

**MINUTES OF THE REGULAR MEETING
CITY OF RIVER OAKS
ZONING BOARD OF ADJUSTMENTS
FEBRUARY 7, 2011**

MEMBERS PRESENT:

RON TOVAR, VICE-CHAIRMAN
STAN CUMBERLEDGE, PLACE 4 (PRESENT AT 6:25 PM)
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
STEVE SANDERS, BUILDING INSPECTOR

MEMBERS ABSENT:

ROYCE SHIELDS, CHAIRMAN (OUT OF TOWN)
NANCY LOVEN, PLACE 3 (PERSONAL CONFLICT)
JASON CEARLEY, PLACE 5 (NO REASON NOTED)
JOE ASHTON, ALTERNATE # 2 (MEDICAL)

1. CALL TO ORDER

At 6:03 p.m. Vice-Chairman Tovar called the meeting to order; a quorum was present.

2. INVOCATION AND PLEDGE OF ALLEGIANCE

Member Istook gave the Invocation and Vice-Chairman Tovar led the Pledge of Allegiance.

3. ROLL CALL

Vice-Chairman Tovar announced following absences: Chairman Shields excused, out of town; Member Loven excused, personal conflict; Member Cumberledge, unexcused, no response; Member Cearly, excused, no reason noted; and Member Ashton excused, medical.

Vice-Chairman Tovar announced that Alternate Member Cooley would serve as a voting member for this meeting only in the absence of Place 1; Alternate Member Adams would serve as a voting member for this meeting only in the absence of Place 3; Alternate Member Istook would serve as a voting member for this meeting only in the absence of Place 4.

[Note: Member Cumberledge arrived at 6:25 p.m. and assumed the role of the 5th voting board member.]

4. APPROVAL OF MINUTES FROM THE SPECIAL CALLED MEETING ON OCTOBER 19, 2010

Member Istook moved, seconded by Member Cooley, to approve the Minutes of the Special Called Meeting of the Zoning Board of Adjustments for October 19, 2010 as presented. All voted "Aye."

5. OATH OF TESTIMONY

Vice-Chairman Tovar administered the Oath of Testimony to ZA Gregory, Inspector Sanders, and Mrs. Rodriguez (property owner), all slated to give testimony in the upcoming Public Hearing portion of the meeting.

6. Public Hearing: Public input on the Variance Request (Zoning Case # ZBA 2011-01) of **Miguel & Maria Rodriguez at 5401 Taylor Rd.** in order to be permitted to construct on the property the following:

1. An oblong oversized carport that measures 32' x 13' feet at the front to 32' x 23' at the rear as located in an R-3 Single-Family Zoning District 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 nor exceed 576 square feet in size and additionally the carport is located within 0-feet of the side property line in violation of the 5-foot required side yard setback requirement pursuant to Section 10.C.5.
2. The replacement of the existing front porch where the new 14 x 7 porch addition would extend in front of the established building line in violation of Section 4 "Porch" of the Zoning Ordinance.

At 6:10 p.m. Vice-Chairman Tovar opened the public hearing.

ZA Gregory summarized the conditions of the variance requests. The proposal includes constructing an oversized carport that would measure 32x13 at the front and 32x23 at the rear covering an existing driveway and back porch area. According to the Zoning Ordinance the maximum size for a carport is 576-square feet with the longest dimension allowed being 24-feet. In addition, the proposed carport violates the required side yard setback of 5-feet since it would actually be constructed on the property line. The second request is to eliminate an existing recessed porch by extending the wall of the main structure and constructing a new 98 square foot porch in front of the established building line. According to the Zoning Ordinance, when there is an existing porch, no porch shall be constructed that extends in front of the established building line.

Board Members expressed concern that the carport over the driveway could produce a drainage issue with a neighboring property.

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 seven written responses from those notified; five in favor and two in opposition.

At 6:23 p.m. Chairman Tovar administered the oath of testimony to Mr. Rodriguez.

ZA Gregory stated that lot width could be considered a hardship due to the fact that there is not sufficient room for covered parking over the driveway without the variance.

Board Members discussed allowing the carport on the property line if it were constructed at 24-feet on the longest dimension, which is within the requirements of the Zoning Ordinance. Discussion occurred related to moving the carport forward or backward to allow ingress to the main structure without exposure to rain. Board Members suggested that the owner build the carport integrally.

Member Cumberledge moved, seconded by Member Adams, for the public hearing to remain open and be continued on March 1, 2011 at 7:30 p.m. in order to allow the owner time to present designed plans of the proposal that would include a drainage plan. CS Gregory stated that a motion and vote is not necessary.

Chairman Tovar left the public hearing open to be continued on March 1, 2011 at 7:30 p.m.

7. Action from Public Hearing: Consider approval of the Variance Request of Miguel & Maria Rodriguez at 5401 Taylor Rd. (Zoning Case # ZBA 2011-01)

No action was taken.

8. 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.

9. ACTION FROM EXECUTIVE SESSION


None.

10. ADJOURNMENT


At 7:12 p.m. Member Cooley moved, seconded by Member Cumberledge, to adjourn the meeting. All voted "Aye."

APPROVED THIS 1st DAY OF MARCH 2011:

BY:


**Ron Tovar, Vice-Chairman
Zoning Board of Adjustments**

ATTEST:


**Susan Stewart,
Zoning Secretary**