

**MINUTES OF THE REGULAR MEETING
CITY OF RIVER OAKS
ZONING BOARD OF ADJUSTMENTS
SEPTEMBER 8, 2014**

MEMBERS PRESENT:

ROYCE SHIELDS, CHAIRMAN, PLACE 1
RON TOVAR, VICE-CHAIRMAN, PLACE 2
JASON MARTINEZ, ALTERNATE 1
JOHN CLARIDGE, ALTERNATE 2
STEVE HOLLAND, COUNCIL LIAISON

STAFF MEMBERS PRESENT:

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

MEMBERS ABSENT:

CORNELL ADDINGTON, PLACE 3 (NO RESPONSE) (PERSONAL CONFLICT)
STAN CUMBERLEDGE, PLACE 4 (NO RESPONSE)
CONNIE ADAMS, PLACE 5 (MEDICAL)
MARY TIPTON, ALTERNATE 3 (PERSONAL CONFLICT)
RAUL RODRIGUEZ, ALTERNATE 4 (MEDICAL)

1. CALL TO ORDER

Chairman Shields called the Regular Meeting of the River Oaks Zoning Board of Adjustments to order at 7:32 p.m. on Monday, September 8, 2014 at the River Oaks City Hall, 4900 River Oaks Blvd., River Oaks, Texas 76114.

2. INVOCATION AND PLEDGE

Member Claridge delivered the Invocation. Member Martinez led the Pledge of Allegiance.

3. MEMBER ROLL CALL

Roll Call was recorded as follows: Member Addington and Member Cumberledge were absent with no response. Member Adams and Member Rodriguez were absent due to medical reasons. Member Tipton was absent due to a personal conflict.

It was announced that Alternate Member Martinez would serve in Place 3 and Alternate Member Claridge would serve in Place 4 as voting members for this meeting only.

4. APPROVAL OF MINUTES FROM THE REGULAR MEETING OF AUGUST 11, 2014

Member Claridge moved, seconded by Member Martinez, to approve the minutes of August 11, 2014. All voted "Aye."

5. STATEMENT OF APPOINTED OFFICIAL AND OATH OF OFFICE FOR THE ZBA 2014 MEMBER APPOINTEES INCLUDING RON TOVAR (PLACE 2) AND STAN CUMBERLEDGE (PLACE 4)

ZS Stewart administered the Statement of Appointed Official and the Oath of Office to Ron Tovar, Place 2 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: 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 REPLACING THE EXISTING WOOD CARPORT COVER AT THE SAME LOCATION THAT IS ATTACHED TO THE EXISTING PRINCIPAL STRUCTURE AND WOULD BE LOCATED AT 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)

At 7:38 p.m. Chairman Shields opened the public hearing.

ZA Gregory summarized the request to construct a 240 square foot metal carport replacing a temporary carport that would be attached to the principle structure. The structure would be located at the side property line which is in violation of Section 10 "R-3" "Single Family Residential District" subsection C "Development Regulations" #5 in that there shall be a side yard of not less than 5-feet on each side. The applicant is requesting a variance citing that the literal enforcement of the Zoning Ordinance due to special conditions would create an unnecessary hardship that is unique to the property. Gregory added that there are currently four accessory structures on this property including the temporary carport. Council Liaison pointed out that the "temporary carport" is not actually a structure but is a tarp draped over the fence.

Mr. Gallardo stated the reason he needs the carport is to shade his vehicle from the hot sun.

Much discussion occurred that related to requiring written approval from the adjacent property owner and the removal of one of the accessory structures. Mr. Gallardo stated that he had spoken to the owner and they did not have a problem with the project. Mr. Gallardo agreed to remove one of the existing structures.

At 7:45 p.m. Chairman Shields closed the public hearing.

Member Claridge mentioned the lot size as a hardship as well as the number of trees in the back yard.

Chairman Shields pointed out that in the case of a fire, both properties would be in danger due to the closeness of the structures and driveways. Chairman Shields requested that the proposed structure be shortened by four feet from the front of the principle structure.

At 8:01 p.m. the public hearing was reopened.

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 REPLACING THE EXISTING WOOD CARPORT COVER AT THE SAME LOCATION THAT IS ATTACHED TO THE EXISTING PRINCIPAL STRUCTURE AND WOULD BE LOCATED AT 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)**

VC Tovar moved, seconded by Member Claridge to continue the public hearing until October 13, 2014 at 7:30 p.m. subject to the following: 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. 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 8:06 p.m. Member Claridge moved, seconded by VC Tovar, to adjourn the meeting. All voted "Aye".

APPROVED THIS 13TH DAY OF OCTOBER 2014:

BY: 
Royce Shields, 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