS – ZA Gregory encouraged attendance at the training meeting.

10. EXECUTIVE SESSION PURSUANT TO CHAPTER 551, TEXAS GOVERNMENT CODE, THE ZONING BOARD OF ADJUSTMENTS (ZBA) RESERVE THE RIGHT TO CONVENE INTO EXECUTIVE SESSION(S) FROM TIME TO TIME AS DEEMED NECESSARY DURING THIS MEETING. THE ZBA MAY CONVENE IN EXECUTIVE SESSION TO DISCUSS THE FOLLOWING: *SEC. 551.071 PENDING OR CONTEMPLATED LITIGATION OR TO SEEK ADVICE FROM ATTORNEY*

None called for.

11. ACTION FROM EXECUTIVE SESSION

None.


12. ADJOURNMENT

At 8:12 p.m. Member Cumberledge moved, seconded by VC Tovar, to adjourn the meeting. All voted "Aye".

APPROVED THIS 10TH DAY OF NOVEMBER 2014:

BY: 

**Ron Tovar, Presiding Chairman
Zoning Board of Adjustments**

ATTEST: 

**Susan Stewart,
Zoning Secretary**

DECISION OF THE ZONING BOARD OF ADJUSTMENTS

VARIANCE REQUEST FOR JUAN GALLARDO @ 5016 THURSTON

DATE: October 13, 2014

CASE: ZBA 2014-07

RECORD OWNER: Juan Gallardo

ADDRESS: 5016 Thurston Rd.

VOTING MEMBERS PRESENT: Chairman Royce Shields Place 1, Ron Tovar Place 2, Alternate Member Jason Martinez for Cornell Addington Place 3, Stan Cumberledge Place 4, and Alternate Member John Claridge for Connie Adams Place 5.

FINDINGS: ZBA finds that the variance request of Juan Gallardo on the property located at 5016 Thurston Rd. in order to erect on the property a 10 x 24 metal carport that would be attached to the principal structure and located within 0-feet of the side property line in that:

1. a literal enforcement of the Zoning Ordinance **would not** result in an unnecessary hardship since there is room in the back yard in which to erect the carport and be in compliance with the setback requirements; and
2. would not meet the spirit of the zoning ordinance; and
3. the granting of the variance could restrict access to the utility pole located in the adjacent easement if the carport was located on the property at the same location as is being submitted on the application.

FOLLOWING THE PUBLIC HEARING: John Claridge made the motion to approve the variance request citing due to special conditions, a literal enforcement of the Zoning Ordinance would result in an unnecessary hardship; the granting of the variance will not be in conflict of the public interest; spirit of the Ordinance is observed and substantial justice is done, and variance will not prevent the orderly development of other land in the area and Variance is not granted to resolve a self-created or personal hardship, not for financial reasons alone. **MOTION DIED FOR LACK OF A SECOND.**

MEMBER CUMBERLEDGE FOLLOWED UP BY MAKING THE MOTION TO DENY THE REQUEST AS SUBMITTED, SECONDED BY MEMBER MARTINEZ. MEMBERS CUMBERLEDGE, MARTINEZ, TOVAR AND SHIELDS VOTED "AYE". MEMBER CLARDIDGE VOTED "NAY".

THE VARIANCE REQUEST AS SUBMITTED BY JUAN GALLARDO AT 5016 THURSTON in order to erect on the property a 10 x 24 metal carport that would be attached to the principal structure and located within 0-feet of the side property line **IS HEREBY DENIED.**

The applicant has not demonstrated proof to the Board that this application as is being presented does in fact qualify as an unnecessary hardship.

CERTIFIED BY:


Royce Shields
ZBA Chairman

Date: 10/20/14

ATTEST:


Susan Stewart
Zoning Secretary

Date: 10/20/14