

**MINUTES OF THE SPECIAL CALLED MEETING  
CITY OF RIVER OAKS  
ZONING BOARD OF ADJUSTMENTS  
OCTOBER 19, 2010**

**MEMBERS PRESENT:**

ROYCE SHIELDS, CHAIRMAN  
RON TOVAR, VICE-CHAIRMAN  
NANCY LOVEN, PLACE 3  
TUESDAY COOLEY, ALTERNATE # 1  
CONNIE ADAMS, ALTERNATE # 3  
DONALD ISTOOK, ALTERNATE # 4  
STEVE HOLLAND, COUNCIL LIAISON

**STAFF MEMBERS PRESENT:**

MARVIN GREGORY, ZONING ADMINISTRATOR  
SUSAN STEWART, ZONING SECRETARY

**MEMBERS ABSENT:**

STAN CUMBERLEDGE, PLACE 4 (NO RESPONSE)  
JASON CEARLEY, PLACE 5 (PERSONAL CONFLICT)  
JOE ASHTON, ALTERNATE # 2 (NO RESPONSE)

1. CALL TO ORDER

At 7:30 p.m. Chairman Shields called the meeting to order; a quorum was present.

2. INVOCATION AND PLEDGE OF ALLEGIANCE

Council Liaison Holland gave the Invocation and Member Cooley led the Pledge of Allegiance.

3. ROLL CALL

Secretary Stewart recorded the roll call with the following absences: Jason Cearly excused due to a personal conflict and Stan Cumberledge and Joe Ashton not excused, with no response.

Secretary Stewart announced that Alternate Member Cooley would serve as a voting member for this meeting only in the absence of Member Cumberledge. Alternate Member Adams served as a voting member in the absence of Member Cearly.

4. APPROVAL OF MINUTES FROM THE SPECIAL CALLED MEETING ON AUGUST 5, 2010

**Vice-Chairman Tovar moved, seconded by Member Cooley, to approve the Minutes of the Special Called Meeting of the Zoning Board of Adjustments for August 5, 2010 as presented. All voted "Aye."**

5. OATH OF TESTIMONY

Secretary Stewart administered the Oath of Testimony to ZA Gregory, Gustavo Castaneda, Janis Brown and Ron Brown, all slated to give testimony in the upcoming Public Hearing portion of the meeting.

**6. PUBLIC HEARING:** PUBLIC INPUT ON THE VARIANCE REQUEST OF **GUSTAVO CASTANEDA** REGARDING PROPERTY AT **1701 ROBERTS CUT OFF RD.** IN ORDER TO ALLOW TO REMAIN ON THE PROPERTY A 24 X 40 OVERSIZED METAL CARPORT LOCATED IN AN R-4 SINGLE-FAMILY ZONING DISTRICT THAT IS IN VIOLATION OF THE CITY'S ZONING ORDINANCE UNDER SECTION 22 "ACCESSORY BUILDING" (A) "AUTHORIZED ACCESSORY USES" # 5 IN THAT A CARPORT SHALL NOT EXCEED 24-FEET ON ITS LONGEST DIMENSION AND ADDITIONALLY THE 24 X 40 METAL CARPORT IS LOCATED WITHIN 2-FEET OF THE EXISTING GARAGE ON THE SOUTHWESTERN END OF THE PROPERTY IN VIOLATION OF SECTION 22 B "ACCESSORY BUILDINGS" # 3 WHICH REQUIRES THAT NO ACCESSORY BUILDING SHALL BE ERECTED WITHIN 10-FEET OF ANY OTHER BUILDING ON THE LOT PURSUANT TO THE CITY'S ZONING ORDINANCE. (ZONING CASE # ZBA 2010-04).

**At 7:36 p.m. Member Cooley moved, seconded by Member Loven, to open the public hearing. All voted "Aye."**

CS Gregory showed photos and summarized the conditions of the variance request: the request is to allow to allow to remain on the property a 24 x 40 oversized metal carport located in an R-4 Single-Family Zoning District that is in violation of the City's Zoning Ordinance under Section 22 "Accessory Building"(A) "Authorized Accessory Uses" # 5 in that a carport shall not exceed 24 feet on its longest dimension and additionally the 24 x 40 metal carport is located within 2-feet of the existing garage on the southwestern end of the property in violation of Section 22 B "Accessory Buildings" # 3 which requires that no accessory building shall be erected within 10-feet of any other building on the lot pursuant to the City's Zoning Ordinance.

CS Gregory stated that the Board must consider the following conditions when granting a variance: 1) Due to special conditions, a literal enforcement of the Zoning Ordinance would result in unnecessary hardship; 2) The granting of the variance will not be in conflict of the public interest; 3) The 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 4) The Variance cannot be granted to resolve a self-created or personal hardship, not for financial reasons alone.

CS Gregory stated that the applicant will need to prove to the Board that this application as is being presented does in fact qualify as an unnecessary hardship which includes examples of the following: 1) Lot with considerable slope; 2) To save trees; 3) Lot width or setback on cul-de-sak; or 4) Destruction of use.

CS Gregory reported nine written responses from those notified and all are in favor of the variance. No written opposition was received.

CS Gregory stated that the carport could be reduced in size to comply with the ordinance at 24 x 24, but the slope of lot prevents the carport from being moved 10-feet away from the existing garage.

Gustavo Castaneda, owner of 1701 Roberts Cut Off, stated that he does not object to cutting the front portion of carport to comply with the required dimensions of 24 x 24. Mr. Castaneda stated that he would be unable to relocate the carport due to a considerable slope of the lot

and large tree. Mr. Castaneda acknowledged that he should have applied for a building permit prior to constructing the carport.

CS Gregory stated that a double permit fee would be required due to failure to permit the project prior to construction.

**At 8:01 p.m. Member Cooley moved, seconded by Member Loven, to close the public hearing. All voted "Aye."**

**7. ACTION FROM PUBLIC HEARING:** CONSIDER APPROVAL OF THE VARIANCE REQUEST OF **GUSTAVO CASTENEDA** REGARDING PROPERTY AT 1701 ROBERTS CUT OFF RD. IN ORDER TO ALLOW TO REMAIN ON THE PROPERTY A 24 X 40 OVERSIZED METAL CARPORT LOCATED IN AN R-4 SINGLE-FAMILY ZONING DISTRICT THAT IS IN VIOLATION OF THE CITY'S ZONING ORDINANCE UNDER SECTION 22 "ACCESSORY BUILDING" (A) "AUTHORIZED ACCESSORY USES" # 5 IN THAT A CARPORT SHALL NOT EXCEED 24 FEET ON ITS LONGEST DIMENSION AND ADDITIONALLY THE 24 X 40 METAL CARPORT IS LOCATED WITHIN 2-FEET OF THE EXISTING GARAGE ON THE SOUTHWESTERN END OF THE PROPERTY IN VIOLATION OF SECTION 22 B "ACCESSORY BUILDINGS" # 3 WHICH REQUIRES THAT NO ACCESSORY BUILDING SHALL BE ERECTED WITHIN 10-FEET OF ANY OTHER BUILDING ON THE LOT PURSUANT TO THE CITY'S ZONING ORDINANCE. (ZONING CASE # ZBA 2010-04).

**Vice-Chairman Tovar made the following motion "I find that the variance request of Gustavo Castaneda on the property located at 1701 Roberts Cut Off due to special conditions, a literal enforcement of the Zoning Ordinance in that the carport in its proposed location would be in violation of Section 22 B "Accessory Buildings" # 3 which requires that no accessory building be erected within 10-feet of any other building on the lot pursuant to the City's Zoning Ordinance and I further find that relocating the carport to within 10-feet of any other building on the lot would result in an unnecessary hardship because the lot has considerable slope and therefore I move to grant a Variance from the Zoning Ordinance in order to allow the carport to be located to within 2-feet of the existing garage on the southwestern portion of the lot providing the carport does not exceed 24-feet on its longest dimension, providing the applicant pay a double fee for constructing the carport without first obtaining a building permit, and providing that the owner obtain the permit the first business day following this meeting." Member Loven seconded the motion. All voted "Aye."**

**8. CONSIDER APPROVAL TO AMEND THE CONSTRUCTION TIME LIMIT ONLY THAT WAS SET IN THE AUGUST 5, 2010 MOTION REGARDING THE VARIANCE REQUEST OF JANIS BROWN AT 401 MERRITT STREET IN ORDER TO CONSTRUCT A TWO-STORY, 1200 SQUARE FOOT ADDITION TO THE MAIN STRUCTURE IN AN R-1 SINGLE-FAMILY ZONING DISTRICT TO WITHIN 6-FEET OF THE SIDE PROPERTY LINE ON THE NORTH SIDE OF THE LOT, WHICH IS IN VIOLATION OF THE REQUIRED SIDE YARD SETBACK REQUIREMENT OF THE USE AND DEVELOPMENT REGULATIONS OF THE SUBJECT PROPERTY PURSUANT TO THE CITY'S ZONING ORDINANCE. (ZONING CASE # ZBA 2010-03).**

Janis and Ron Brown requested until January 15, 2010 to obtain a six-month building permit for a variance that was approved by the ZBA in August, 2010.

**Vice-Chairman Tovar moved, seconded by Member Cooley, to amend the variance made on August 5, 2010 to allow the permit to be acquired by January 15, 2010 and to complete the construction within six months. 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 8:09 p.m. Member Loven moved, seconded by Member Adams, to adjourn the meeting. All voted "Aye."**

**APPROVED THIS 7<sup>th</sup> DAY OF FEBRUARY 2011:**

BY: Royce Shields  
Royce Shields, Chairman  
Zoning Board of Adjustments

ATTEST: Susan Stewart  
Susan Stewart,  
Zoning Secretary