

CITY OF CASTLE HILLS
BOARD OF ADJUSTMENT HEARING
MINUTES OF MAY 19, 2010

The Board of Adjustment of the City of Castle Hills held a public hearing on the 19th day of May, 2010, at 7:00 P.M. at the City of Castle Hills City Hall, 209 Lemonwood Drive, Castle Hills, Texas.

The attendance roster included Terri Callins and Brother William Dooling.

I. OPENING - QUORUM

Present and composing a quorum of the Board of Adjustment was Acting Chairwoman Pamala Farris, Frank Paul, Terry Warth, Dr. Paul Martinez, 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 NOVEMBER 18, 2009.

Motion: Dr. Safford moved to approve the minutes of the meeting of November 18, 2009. Mr. Paul seconded the motion. The motion passed unanimously.

Ms. Farris said that she was moving Items D and E on the agenda to put them under Old Business, since they had been discussed previously by the board. She read each item for those who might be interested in staying to hear discussion of the items.

B. HOLD A PUBLIC HEARING AND ACT ON AN APPLICATION FROM DAN CAMPBELL OF 304 TRAVERTINE REQUESTING A VARIANCE TO SECTION 31.405(6), MASONRY REQUIRED, TO ALLOW HARDIEPANEL AS AN APPROVED MATERIAL FOR THE NON-MASONRY EXTERIOR OF AN ACCESSORY STRUCTURE LARGER THAN 120 SQ. FT.

Ms. Farris invited Mr. Campbell to come forward and take a seat before the board. Ms. Farris explained that Mr. Campbell was requesting approval of Hardieplank for siding on an 18' by 24' accessory building constructed in the rear of his property at 304 Travertine in October of 2009. Ms. Farris read the city code which requires an accessory building over 120 square feet to be 75% masonry. She said that Mr. Campbell has a permit showing the Hardieplank issued by city staff and approved by the city building inspector. Ms. Farris said that the error in materials was not discovered until the

building was 100% complete on the outside and 98% complete on the inside.

Mr. Campbell confirmed that the permit was issued by the city for the construction. He said that the inspector came by several times, and the error in the materials was discovered after the construction was done. He said that was why he was asking for the variance. Mr. Campbell said that he had not heard anything from his neighbors and did not see anyone present who he recognized.

Brother William Dooling of 201 Gladiola commented that he did not like it and thought the ordinance should be followed. He recalled violations of the ordinance in the past and stressed that the city should hold someone responsible for seeing that the ordinance is enforced.

Richard Knight, the contractor who built Mr. Campbell's accessory building spoke in favor of using the Hardieplank and praised its superiority over wood. He said the material is being used in high-end resorts, especially along the coast. He added that Hardieplank is a cement material, which could be defined as masonry by some, and it will be seen more and more in construction of up-scale homes.

Responding to questions from the board, Mr. Campbell said that there were a total of three inspections done during the construction. He said that he wasn't told about the materials until after the building was finished. He said the city told him in late December, 2009.

Interim City Manager Rita Hoyl explained the chronology of what happened and how the Hardieplank was overlooked. She said that a resident brought the building to her attention. She recommended that Mr. Campbell come to the Board of Adjustment to request a variance that would make the building a legal non-conforming structure.

Councilman Bruce Smiley-Kaliff stated that this is an example of a *gray* ordinance, written with the best of intentions. He said that the Board of Adjustment is not a board of enforcement, but a board that makes adjustments in order to help citizens move forward with their projects. He urged the board to look hard at what Mr. Campbell has built. He spoke strongly in favor of allowing the variance.

Ms Farris clarified that the Board of Adjustment also has the power and duty to deny appeals brought before them.

Board members continued discussion, and Ms. Farris read Mr. Campbell's answers to the questions on his application.

Motion:

Dr. Safford made a motion to approve the variance as requested. Mr. Warth seconded the motion. The motion carried unanimously.

- C. HOLD A PUBLIC HEARING AND ACT ON AN APPLICATION FROM TERRI CALLINS, 250 FOX HALL LANE, REQUESTING A VARIANCE TO SECTION 31.405(2) FENCES: FENCES IN THE ...AND SIDE OR REAR YARD FENCES MAY NOT BE HIGHER THAN EIGHT FEET AND MAY NOT BE CONSTRUCTED OF MATERIALS OTHER THAN GALVANIZED CHAIN LINK, WOOD, WROUGHT IRON, BRICK, STONE, STUCCO OR FINISHED CONCRETE. THE APPLICANT WOULD LIKE TO CONSTRUCT A 4' FENCE USING MATERIALS CONSISTING OF CEDAR POSTS AND RIGID WIRE PANELS.

Owner Terri Callins came before the board and described the fence she wanted to construct in her back yard. She said the fence was 50' long, about half the size of her property. She said that she needed to construct a sturdier fence than now exists in order to protect and keep her adopted puppy in the yard. She wants to use cedar posts and hog wire panels on the front side of the fence. The back and sides are chain link and in compliance with the city ordinance.

Ms. Farris asked Ms. Callins if she could support her statement that other residences on Fox Hall have variances for their fences and when the variances were approved. Ms. Callins named three addresses, but said that she did not know when the variances were given. Councilman Smiley-Kaliff came forward and said that he could verify that nine variances were given by the Board of Adjustment. Ms. Hoyl confirmed that by saying that eight of the variances were for fence height, and one was for materials. She said the materials were not addressed by city ordinance until it was rewritten in 2006.

Brother William Dooling of 201 Gladiola spoke in favor of the variance, commenting that he approved it for the aesthetic value.

Ms. Farris read the seven questions and answers on the application submitted by Ms. Callins.

Motion:

Dr. Safford made a motion to approve the variance as written and submitted. Dr. Martinez seconded the motion. The motion passed unanimously.

Ms. Farris announced the board would take a ten minute break at 7:54 p.m. The board reconvened at 8:04 p.m.

- D. DISCUSSION AND POSSIBLE RECOMMENDATION TO THE ZONING COMMISSION FOR CONSIDERATION OF SECTION 31.1813(2) NOTICE OF PUBLIC HEARINGS OF THE CASTLE HILLS

ZONING CODE BY CHANGING THE DISTANCE OF NOTICES TO RESIDENTS FROM 500' TO 200' OF THE LOT ON WHICH A SPECIAL EXCEPTION OR VARIANCE IS DESIRED.

Ms. Farris said that, for the sake of brevity and in light of Chairman Schluter's absence, she suggested limiting discussion to Item D because Item E. is very time consuming, very involved. She said she would like to ask Chairman Schluter to have a workshop solely for Item E so that it can be discussed without the distraction of preparing for appeals. Board members agreed.

Ms. Farris recalled that Item D was discussed at the last meeting of the Board of Adjustment, which was some time ago. She said it was her understanding that notices are mailed to all residents within 500' of the property requesting an appeal.

Ms. Hoyl said that sending notices to property owners within 500' of a property is very time consuming and costly. Each property must be looked up in Bexar Appraisal District records to find the owner. She indicated that a property having 39 lots within 500' means that Staff had to go into Bexar Appraisal District 39 times to get the name of the owner and their mailing address. She did point out that 500' was not a problem for those properties that are large and far apart. She said state law requires 200'.

Board members discussed the intent of the notices and the differences in lot sizes in different areas of the city. Ms. Hoyl pointed out that the distance is measured from each point of a property. She said that the Travertine property had 65 property owners that had to be notified.

Motion:

Discussion ended with a motion from Dr. Safford to change the distance requirement for canvassing property owners for Board of Adjustment public hearing notices from 500' to 250', or a minimum of the contiguous properties immediately adjacent to the applicant's property. Mr. Paul seconded the motion. The motion passed unanimously.

E. DISCUSSION AND POSSIBLE RECOMMENDATION TO THE ZONING COMMISSION FOR CONSIDERATION OF SECTION 31.155 STRUCTURE; DEFINING OTHER SPECIFIC ITEMS TO BE CONSIDERED A STRUCTURE AND HOW TO DETERMINE A STRUCTURE.

After brief discussion, the consensus of board members was to postpone consideration of Section 31.155 until a later date when a workshop could be scheduled. No action was taken.

III. ADJOURNMENT

Ms. Farris adjourned the meeting at 8:25 p.m.

These minutes were approved on the 16^h day of June, 2010.

Pamala Farris, Acting Chairman

ATTEST:

Linda Gill, City Secretary