

**MINUTES OF THE REGULAR MEETING
CITY OF RIVER OAKS
ZONING BOARD OF ADJUSTMENTS
SEPTEMBER 6, 2011**

MEMBERS PRESENT:

ROYCE SHIELDS, CHAIRMAN, PLACE 1
RON TOVAR, PLACE 2
TUESDAY COOLEY, PLACE 3
STAN CUMBERLEDGE, PLACE 4
NICKI MATTHEWS, ALTERNATE # 1
JOE ASHTON, ALTERNATE # 2
DONALD ISTOOK, ALTERNATE # 4
STEVE HOLLAND, COUNCIL LIAISON

STAFF MEMBERS PRESENT:

MARVIN GREGORY, ZONING ADMINISTRATOR
SUSAN STEWART, ZONING SECRETARY

MEMBERS ABSENT:

CONNIE ADAMS, PLACE 5 (MEDICAL)
LORI WATSON, ALTERNATE # 3 (MEDICAL)

1. CALL TO ORDER

Chairman Shields called the Regular Meeting of the River Oaks Zoning Board of Adjustments to order at 7:30 p.m. on Tuesday, September 6, 2011 at the River Oaks City Hall, 4900 River Oaks Blvd., River Oaks, Texas 76114.

2. INVOCATION AND PLEDGE OF ALLEGIANCE

Member Ashton gave the Invocation and the Pledge of Allegiance was recited.

3. ROLL CALL

Roll Call was recorded as follows: Place 5 Member Connie Adams with an excused absence and Alternate#3 Lori Watson, excused due to illness. It was announced that Alternate # 2 Joe Ashton would serve as a voting member in the absence of Place 5 Member Connie Adams for this meeting only.

4. APPROVAL OF MINUTES FROM THE SPECIAL CALLED MEETING OF AUGUST 16, 2011

Member Cumberledge moved, seconded by Member Cooley, to approve the Minutes of the Meeting of the Zoning Board of Adjustments for August 16, 2011 as presented. All voted "Aye."

5. OATH OF TESTIMONY

Secretary Stewart administered the Oath of Testimony to ZA Gregory and David Badger, both 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 2011-03) OF DAVID T. BADGER AT 5313 CORNELL AVENUE IN

ORDER TO CONSTRUCT A 30 X 30 X 10 OVERSIZED METAL CARPORT PROPOSED TO BE ATTACHED TO THE EXISTING STRUCTURE AND TO THE EXISTING GARAGE ON THE PROPERTY IN VIOLATION OF THE CITY'S ZONING ORDINANCE UNDER SECTION 22 "ACCESSORY BUILDING" (A) "AUTHORIZED ACCESSORY USES" # 5A IN THAT A CARPORT SHALL NOT EXCEED 24 FEET ON ITS LONGEST DIMENSION. (ZBA CASE # 2011-03).

At 7:34 p.m. Chairman Shields opened the public hearing.

ZA Gregory summarized the request of David Badger to erect a 30x30 carport at 5313 Cornell that is violation of the allowable 576 total square feet and exceeds the allowable 24 feet on the longest dimension. The proposed carport meets the setback requirement for Single Family R-4 zoning district. In addition a variance would be required to allow the carport to be attached to the existing structure and to the existing garage which violates the requirement that accessory buildings must be 10-feet from any other structure.

ZA 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.

ZA 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.

ZA Gregory stated that the hardship noted by the owner on the application was to protect a 2011 pontoon boat and vehicles from the elements and it would be far enough away from the street to not be noticeable and is similar to a carport built across the street.

Mr. Badger was present. Mr. Badger stated that the front wooden accessory building and a small metal accessory structure in the back of the lot would both be removed. Mr. Badger stated his intention of replacing the current fence with a 6-foot privacy fence.

Member Cumberledge reviewed the hardships, stating that this project did not qualify as a hardship. ZA Gregory stated that this project could be considered a self-created hardship.

Board Members discussed the zoning ordinance requirement for a hard surface, such as concrete, under all carports. Only a portion of the area is currently concrete. Mr. Badger stated that he would concrete the entire area under the carport.

Board Members inquired about storm water drainage from the proposed carport. Mr. Badger stated that the flow of storm water would continue to flow to the rear of the property as it does currently.

Board Members expressed concern regarding the integrity of such a large metal structure. ZA Gregory suggested that an engineer approved design be presented prior to proper permitting.

At 7:54 p.m. Chairman Shields closed the public hearing.

7. ACTION FROM PUBLIC HEARING: CONSIDER APPROVAL OF THE VARIANCE REQUEST OF DAVID T. BADGER AT 5313 CORNELL AVENUE IN ORDER TO CONSTRUCT A 30 X 30 X 10 OVERSIZED METAL CARPORT PROPOSED TO BE ATTACHED TO THE EXISTING STRUCTURE AND TO THE EXISTING GARAGE ON THE PROPERTY IN VIOLATION OF THE CITY'S ZONING ORDINANCE UNDER SECTION 22 "ACCESSORY BUILDING" (A) "AUTHORIZED ACCESSORY USES" # 5A IN THAT A CARPORT SHALL NOT EXCEED 24 FEET ON ITS LONGEST DIMENSION. (ZBA CASE # 2011-03).

Member Ashton made the following motion, "I move to grant a Variance from the Zoning Ordinance in order to allow David T. Badger to build a 900 square foot oversized metal carport in violation of the maximum size requirement of 576 square feet for a carport and to be attached to the existing structure and to the existing garage on the property in violation of the City's Zoning Ordinance under Section 22B "Accessory Building" in that there is not a 10-foot separation between the carport and either of the other two buildings existing on the lot. Motion was amended to also include the following requirements: 1) Carport shall be placed on a concrete surface; 2) Remove existing dilapidated accessory building; and 3) Carport Construction shall be engineered designed. Motion seconded by Member Cooley. Members Shields, Tovar, Cooley and Ashton voted "Aye." Member Cumberledge voted "Nay." Motion passed, variance approved.

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 7:57 p.m. Member Cooley moved, seconded by Member Ashton, to adjourn the meeting. All voted "Aye."

APPROVED THIS 4th DAY OF OCTOBER 2011:

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

ATTEST: Susan Stewart
Susan Stewart,
Zoning Secretary