

**MINUTES OF THE REGULAR MEETING
CITY OF RIVER OAKS
ZONING BOARD OF ADJUSTMENTS
NOVEMBER 10, 2014**

MEMBERS PRESENT:

RON TOVAR, VICE-CHAIRMAN, PLACE 2
CORNELL ADDINGTON, PLACE 3
STAN CUMBERLEDGE, PLACE 4
CONNIE ADAMS, PLACE 5
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:

ROYCE SHIELDS, CHAIRMAN, PLACE 1(MEDICAL)

1. CALL TO ORDER

Vice-Chairman Tovar called the Regular Meeting of the River Oaks Zoning Board of Adjustments to order at 7:30 p.m. on Monday, November 10, 2014 at the River Oaks City Hall, 4900 River Oaks Blvd., River Oaks, Texas 76114.

2. INVOCATION AND PLEDGE

Vice-Chairman Tovar delivered the Invocation. Member Adams led the Pledge of Allegiance.

3. MEMBER ROLL CALL

Member Tipton was selected by random drawing to serve as a voting member for this meeting only.

4. APPROVAL OF MINUTES FROM THE REGULAR MEETING OF OCTOBER 13, 2014

ZS Stewart stated that Member Adams had been out of town prior to the meeting on October 13, 2014 and received her packet late. Stewart added that Ms. Adams contacted staff of her absence when she received her packet and therefore could be considered absent with excuse.

Vice-Chairman Tovar pointed out that this agenda includes approval for the minutes of the meeting on November 13, 2014 which should be for the meeting on October 13, 2014.

Member Cumberledge moved, seconded by Member Tipton, to approve the minutes of October 13, 2014 with the changes. All voted "Aye."

5. ***OATH OF TESTIMONY***

ZS Stewart administered the Oath of Testimony to Joe Massey, Inspector Sanders and ZA Gregory – all slated to give testimony in the upcoming Public Hearing portions of the meeting.

6. **PUBLIC HEARING:** PUBLIC INPUT REGARDING THE VARIANCE REQUEST OF **JOE MASSEY AT 513 ROBERTS CUT OFF RD.** IN ORDER TO BE PERMITTED TO BUILD A NEW 1500 SQUARE FOOT HOUSE AND A 624 SQUARE FOOT NEW GARAGE ON THE EXISTING 64.50 FOOT WIDE LOT IN VIOLATION OF SECTION 8C # 6 OF THE ZONING ORDINANCE REQUIRING ALL LOTS IN R-1 SINGLE-FAMILY TO BE A MINIMUM OF 75-FOOT IN WIDTH AND TO BE BUILT TO WITHIN 6-FOOT OF THE SIDE PROPERTY LINE IN VIOLATION OF SECTION 8C #5 REQUIRING THE SIDE YARD SETBACK TO NOT BE LESS THAN 10-FEET FROM THE SIDE PROPERTY LINE. *(CASE # 2014-08)*

At 7:34 P.M. Vice-Chairman Tovar opened the public hearing.

Vice-Chairman Tovar and ZA Gregory summarized the request to construct a 1500 square foot new home and a 624 square foot garage to within 6ft of the side property line in violation of the required 10 feet in an R-1 zoning district. In addition, the zoning ordinance requires a lot width of a minimum of 75-feet. The owner, Joe Massey, has registered the lot as a legal non-conforming lot at only 64.5 feet. The owner has cited lot size and tree conservation as the hardships. Inspector Sanders confirmed that 6-feet from the property line would allow emergency vehicle access. Board Members discussed relocating or re-situation the house on the lot to which Mr. Massey responded that he had considered several options with this proposal being the best option. ZA Gregory agreed with Mr. Massey stating that the only viable alternate would be to build up (a two-story structure.)

At 7:47 p.m. Vice-Chairman Tovar closed the public hearing.

7. **ACTION FROM PUBLIC HEARING:** CONSIDER APPROVAL OF THE VARIANCE REQUEST OF **JOE MASSEY AT 513 ROBERTS CUT OFF RD.** IN ORDER TO BE PERMITTED TO BUILD A NEW 1500 SQUARE FOOT HOUSE AND A 624 SQUARE FOOT NEW GARAGE ON THE EXISTING 64.50 FOOT WIDE LOT IN VIOLATION OF SECTION 8C # 6 OF THE ZONING ORDINANCE REQUIRING ALL LOTS IN R-1 SINGLE-FAMILY TO BE A MINIMUM OF 75-FOOT IN WIDTH AND TO BE BUILT TO WITHIN 6-FOOT OF THE SIDE PROPERTY LINE IN VIOLATION OF SECTION 8C #5 REQUIRING THE SIDE YARD SETBACK TO NOT BE LESS THAN 10-FEET FROM THE SIDE PROPERTY LINE. *(CASE # 2014-08)*

Staff confirmed that 5 responses were received from the public with four being in favor and one being opposed but stating "he can build wherever he wants."

Vice-Chairman Tovar made the following motion, "I find that the variance request of Joe Massey to build a new 1500 square foot house in R-1 district and a 624 square foot new garage on the existing 64.50 foot wide lot in violation of Section 8C # 6 of the Zoning Ordinance requiring all lots in R-1 Single-Family to be a minimum of 75-foot in width and to be built to within 6-foot of the side property line in violation of Section 8C #5 requiring the side yard setback to not be less than 10-feet from the side property line and further find that due to special conditions, a literal enforcement of the Zoning Ordinance would result in an unnecessary hardship. Therefore I move to grant a variance to build a new 1500 square foot house in R-1 district and 624 square foot garage to within 6-foot of the side property line as submitted citing the hardship to be that this request is unique to the property and is not self-created with the following stipulations: 1) The non-conforming lot must be registered with the City of River Oaks as a legal non-conformity; 2) The permit shall only be valid for 180-days from the date of the hearing. The Building Official is authorized to extend Building Permit one-time only

for an additional 180-days; and 3) The House must meet the size requirement of a minimum of 1500 square feet." Motion seconded by Member Adams. All voted "Aye."

9. 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.

10. ACTION FROM EXECUTIVE SESSION


None.

11. ADJOURNMENT

At 7:55 p.m. Member Adams moved, seconded by Member Addington, to adjourn the meeting. All voted "Aye".

APPROVED THIS 10TH DAY OF FEBRUARY 2015:

BY:



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

ATTEST:



**Susan Stewart,
Zoning Secretary**

DECISION OF THE ZONING BOARD OF ADJUSTMENTS

VARIANCE REQUEST FOR JOE MASSEY @ 513 ROBERTS CUT OFF RD.

DATE: November 11, 2014

CASE: ZBA 2014-08

LEGAL: Lot 4R2, Lesikar Addition (513 Roberts Cut Off Rd.)

RECORD OWNER: Max D. Etux Marilyn Statum

APPLICANT: Joe Massey

VOTING MEMBERS PRESENT: Ron Tovar Acting Chairman for Royce Shields Place 1, Alternate Member Mary Tipton for Ron Tovar Place 2, Cornell Addington Place 3, Stan Cumberledge Place 4, and Connie Adams Place 5.

FINDINGS: ZBA finds that the variance request of Joe Massey on the property located at Lot 4R2, Lesikar Addition 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.**

FOLLOWING THE PUBLIC HEARING: Ron Tovar made the motion, seconded by Connie Adams that:

I find that the variance request of Joe Massey to build a new 1500 sq. ft. house and a 624 sq. ft. new garage on the existing 64.50 foot wide lot in violation of Section 8C # 6 of the Zoning Ordinance requiring all lots in R-1 Single-Family to be a minimum of 75-foot in width and to be built to within 6-foot of the side property line in violation of Section 8C #5 requiring the side yard setback to not be less than 10-feet from the side property line due to special conditions, a literal enforcement of the Zoning Ordinance would result in an unnecessary hardship.

Therefore I move to grant a variance to build a new 1500 square foot house and 624 square foot garage to within 6-foot of the side property line as submitted citing the hardship to be that this request is unique to the property and is not self-created with the following stipulations:

1. The non-conforming lot must be registered with the City as a legal non-conformity; and
2. The permit shall be valid for 180-days from the date of the hearing. The Building Official is authorized to extend Building Permit one-time only for an additional 180-days.
3. House must meet the size requirement of a minimum of 1500 square feet.

VOTING MEMBERS TOVAR, TIPTON, ADDINGTON, CUMBERLEDGE AND ADAMS ALL VOTED "AYE". MOTION PASSES.

The applicant has demonstrated proof to the Board that this application as is being presented does in fact qualify as an **unnecessary hardship** which includes the following:


- The lot is a legal non-conforming lot in that it is 64.51 feet wide in an R-1 Single Family Zoning District where the minimum lot size is 75-foot wide.
- Pursuant to Section 28B "Nonconforming Lots of Record" Buildings or other structures may be erected on a non-conforming single lot of record, provided such lot has access from a street in accordance with the subdivision ordinance or other applicable ordinances. This provision shall apply even though such lot fails to meet the minimum requirements for area, width, depth, or other requirements for lots set forth in the applicable zoning district regulations; however, all other provisions of the applicable zoning district regulations shall apply. Any building or structure constructed on a nonconforming lot of record shall meet all development regulations in the zoning district.
- To save trees

CERTIFIED BY:


Ron Tovar
ZBA Chairman

Date: 11-13-2014

ATTEST:


Susan Stewart
Zoning Secretary