

CITY OF CASTLE HILLS
BOARD OF ADJUSTMENT HEARING
MINUTES OF JULY 15, 2009

The Board of Adjustment of the City of Castle Hills held a public hearing on the 15th day of July, 2009, at 7:00 P.M. at the City of Castle Hills City Hall, 209 Lemonwood Drive, Castle Hills, Texas.

The attendance roster included Patrick Murnin, LaVerne Japhet, Tom Davis, Janet Sweeney, Cynthia Padron, Joe Rodriguez, and Cynthia Trevino.

I. OPENING - QUORUM

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

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

II. OLD BUSINESS – None

III. NEW BUSINESS

A. CONSIDER AND ACT UPON APPROVAL OF THE MINUTES OF THE MEETING OF MARCH 18, 2009.

Motion: Kathryn Safford moved to approve the minutes of the March 18, 2009, meeting. Pamala Farris seconded the motion. The motion passed with a unanimous vote.

B. HOLD A PUBLIC HEARING AND ACT UPON AN APPLICATION FROM NANCY R. CARDENAS OF 108 SOUTH GARDENVIEW (CB5007B BLK 2, LOT 6) REQUESTING A VARIANCE TO THE CITY OF CASTLE HILLS CODE, CHAPTER 31.204, (D) (7), TO ERECT A CARPORT THAT ADJOINS TO THE REAR OF THE MAIN HOUSE AND THE FRONT OF THE GUEST HOUSE TO PROVIDE SAFE ACCESS TO THE REAR ENTRANCE OF THE HOME IN INCLEMENT WEATHER.

Chairman Schluter read a letter from Nancy Cardenas of 108 Gardenview requesting that the hearing on her application be postponed until the August 19th meeting. Mr. Schluter clarified that parts of the application were not clear, and a board member had asked for additional information from Ms. Cardenas.

Motion:

Board member Safford moved to table Item A on the current agenda until the August 19th Board of Adjustment Hearing. Ms. Farris seconded the motion. The motion passed unanimously.

- C. HOLD A PUBLIC HEARING AND ACT UPON AN APPLICATION FROM PATRICK MURNIN OF 100 TAMWORTH (CB5004F BLK 3, LOT 1) REQUESTING A VARIANCE TO CASTLE HILLS CODE, CHAPTER 31.204 (D) (4) & (5), IN DISTANCE REQUIREMENTS FROM FRONT AND SIDE SETBACK LINES AND A VARIANCE TO CHAPTER 31.405, (6) IN MATERIALS, IF HARDIE CEMENT FIBER IS NOT CONSIDERED MASONRY.

Chairman Schluter explained how the hearing would be conducted and that, in order to approve a motion, four votes would be required. He then invited Mr. Murnin to come forward and present his case to the board.

Mr. Murnin explained that he had already started work on the shed in question. He said that three issues were up for consideration. One was the setback from the front property line, one was the setback from the side property line, and one was the type of materials used for the building. Mr. Murnin confirmed that he tore the old structure down and added a 1' apron to the existing slab.

Chairman Schluter indicated that the seven questions on the application must be answered, but he asked if board members had any questions first. In answer to questions from Ms. Farris and Dr. Safford, Mr. Murnin explained that the shed was built in the 1950s or 1960s and was on the property when he bought it. He indicated that he tore the shed down and planned to rebuild it. He did not get a permit because he wasn't sure he needed one. Ms. Farris commented that the minute he tore the shed down, he was subject to the new zoning ordinance. Mr. Schluter confirmed with Ms. Hoyle that the original shed was grandfathered under the old zoning code.

Mr. Schluter noted that there was a concrete slab shown in the backyard of the property on the plat provided. Mr. Murnin said that the slab was 10' deep and 33.5' long.

Chairman Schluter read through the seven questions on the application and Mr. Murnin's answers. He concluded with a comment that ordinances in Castle Hills are made to keep, and the Board of Adjustment decision is a very serious and final decision. Mr. Schluter then opened the floor to the board members.

Responding to questions from board members, Mr. Murnin said that the shed is located in the most appropriate place on the property, next to the garage. He said that, because the structure sits on a pre-existing slab, it

would be unreasonable to move it and result in no structure being built at all. The use of the shed as a workshop and storage facility would be lost and there would be no increase in value to the property. Mr. Murnin said that everything expected to be stored in a shed is now stored in his garage. He said that, if construction is not allowed to continue on the present slab, he will lose previously existing storage space. He expected that the replacement structure will add value and appeal to the property.

Mr. Paul asked about the use of Hardie Cement Fiber on the shed. Mr. Murnin said that he chose that material because it looks like the top of the house, which is rough cedar plank.

Answering Dr. O'Sullivan, Mr. Murnin explained that the shed is only 6" from the fence line, and the ordinance states the setback as 10'. When asked about the slab on the plat, Mr. Murnin said that he would not move the shed to the slab north of the pool. He said he planned to put an outdoor kitchen and gazebo there.

Chairman Schluter opened the meeting to citizens that wished to speak.

Don Saunders of 101 Tamworth, who lives across the street from Mr. Murnin came forward to state his approval of Mr. Murnin's plan. He said that he is the only neighbor that can see the shed from his yard, and it will be a great improvement over what was there before. He emphasized that if the board grants the variance, it will have done justice and given credence to the zoning ordinance.

Cynthia Trevino of 104 Tamworth said that she lived next door to Mr. Murnin, and she said that tearing down the old shed was more for safety than appearance. She remarked that, as structures age and deteriorate, the current ordinance will cause many empty slabs or spaces; and the board needed to recognize that. She hoped that the variance would be granted.

Janet Sweeney of 104 Briarcliff said that she walks her dog by 100 Tamworth every day. She was glad to see that the old shed was torn down and being replaced.

Mr. Schluter read the variance again and commented that the board had to decide whether to allow construction to continue. He said that he disagreed with four of the seven answers to the questions on the application.

Mr. Murnin said that he was improving the property and had no malicious intent. He said that he cannot locate the shed anywhere else. The slab was already there, and it would have been a financial hardship to break up the slab. He realized it was his fault that he tore the shed down and lost 192 square feet of storage, which is now in his garage. He said all his neighbors

were positive about what he wanted to do. He appealed to the board to please use their judgment, approve the variance, and give him the opportunity to defend himself.

Chairman Schluter explained that there were three possibilities. He said Mr. Murnin can keep the shed if the variance is approved, he will have to tear it down if it is not approved, or he can pay another application fee and come back to the Board of Adjustment with a new application.

Motion: Dr. Safford moved to grant the variance to Castle Hills Code, Chapter 31.204, (d) (4) & (5) to front and back setback lines and the variance to Chapter 31.405, (6) in materials. The motion died for lack of a second.

Motion: Dr. O'Sullivan moved to disapprove the variance to Castle Hills Code, Chapter 31.204, (d) (4) & (5) to front and back setback lines and disapprove the variance to Chapter 31.405, (6) in materials. Ms. Farris seconded the motion. The motion carried 4 to 1, with Dr. Safford casting the opposing vote.

The variance request was denied.

IV. ADJOURNMENT

Chairman Schluter adjourned the meeting at 8:25 p.m.

These minutes were approved on the 19th day of August, 2009.

William Schluter, Chairman

ATTEST: _____

Linda Gill, City Secretary