

**MINUTES OF THE CITY OF PORT NECHES
ZONING BOARD OF ADJUSTMENT & APPEALS
MAY 12, 2014**

The City of Port Neches Zoning Board of Adjustment and Appeals met on Monday, May 12, 2014 at 6:00 p.m. in the City Hall Council Room, 1005 Merriman, Port Neches, Texas. Notice of the meeting was given in accordance with Section 551.041 of the Texas Governmental Code, with the following members in attendance:

Chairman Corey Belanger
Vice Chairman Boyd Parks
Gary Stretcher
Sam Loyacano
Charles Bales, Alternate
Chris Swanson, Alternate (did not participate)

Also present:

Larry Reynolds, Assistant Public Works Director/ Building Official
Cari Reynolds, Public Works Secretary

Absent:

James Mitchell
Dennis Mangioni, Alternate
Karen Schexnayder, Alternate

Chairman Corey Belanger called the meeting to order.

APPROVAL OF MINUTES FROM MEETING HELD ON APRIL 14, 2014

Board Member Stretcher made a motion to approve the minutes of the regular meeting held on April 14, 2014, seconded by Vice Chairman Parks. **MOTION PASSED BY UNANIMOUS VOTE.**

MICHAEL WHITNEY, 910 LLANO STREET

Michael Whitney, 910 Llano Street, requested a one thousand square foot (1,000 sq. ft.) variance to the maximum one thousand square foot (1,000 sq. ft.) for an accessory building.

Mr. Whitney was present to answer any questions. He stated he wants to build a large accessory building to store his classic cars. The building will blend in with his and other houses in the neighborhood. It will not have any plumbing and the electricity will be tunneled underground from his house to the building. It will not be used as living quarters and it will be an improvement to the property.

Larry Reynolds stated that currently the house and attached garage are on one lot and the requested accessory building would be on a separate lot. Mr. Whitney will have to have the property re-platted prior to the City issuing a permit for construction.

Board Member Stretcher stated that he doesn't remember the Board ever granting a variance for double the size of an accessory building.

There was discussion regarding other large accessory buildings in the area that were built prior to 2007, the number and types of vehicles stored in the building, the size and the re-plat of the property.

There was also discussion regarding City Council changing the Ordinance for the size of accessory buildings.

Board Member Stretcher asked if the building would be 2-story.

Mr. Whitney stated that no it would be a 1- story building with an eave height of fourteen foot (14').

Chairman Belanger asked if there were any more questions or comments. There were none.

There were twenty (20) notices mailed to property owners surrounding two hundred feet (200') of 910 Llano Street. In the letters, there are attachments where the property owners could approve or protest this request. There were three (3) returned in approval: Kevin Osgood, 835 Llano Street, Gary Geoffroy, 909 Llano Street and Floyd Broussard, 901 Llano Street; there were none returned in opposition to the request; and one (1) returned that neither approved nor protested the request: Evelyn & Gary Brandin, 901 Dallas Street.

Vice- Chairman Parks made a motion to approve the request of Michael Whitney, 910 Llano Street for a one thousand square foot (1,000 sq. ft.) variance to the maximum one thousand square foot (1,000 sq. ft.) for an accessory building with the stipulation that the property be re-platted prior to a permit issued, seconded by Alternate Board Member Bales. **MOTION PASSED BY UNANIMOUS VOTE.**

REQUEST OF JOHN CHAMPAGNE, 2354 2ND STREET

Mr. John Champagne, 2354 2nd Street, requested a zero foot (0') variance, fifteen foot (15') encroachment to the fifteen foot (15') side yard building setback for a carport.

Kurt Broussard, Bruco Construction, representative for Mr. Champagne was present to answer any questions. Mr. Broussard stated that the house is located on the corner of Texas Avenue and 2nd Street. The new carport will tie into the existing detached garage with the remaining three (3) sides open.

Board Member Stretcher asked if there were any drainage concerns.

Mr. Reynolds stated there are no drainage issues. There is an ally at the rear of the property that water drains to.

Chairman Belanger asked if there were any more questions or comments. There were none.

There were twenty (20) notices mailed to property owners surrounding two hundred feet (200') of 2354 2nd Street. In the letters, there are attachments where the property owners could approve or

protest this request. There was one (1) returned in approval: Norris Bobbitt Jr., 2318 2nd Street; there were none returned in opposition to the request.

Board Member Stretcher made a motion to approve the request of Mr. John Champagne, 2354 2nd Street, for a zero foot (0') variance, fifteen foot (15') encroachment to the fifteen foot (15') side yard building setback for a carport with the stipulation that it remain open, seconded by Board Member Loyacano. **MOTION PASSED BY UNANIMOUS VOTE.**

REQUEST OF MATTHEW MCGEE, 1830 ETHRIDGE COURT

Mr. Matthew McGee, 1830 Ethridge Court, requested a twenty foot (20') variance, five foot (5') encroachment to the twenty five foot (25') front yard building setback for a new construction home.

Mr. Matthew McGee was present to answer any questions. Mr. McGee stated that he wants to build a new home on an odd shaped lot. Have already adjusted the square footage to come under the forty percent (40%).

Chairman Belanger asked if they had already adjusted the size of the home to fit on the property.

Mr. McGee stated yes, they have already changed the layout to make it a 2-story. Also with it being on a cul-de-sac the front of the property is curved and even after changing the layout, the porch and Porte cache off the garage is still encroaching.

Chairman Belanger stated that this neighborhood has several odd shaped lots and the Board has granted quite a few variances for that reason.

Vice- Chairman Parks asked Mr. Reynolds if there were any drainage issues.

Mr. Reynolds stated that there were no drainage issues since they back up to Drainage District 7.

Chairman Belanger asked if there were any more questions or comments. There were none.

There were thirteen (13) notices mailed to property owners surrounding two hundred feet (200') of 1830 Ethridge Court. In the letters, there are attachments where the property owners could approve or protest this request. There were three (3) returned in approval: Matt Vincent, Cajun Partners, LLP, 1734 Green Oaks Drive, Ronald Doty, Jr., 656 Mildred Manor and Gary Boudoin, 650 Mildred Manor; there were none returned in opposition to the request.

Vice- Chairman Park made a motion to approve the request of Matthew McGee, 1830 Ethridge Court for twenty foot (20') variance, five foot (5') encroachment to the twenty five foot (25') front yard building setback for a new construction home, seconded by Board Member Loyacano. **MOTION PASSED BY UNANIMOUS VOTE.**

REQUEST OF MATTHEW MCGEE, 1830 ETHRIDGE COURT

Mr. Matthew McGee, 1830 Ethridge Court, requested a seventeen foot six inch (17'6") variance, seven foot six inch (7'6") encroachment to the twenty five foot (25') rear yard building setback for a new construction home.

Mr. Matthew McGee was present to answer any questions.

Chairman Belanger stated this is the same property as the previous agenda item.

Chairman Belanger asked if there were any more questions or comments. There were none.

Board Member Stretcher made a motion to approve the request of Matthew McGee, 1830 Ethridge Court for seventeen foot six inch (17'6") variance, seven foot six inch (7'6") encroachment to the twenty five foot (25') rear yard building setback for a new construction home, seconded by Vice Chairman Parks. **MOTION PASSED BY UNANIMOUS VOTE.**

REQUEST OF NARWIN JOHNSON, 2617 MILLER STREET- REHEARING

Mr. Narwin Johnson, 2617 Miller Street, requested a four percent (4%) variance to the maximum forty percent (40%) lot coverage requirement, total of forty four percent (44%) for a new home.

Chairman Belanger stated that this is a rehearing of the variance request from March 10, 2014 meeting.

Mr. Johnson, was present to answer any questions. Mr. Johnson stated that after the March 10, 2014 meeting he took Mr. Andre' Wimer, City Manager, to look at four (4) properties that were over the forty percent (40%). Mr. Wimer checked into the properties and said that one (1) of the properties was over the forty percent (40%). Since then I have found another twenty nine (29) properties that are over the forty percent (40%). One (1) of them is within two hundred foot (200') of the property where I want to build.

Chairman Belanger stated that he has no doubt that there are properties that have gone over the forty percent (40%) but the Board has never given a variance to build above the forty percent (40%) coverage. There could be older homes that had additions or accessory buildings, which caused the property to go over the forty percent (40%), but did not get variances. It is unfortunate, but the Board never granted a variance for it.

Mr. Johnson stated he understands that there was an ordinance change in 2007.

Mr. Reynolds stated that there was a Zoning change in 2007 but it did not change this ordinance.

Mr. Johnson stated that one (1) of the four (4) properties that he showed Mr. Wimer was built in 2010 and is forty eight percent (48%). I want to know how these houses are getting built. Example is one under construction now on Bella Vita where the lot is 61' x 135'.

Mr. Reynolds asked "Can I explain to you how that one got."

Mr. Johnson interrupted Mr. Reynolds and said “not yet,” he wanted to finish, then Mr. Reynolds could say what he wanted. Mr. Johnson stated that when you have a small piece of property, you should be looking at these things much closer. Just like the property on Saybrook that is on a cul-de-sac and this house is on two (2) pieces of property and it has a big house with double car garage, two (2) patios, utility building and a separate living area.

Chairman Belanger stated that since Mr. Johnson asked the question about the property, let’s give Mr. Reynolds a chance to explain.

Mr. Reynolds stated that the one that is under construction, he admits that he missed. It’s an irregular shaped lot with a curve in it. He missed it by one and half percent (1 ½ %). He made a mistake on that and it was not done intentionally.

Mr. Johnson stated he understands that things happen, which leads him to believe that the validity of this forty percent (40%) rule has not been enforced for years.

There was discussion regarding the letters sent to the property owners within two hundred feet (200’) of 2617 Miller Street.

On February 18, 2014, there were twenty (20) notices mailed to property owners surrounding two hundred feet (200’) of 2617 Miller Street for the March 10, 2014 meeting. In the letters, there are attachments where the property owners could approve or protest this request. There were four (4) returned in approval: George Bertin, 684 E. Kitchen Drive, Shirley Landry, 2624 Miller Street, Nicholas Fruge, 694 E. Kitchen Drive and Cathy Mobley, 2616 Miller Street; there was one (1) returned opposed to the request: Lena Stanley, 2625 Miller Street.

On April 28, 2014 the twenty (20) notices were mailed again to property owners surrounding two hundred feet (200’) of 2617 Miller Street for the May 12, 2014 meeting. In the letters, there are attachments where the owners could approve or protest this request. The attachments also stated that if a letter of protest or approval was previously submitted to the City regarding this variance request, it is not necessary to resubmit the letter. There was one (1) returned in approval: Nicholas Fruge, 694 E. Kitchen Drive; there were none returned in opposition to the request.

Mr. Johnson stated all he wants to do is build a house. The home he’s in now is a story and half and we have a daughter with special needs. We don’t know how much longer she will be able to go up and down the stairs. That is the reason why the new house is spread out on the lot.

Chairman Belanger stated that one (1) of the questions that we discussed previously was the garage itself being so large.

Mr. Johnson stated that it is a three (3) car garage with storage. It is not a shop. There will never be an accessory building put on this property.

Mr. Johnson also stated that looking at the Residential – Single Family (R-SF) ordinances, it says that we “shall not” do this and “shall not” do that. But you “shall” every time someone asks you for it. What is the difference when you let someone encroach but you won’t let someone exceed forty percent (40%)?

Board Member Stretcher stated the Board is here to make exceptions for hardships, such as irregular shaped lots.

Mr. Johnson interrupted, stating “I tell you what is going to be a hardship, and that is if I’m turned down, I won’t build a house. I have paid premium money for the lot and had a swimming pool filled in. I’ve paid taxes on it since 2006, I’ve maintained the grass, which is more than I can say for some of these people in the City. This would cause a financial hardship on my family. If I try to sell the lot, nobody will care how much I’ve done to the property. I would be out about \$15,000 if I can sell it for what I paid for it.”

There was discussion regarding what happened to the property during Hurricane Rita, when Mr. Johnson purchased the property and what has been done to the property since that time.

Mr. Johnson stated that most of the properties he found that were over the forty percent (40%) were older homes that added accessory buildings. It doesn’t matter how it happened. The properties are out there.

Vice- Chairman Parks stated that the Board has never granted a variance to the forty percent (40%).

Mr. Reynolds stated that things get built under the radar. Last year an eighteen hundred square foot (1,800 sq. ft.) garage was built on a weekend. They poured a foundation and the next day put up a metal building. There are lots of things that go under the radar, but there is nothing that comes through my office that I approve. The property that you claim was built in 2010, I don’t think you are correct on that one.

Mr. Johnson interrupted stating “I believe I am.”

Mr. Reynolds stated “I don’t think you are and I’m not going to argue with you about it. But none of it was done intentionally.”

Mr. Johnson stated that when he gave the properties to Mr. Wimer he assumed that Mr. Reynolds had looked at them. Especially the one on Bella Vita.

Mr. Reynolds stated he did check on the properties, and the one on Bella Vita he did figure incorrectly. He admitted that he made a mistake in figuring the square footage.

Mr. Reynolds stated no one has ever asked for a variance to the forty percent (40%).

Mr. Johnson stated he has been through this process before for his current house. When his contractor looked at the plans for this house, he told me I would need a variance for the rear setback.

So I applied for that. I submitted my plot plan the next day. Then twelve (12) days later I was informed of the forty percent (40%).

Mr. Reynolds stated that he has never seen the house plans and that is normally when he notices these things is on plan review.

Mr. Johnson asked what does a plot plan tell you?

Mr. Reynolds stated the plot plan tells the square footage.

Mr. Johnson stated it tells the square footage of the building and the dimensions of the lot. You should be able to figure the square footage of the lot and the percentage of square footage of the house by that.

Mr. Reynolds stated I know how to measure it but I shouldn't have to. There are CAD programs that do it for you. All the information should be on the house plans when I receive them.

Chairman Belanger asked if there were any other questions or concerns.

Board Member Stretcher stated he was opposed to the forty four percent (44%) lot coverage. I don't care how many people built houses without telling us about it or lied to us. It sounds to me that you have a hardship with your adult child that is unable to get up the stairs. If I'm hearing correctly, even though he has not said it, I believe there may be a legitimate need. Instead of him being confrontational and try to down grade a man trying to do his job, and talk to us in a respectful tone, tell us if there is a hardship. I would be willing to listen if there was a hardship. The fact that you bought a lot, filled in a swimming pool and now you want to build a house that's too big for the lot, is not a hardship. But if you have a legitimate family situation where you have an adult child who cannot get up and down stairs, I would listen to that. But to put Mr. Reynolds down or to come in here and tell the Board how it's going to be, then I'm not interested in hearing that.

Mr. Johnson asked Mr. Reynolds if he felt like he was putting him down.

Mr. Reynolds said he had no comment.

There was discussion between Board Member Stretcher and Mr. Johnson regarding whether his special needs daughter could get up and down the stairs.

Mr. Johnson stated he didn't care anymore if the Board denied his request. He was fed up with the City of Port Neches. "You grant everybody everything they want but you say you don't want to set precedence. The precedence has already been set. Yes, I'm confrontational, because I feel the Board is prejudice against me."

Board Member Stretcher stated that he has been on the Board fourteen (14) years and not once have we granted a variance for lot coverage.

Mr. Johnson stated that every time the City gives a building permit, you give permission to do so. "Apparently, I'm not going to get my permit. The only people that have a problem with this is the City. I planned on coming up here and not getting upset. But I can get upset. That is discrimination."

Vice- Chairman Parks made a motion to approve the request of Narwin Johnson, 2617 Miller Street for a four percent (4%) variance to the maximum forty percent (40%) lot coverage requirement, total of forty four percent (44%) for a new home, seconded by Board Member Stretcher. Vote was as follows: 1 approved: Board Member Loyacano; 3 against Vice Chairman Parks, Board Member Stretcher and Alternate Board Member Bales. **MOTION DID NOT PASS.**

Mr. Johnson asked why it did not pass when the motion was to approve the request.

Chairman Belanger explained that when the Board makes a motion, it is always made in the positive for approval. Then the Board's vote determines whether it carries or not.

Mr. Johnson stated "I understand, that because I got upset, you changed your mind. You probably came in here with your minds made up. You turned it down before and you were going to turn it down again.

Board Member Stretcher stated the Board was waiting for you to give a reason to grant the variance.

Mr. Johnson stated I'm disappointed, but I will get over it. I'm not mad at anybody. I've been disappointed several times in my life. "This ain't nothing."

Chairman Belanger stated that Mr. Johnson had another agenda item.

Mr. Johnson said there is no need because I'm not building another house in the City. I'm spending my money somewhere else. I'm not going to redesign the house. Thank you for your time.

Mr. Johnson turned and left the Council Room.

REQUEST OF NARWIN JOHNSON, 2617 MILLER STREET

Mr. Narwin Johnson, 2617 Miller Street, requested a nine foot three inch (9'3") variance, fifteen foot nine inch (15'9") encroachment, to the twenty five foot (25') rear yard building setback for a new home.

No action was taken on this request since Mr. Johnson was not in attendance.

ADJOURN

There being no further business Vice Chairman Parks made a motion to adjourn, seconded by Alternate Board Member Bales. **MOTION PASSED BY UNANIMOUS VOTE.**

Corey Belanger, Chairman

Cari Reynolds, Public Works Secretary

Meeting Adjourned at 6:42 p.m.