

**MINUTES OF THE SPECIAL CALLED MEETING  
CITY OF RIVER OAKS  
ZONING BOARD OF ADJUSTMENTS  
AUGUST 1, 2013**

**MEMBERS PRESENT:**

ROYCE SHIELDS, CHAIRMAN, PLACE 1  
RON TOVAR, VICE-CHAIRMAN  
TUESDAY COOLEY, PLACE 3  
STAN CUMBERLEDGE, PLACE 4  
CONNIE ADAMS, PLACE 5  
MARY TIPTON, ALTERNATE 3

**STAFF MEMBERS PRESENT:**

MARVIN GREGORY, ZONING ADMINISTRATOR  
BUILDING INSPECTOR STEVE SANDERS  
SUSAN STEWART, ZONING SECRETARY

**MEMBERS ABSENT:**

JASON MARTINEZ, ALTERNATE 1 (PERSONAL CONFLICT)  
DONALD ISTOOK, ALTERNATE 2 (OUT OF TOWN)  
CORNELL ADDINGTON, ALTERNATE # 4 (PERSONAL)  
STEVE HOLLAND, COUNCIL LIAISON (OUT OF TOWN)

**1. CALL TO ORDER**

Chairman Shields called the Special Meeting of the River Oaks Zoning Board of Adjustments to order at 7:30 p.m. on Thursday, August 1, 2013 at the River Oaks City Hall, 4900 River Oaks Blvd., River Oaks, Texas 76114.

**2. INVOCATION AND PLEDGE**

Member Adams gave the Invocation and Member Cumberledge led the Pledge of Allegiance.

**3. ROLL CALL**

Roll Call was recorded as follows: Alternate Members Martinez, Istook, and Addington, and Council Member Holland were absent with excuse.

**4. APPROVAL OF MINUTES FROM THE MEETING OF JUNE 6, 2013**

**Member Cumberledge moved, seconded by Member Cooley, to approve the Minutes of the Meeting of the Zoning Board of Adjustments for June 6, 2013 as presented. All voted "Aye."**

**5. STATEMENT OF APPOINTED OFFICIAL AND OATH OF OFFICE FOR 2013 BOARD APPOINTMENTS**

Secretary Stewart administered the Statement of Elected/Appointed Official and Oath of Office to Royce Shields, Chairman; Tuesday Cooley, Place 3; Connie Adams, Place 5; and Mary Tipton, Alternate 3.

## **6. OATH OF TESTIMONY**

Secretary Stewart administered the Oath of Testimony to ZA Gregory, Inspector Sanders, Evelyn Whitlock, Fred Brussow, and Denzil Waddell, all slated to give testimony in the upcoming Public Hearing portions of the meeting.

**7. PUBLIC HEARING: PUBLIC INPUT ON THE VARIANCE REQUEST OF DENZIL K. WADDELL AT 5528 JAMES DR.** IN ORDER CONSTRUCT A PROPOSED 400 SQUARE FOOT STEEL CARPORT (40' X 10) LOCATED BEHIND THE BUILDING LINE WITHIN 2-FEET OF THE SIDE YARD PROPERTY LINE IN VIOLATION OF THE 5-FOOT SIDE YARD SETBACK REQUIREMENT PURSUANT TO SEC 10 C.5 "SIDE YARD" AND IS 40-FEET ON ITS LONGEST DIMENSION IN VIOLATION OF SECTION 22.5.A OF THE CITY'S COMPREHENSIVE ZONING ORDINANCE AS AMENDED. (ZBA CASE # **2013-03**).

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

ZA Gregory reviewed the request of Mr. Waddell to build a 400 square foot (40x10) metal carport within 2 feet of the side yard that is in violation of the required side yard setback of 5 feet. ZA Gregory stated that destruction of use could be a hardship if the previous garage were removed within the last six months if it is registered as a non-conforming structure. If the garage was removed prior to six months ago, the nonconforming use is no longer valid and must be treated as a separate structure. The applicant must resubmit the application to include both structures and the case must be republished. ZA Gregory stated that a decision could be made on the carport only during this hearing. The variance request for the carport is: 1) side yard setback variance from 5 to 2 feet; and 2) the longest dimension from 24-feet to 40-feet. 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.

Member Cumberledge asked the applicant when the garage was demolished. Mr. Waddell stated that the garage was demolished in 1996. ZA Gregory recommended that the applicant resubmit his application to include the garage which was located 2 feet from the side property line. ZA Gregory stated that this would require re-notification of the property owners within 200 feet and the notice must be re-published. Member Cumberledge expressed to the applicant the importance of establishing a hardship in order for the board to approve the request.

**Member Cumberledge moved, seconded by Member Cooley, to leave the public hearing open until September 5, 2013 at 7:30 p.m. in order for the applicant to resubmit the application at no additional cost. All voted "Aye."**



**8. ACTION FROM PUBLIC HEARING: CONSIDER APPROVAL OF THE VARIANCE REQUEST OF DENZIL K. WADDELL AT 5528 JAMES DR. IN ORDER CONSTRUCT A PROPOSED 400 SQUARE FOOT STEEL CARPORT (40' X 10) LOCATED BEHIND THE BUILDING LINE WITHIN 2-FEET OF THE SIDE YARD PROPERTY LINE IN VIOLATION OF THE 5-FOOT SIDE YARD SETBACK REQUIREMENT PURSUANT TO SEC 10 C.5 "SIDE YARD" AND IS 40-FEET ON ITS LONGEST DIMENSION IN VIOLATION OF SECTION 22.5.A OF THE CITY'S COMPREHENSIVE ZONING ORDINANCE AS AMENDED. (ZBA CASE # 2013-03).**

This public hearing will remain open and be continued on September 5, 2013 at 7:30 p.m.

**9. PUBLIC HEARING: PUBLIC INPUT ON THE VARIANCE REQUEST OF EVELYN J. WHITLOCK AT 801 THERSA DRIVE IN ORDER CONSTRUCT A PROPOSED A PROPOSED 20 1/2 FOOT BY 9 1/2 FOOT INTEGRALLY BUILT WOOD CARPORT IN FRONT OF THE ESTABLISHED FRONT BUILDING LINE WITHIN 13-FEET OF THE FRONT PROPERTY LINE IN VIOLATION OF THE 30-FOOT FRONT YARD SETBACK REQUIREMENT PURSUANT TO SEC 10 C.3 "FRONT YARD" OF THE RIVER OAKS COMPREHENSIVE ZONING ORDINANCE. (ZBA CASE # 2013-04).**

At 7:55 p.m. Chairman Shields opened the public hearing.

ZA Gregory presented the request of Ms. Whitlock to construct a 20½-foot by 9½-foot integrally built wood carport in front of the established building line within 13-feet of the front property line in violation of the 30-foot front yard setback requirement pursuant to Section 10 C3 "Front Yard" of the River Oaks Comprehensive Zoning Ordinance. ZA Gregory stated that the hardship is that lot size since there is not enough room on the side to place the carport behind the established building line. Secretary Stewart reported 8 responses in favor and 0 responses in opposition of the request. Board Members discussed the option to make the carport wider (10 or 12 feet). ZA Gregory stated that the carport could be wider without board approval but it must not violation the side yard setback.

At 8:03 p.m. Chairman Shields closed the public hearing.

**10. ACTION FROM PUBLIC HEARING: CONSIDER APPROVAL OF THE VARIANCE REQUEST OF EVELYN J. WHITLOCK AT 801 THERSA DRIVE IN ORDER CONSTRUCT A PROPOSED 20 1/2 FOOT BY 9 1/2 FOOT INTEGRALLY BUILT WOOD CARPORT IN FRONT OF THE ESTABLISHED FRONT BUILDING LINE WITHIN 13-FEET OF THE FRONT PROPERTY LINE IN VIOLATION OF THE 30-FOOT FRONT YARD SETBACK REQUIREMENT PURSUANT TO SEC 10 C.3 "FRONT YARD" OF THE RIVER OAKS COMPREHENSIVE ZONING ORDINANCE. (ZBA CASE # 2013-04).**

**Member Cumberledge made the following motion, "I find that the variance request of Evelyn Whitlock for the property described as Block 8, Lot 24, River Oaks Garden Addition otherwise known as 801 Thersa Drive that 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; 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 Variance is not granted to resolve a self-created or personal hardship and so therefore move that the**

applicant, Evelyn J. Whitlock, be approved to construct on the property at 801 Thersa Drive a wood carport integrally built to within 13-feet of the front yard property line pursuant to Section 10 of the Zoning Ordinance and that all construction be completed within 180-days from the date of the hearing." Motion seconded by Member Adams. All voted "Aye."

11. 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.**

12. ACTION FROM EXECUTIVE SESSION

**None.**

13. ADJOURNMENT

Vice-Chairman Tovar asked ZA Gregory if the removal of a portion of the slab for the garage at 5528 James that originally allowed at a 2-foot side yard setback is considered a hardship. ZA Gregory replied the originally platted lot could be considered as a hardship; not the slab.

**At 8:08 p.m. Member Adams moved, seconded by Member Cooley, to adjourn the meeting. All voted "Aye".**

**APPROVED THIS 5<sup>TH</sup> SEPTEMBER 2013:**

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

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