

CITY OF CASTLE HILLS
BOARD OF ADJUSTMENT HEARING
MINUTES OF MARCH 16, 2011

The Board of Adjustment of the City of Castle Hills held a public hearing on the 16th day of March, 2011, at 7:00 P.M. at the City of Castle Hills City Hall, 209 Lemonwood Drive, Castle Hills, Texas.

The attendance roster included LaVerne Japhet, Elizabeth Darilek, Kerry Nelson, J. Wesly West, Michele M. West, Christa Tomlin, Jim Tomlin, and Richard Davis Wolf.

I. OPENING – QUORUM

Present and composing a quorum of the Board of Adjustment was Chairman Bill Schluter, Frank Paul, Dr. Paul Martinez, Dr. Evangeline O'Sullivan, and Dr. Kathryn Safford.

Staff members present were Interim City Manager Rita Hoyl and City Secretary Linda Gill.

II. NEW BUSINESS

A. CONSIDER AND ACT UPON APPROVAL OF THE MINUTES OF THE MEETING OF JUNE 16, 2010.

Motion: Dr. Safford moved to approve the minutes of the meeting of June 16, 2010. Mr. Paul seconded the motion. The motion passed unanimously.

B. PUBLIC HEARING AND ACTION ON AN APPLICATION FOR A VARIANCE TO SECTION 31.410.4, AREA REGULATIONS, SUBMITTED BY KERRY W. NELSON, OWNER OF 10 WEST OAKS COURT, TO ADJUST THE REQUIRED FRONT AND REAR SETBACKS TO ACCOMMODATE THE DESIGN OF A HOME TO BE BUILT ON THE PROPERTY.

Chairman Schluter called the meeting to order at 7:00 p.m. and invited the applicant to present his request to the board. Kerry Nelson explained that he bought the property at 10 West Oaks Court in May, 2005. Referring to a survey he had drawn, he said that he assumed he could build back to the utility easement at the rear of the property, which is 12'. He assumed he had 7' on the sides, 12' on the back, and 20' in front. He planned to build a slab to 5' on the sides, 12' in back, and 18' in front. He based the design of his home on those setbacks. He recalled the history of the property, which is a PUD under City Code 31.1200, and said the covenants make no mention of the setbacks. He indicated that was how he came to the current predicament.

Ms. Hoyl said that she had done research and found that in August, 1999 the property at 6701 West Avenue was rezoned from A, *Single Family District* to AA, *Single Family Garden Home*. In December of 1999 the property was rezoned to I, *Planned Unit Development*, with no exceptions to the AA, *Single Family Garden Home*. Ms. Hoyl said that in February of 2001 City Council approved a subdivision plat of the property, again with no exceptions to the zoning ordinance regarding AA, *Single Family* regulations.

Mr. Nelson stated that there was some ambiguity between the covenants of the property and the city ordinance. The covenants state that a variance and building permit can be given by the ARC of the development. Ms. Hoyl responded that the city does not enforce covenants, only ordinances. She added that when the city issues a building permit, only ordinances are considered in the approval process.

Chairman Schluter went through the application questions with Mr. Nelson, who said his design was due to the size of the lot, the configuration of the curved street, and the location of trees. Mr. Nelson explained how the removal of 8' on the rear of the design would cause him to front load the garage and remove 4 of 5 large trees on the property. He said that half the balcony and the courtyard may have to be removed in order to gain the 8 feet. Ms. Hoyl confirmed that the design encroached 6' into the rear setback, 3' with the slab and 2-3' with the overhang of the balcony.

Chairman Schluter said that Mr. Nelson could build a house to fit the ordinance. Board members discussed and clarified that all other properties in the PUD meet city ordinances.

The chairman asked if any citizens present wished to speak. Vera Howard of 14 West Oaks Court said that the covenants of West Oaks are in addition to the ordinances of Castle Hills. She indicated that several property owners have had issues with setbacks. She assured Mr. Nelson that it was nothing personal, but he needed to redesign his house. She recalled that, as president of the Home Owners Association, she has seen many people redo their plans.

Responding to a question by Mr. Paul, concerning where the architect went to get his directions, LaVerne Japhet of 12 Shady Cove read Article 5 of the PUD Covenants and commented that reading Article 5 could have prevented this misunderstanding.

Cheree Kinzie of 18 West Oaks Court commented that she had planned a one story dwelling, but changed it to a two-story in order to get the house on such a small lot.

Discussion ended, and Chairman Schluter asked for a motion, reminding the board members that 4 votes were needed to approve the variance.

Motion: Dr. O'Sullivan moved to deny the application for a variance from Kerry W. Nelson, owner of 10 West Oaks Court, to adjust the rear setback of his property from 20' to 17', the front setback from 20' to 18' and allow an overhang into the rear setback for an enclosed balcony to accommodate the design of a home to be built on the property. Mr. Paul seconded the motion. The motion passed with a unanimous vote.

III. ADJOURNMENT

Chairman Schluter adjourned the meeting at 8:10 p.m.

William Schluter, Chairman

ATTEST:

Linda Gill, City Secretary