

**MINUTES OF THE SPECIAL CALLED MEETING  
CITY OF RIVER OAKS  
ZONING BOARD OF ADJUSTMENTS  
JULY 6, 2010**

**MEMBERS PRESENT:**

ROYCE SHIELDS, CHAIRMAN  
STAN CUMBERLEDGE, PLACE 4  
TUESDAY COOLEY, ALTERNATE # 2  
DON ISTOOK, ALTERNATE # 4

**STAFF MEMBERS PRESENT:**

MARVIN GREGORY, ZONING ADMINISTRATOR  
SUSAN STEWART, ZONING SECRETARY  
LOURDES TORRES, TRANSLATOR

**MEMBERS ABSENT:**

RON TOVAR, VICE-CHAIRMAN, PLACE 2 (OUT OF TOWN)  
NANCY LOVEN, PLACE 3 (OUT OF TOWN)  
JASON CEARLEY, PLACE 5 (NO RESPONSE)  
CONNIE ADAMS, ALTERNATE #3 (NO RESPONSE)  
STEVE HOLLAND, COUNCIL LIAISON (FAMILY MEDICAL)

1. CALL TO ORDER

At 7:32 p.m. Chairman Shields called the meeting to order; a quorum was present.

2. INVOCATION AND PLEDGE OF ALLEGIANCE

Alternate Member Istook gave the Invocation and Member Cumberledge led the Pledge of Allegiance.

Secretary Stewart recorded the roll call with the following absences: Ron Tovar, Nancy Loven, Jason Cearly, Connie Adams and Steve Holland.

Secretary Stewart announced that Alternate Member # 1, Tuesday Cooley would serve as a voting member in place of Ron Tovar and Alternate Member # 4 Don Istook would serve in place of Nancy Loven for this meeting only.

3. APPROVAL OF MINUTES FROM THE SPECIAL CALLED MEETING ON SPECIAL CALLED MEETING ON MARCH 8, 2010

**Member Cumberledge moved, seconded by Member Istook, to approve the Minutes of the Special Called Meeting of the Zoning Board of Adjustments for March 8, 2010 as presented. All voted "Aye."**

4. *Oath of Testimony*

Secretary Stewart administered the Oath of Testimony to ZA Gregory, Abel Ortiz and Gabriela Ortiz all slated to give testimony in the upcoming Public Hearing portion of the meeting. Lourdes Torres cited the Oath of Testimony to Abel and Gabriela Ortiz in Spanish.

5. Public Hearing: Public input on the Variance Request **of Abel Etux Gabriela Ortiz** regarding property at 508 Winters St. in order to rebuild in the same location a 10 X 24 carport that is attached to a 20 X 19 patio cover damaged in excess of 50% of its replacement cost pursuant to Section 28 G of the Zoning Ordinance and is located in violation of the size and side setback requirement in an R-1 Single-Family Zoning District. (Zoning Case # ZBA 2010-02)

At 7:36 p.m. Chairman Shields opened the public hearing.

Lourdes Torres and Member Cumberledge provided Spanish translation between the applicants and board members.

ZA Gregory reviewed the variance request. The applicants request to replace an existing 10x24 carport attached to an existing 20x19 patio cover that both sustained damage in excess of 50% of the replacement cost during the winter storm. According to Section 28 G "Destruction of Non-Conformity" of the Zoning Ordinance these structures may not be rebuilt unless following a public hearing the ZBA authorizes the reconstruction or rebuilding.

The structures are in violation of the Zoning Ordinances as follows:

- Metal carports are restricted to a dimension no longer than 24-feet on it longest dimension or a total of 576 square feet. This carport is attached to a patio cover making it a structure originally built in excess of 576 square feet. This variance request for size is from 576 square feet to 620 square feet.
- The carport is located on the side property line with a zero setback. R-1 Zoning District requires a minimum of a 10-foot setback from the side property line when attached to the main structure. This variance request is for a side yard variance from 10-feet to 0-feet.

ZA Gregory stated that the Board must consider the following: Due to special conditions, a literal enforcement of the Zoning Ordinance would result in unnecessary hardship; the granting of the variance will not be in conflict of the public interest; the Spirit of the Ordinance is observed and substantial justice is done and the variance will not prevent the orderly development of other land in the area; and the variance cannot be granted to resolve a self-created or personal hardship, not for financial reasons alone.

ZA Gregory stated that to approve the request, the Board must determine that adherence to the Zoning Ordinance as written does create an unnecessary hardship. In this case, that hardship could be "destruction of use."

ZA Gregory reported 5 written responses in favor of, and 0 responses against granting the variance.

ZA Gregory recommended that the Board consider requiring gutters to be installed so that the water runoff from the structure would drain onto the applicant's property. In addition ZA Gregory recommended that the Board set a 180-day time limit for completion of the work.

Abel Ortiz and Gabriela Ortiz were present to answer questions from the Board. Board Members clarified with the applicants that the structures would be removed and completely replaced. Board Members verified that the applicants understood that gutters would be required if the request were approved.

At 7:54 p.m. Member Cumberledge moved, seconded by Member Cooley, to close the public hearing.

**6. Action from Public Hearing:** Variance Request of **Abel Etux Gabriela Ortiz** regarding property at 508 Winters St. in order to rebuild in the same location a 10 X 24 carport that is attached to a 20 X 19 patio cover damaged in excess of 50% of its replacement cost pursuant to Section 28 G of the Zoning Ordinance and is located in violation of the size and side setback requirement in an R-1 Single-Family Zoning District. (Zoning Case # ZBA 2010-02)

**Member Cumberledge made the following motion "I find that the variance request of Abel etux Gabriela Ortiz for the property described as Lot N ½ 56, Hassett Gardens Addition otherwise known as 508 Winters St. pursuant to Section 28 G of the Zoning Ordinance is a non-conforming structure damaged more than 50% of its replacement cost and the board has taken into consideration the owner's property rights and has found that the granting of the variance will not have a negative effect on the surrounding properties and therefore I move to grant a Variance for 508 Winters St. in order to rebuild a 10 X 24 wood carport attached to a 20 X 19 patio cover to within 0-feet of the side property line as it was originally located prior to the damage providing it meets all other zoning regulations and has installed on such structures guttering designed for water runoff from the structures to drain on to their property and that all reconstruction is completed within 180-days from the date of the hearing. Motion seconded by Member Cooley. All voted "Aye."**

7. 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.**

8. Action from Executive Session

**None.**

9. Adjournment

**At 7:57 p.m. Member Cumberledge moved, seconded by Member Istook, to adjourn the meeting. All voted "Aye."**

**APPROVED THIS THE 5<sup>TH</sup> DAY OF AUGUST 2010:**

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

**ATTEST:** Susan Stewart  
**Susan Stewart,**  
**Zoning Secretary**