

**MINUTES OF THE REGULAR MEETING
CITY OF RIVER OAKS
ZONING BOARD OF ADJUSTMENTS
APRIL 3, 2012**

MEMBERS PRESENT:

ROYCE SHIELDS, CHAIRMAN, PLACE 1
RON TOVAR, PLACE 2
TUESDAY COOLEY, PLACE 3
CONNIE ADAMS, PLACE 5
JOE ASHTON, ALTERNATE # 2
DONALD ISTOOK, ALTERNATE # 4
STEVE HOLLAND, COUNCIL LIAISON

STAFF MEMBERS PRESENT:

MARVIN GREGORY, ZONING ADMINISTRATOR
JAMES HATLEY, PUBLIC WORKS DIRECTOR
SUSAN STEWART, ZONING SECRETARY
ATTORNEY STEVE WOODS

MEMBERS ABSENT:

NICKI MATTHEWS, ALTERNATE # 1 (EXCUSED)

1. CALL TO ORDER

Chairman Shields called the Regular Meeting of the River Oaks Zoning Board of Adjustments to order at 7:31 p.m. on Tuesday, April 3, 2012 at the River Oaks City Hall, 4900 River Oaks Blvd., River Oaks, Texas 76114.

2. INVOCATION AND PLEDGE OF ALLEGIANCE

Member Istook gave the Invocation and Chairman Shields led the Pledge of Allegiance.

3. ROLL CALL

Roll Call was recorded as follows: Alternate Member # 1 Nikki Matthews with an excused absence.

4. APPROVAL OF MINUTES FROM THE REGULAR MEETING OF FEBRUARY 21, 2012

Member Cooley moved, seconded by Member Matthews, to approve the Minutes of the Meeting of the Zoning Board of Adjustments for February 21, 2012 as presented. All voted "Aye."

5. OATH OF TESTIMONY

Secretary Stewart administered the Oath of Testimony to ZA Gregory and Sandra Ward (property owner of 5501 Baylor), both slated to give testimony in the upcoming Public Hearing portion of the meeting.

6. Public Hearing: Public input on request of **Sandra J. Ward** to appeal to the ZBA regarding the decision of the Zoning Administrator in that the property at 5501 Baylor Ave. is an illegal non-conforming use. (Zoning Case ZBA201202).

At 7:35 p.m. Chairman Shields opened the public hearing.

[At 7:35 p.m. Chairman Shields convened into 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]

[At 8:04 p.m. Chairman Shields reconvened into regular session.]

ZA Gregory requested that all information in the packets be entered into the record.

Member Cooley moved, seconded by Member Cumberledge, to accept the packet information into the record. All voted "Aye."

ZA Gregory read the following from the record: "The property located at 5501 Baylor in accordance with the City Zoning Ordinance as adopted in December 2001 and as amended on November 30, 2007 is zoned R-3 Single-family, which means any other structures located on the property could not be occupied for human occupancy as a second single-family dwelling unless such structure has been lawfully registered as a legal non-conforming structure by November 30, 2008 and then said structure could only be occupied by family as defined in the zoning ordinance as a non-profit cost-sharing basis. Any other occupancy of an accessory structure on any single-family lot constitutes a two-family zoning use, which is prohibited. You will need to obtain a certificate of occupancy permit prior to anybody else living or using the accessory building for living quarters even though you registered it as a non-conforming structure."

ZA Gregory explained that non-conforming registration as received on this property in 2007 but was never completed with a signature. In 2010 the property was correctly registered as a non-conforming based on two dwelling units used as single-family. In late 2011, the owner asked if she could rent the back building separately.

ZA Gregory mentioned that Tarrant Appraisal District lists Richard and Elizabeth Aldaco as the current owners.

Sandra Ward, property owner at 5501 Baylor, stated that she foreclosed on the Aldaco family and she is the current owner. Board Members informed Ms. Ward that this request could not be approved until she proves ownership. Ms. Ward did not have evidence of ownership at this hearing. Ms. Ward proceeded to explain that her request tonight was to have the property considered as one unit so that the water bill would be calculated as such. It was explained to Ms. Ward that the City Council is the only governing body that could make that decision. Ms. Ward stated that she loses tenants due to the high water bill.

Attorney Woods stated that the rules and procedures clearly state that if a decision is rendered; the applicant must wait 12-months to reapply for the same consideration at the same property. Attorney Woods asked Ms. Ward if her intention was to rent to two separate families. Ms. Ward stated "No, and I never have." Attorney Woods explained that Ms. Ward must provide proof that the property was used as multi-family prior to 2007 and that her testimony is that she had only used it as single-family. Ms. Ward stated that she had purchased the property in 2008 and was told by city staff that she could not rent the units separately and therefore never did.

ZA Gregory read an email that he had sent to Ms. Ward for the record that explained the purpose of non-conforming registration.

Attorney Woods stated that if the request of Ms. Ward is for waiver of fees related to the water bill, that she would have to appear with that request before the City Council. Attorney Woods

added that Ms. Ward could withdraw her request before the ZBA before a decision is rendered to avoid the 12-month waiting period for re-application.

Ms. Ward verbally withdrew the request.

Attorney Woods noted that a written withdrawal is required. That document could be presented to city staff and approved by the board at the next regular meeting.

At 8:38 p.m. Chairman Shields closed the public hearing.

7. Action from Public Hearing: Consider action from the ZBA regarding the request of **Sandra J. Ward** to appeal to the ZBA regarding the decision of the Zoning Administrator in that the property at 5501 Baylor Ave. is an illegal non-conforming use. (Zoning Case ZBA201202).

Member Cumberledge moved, seconded by Member Adams, to accept the withdrawal, pending written notification, to be approved by the board at the next meeting. All voted "Aye."

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

Refer to agenda item # 6 for executive session times.

9. ACTION FROM EXECUTIVE SESSION

Refer to agenda item # 7 for action taken following executive session.

10. ADJOURNMENT

At 8:38 p.m. Member Cumberledge moved, seconded by Member Cooley, to adjourn the meeting. All voted "Aye."

APPROVED THIS 5th DAY OF JUNE 2012:

BY: 
Royce Shields, Chairman
Zoning Board of Adjustments

ATTEST: 
Susan Stewart,
Zoning Secretary