

**MINUTES  
CITY OF LIVE OAK  
BOARD OF ADJUSTMENT  
THURSDAY, APRIL 1, 2004**

**1. CALL TO ORDER:**

Chairman Hardwick called the meeting of the Board of Adjustment to order at 6:15 p.m.

**2. ROLL CALL**

**PRESENT**

Ms. Isabelle Siepker  
Mr. Al Hernandez  
Chairman Keith Hardwick  
Vice-Chairman Robert Perry  
Mr. Ed Cimics

**ABSENT**

Mr. John Talbot

**3. CITIZENS TO BE HARD**

None

**4. CONSENT AGENDA**

Approval of Minutes

- a. July 11, 2003 Approved with corrections
- b. July 24, 2003 Approved
- c. October 23, 2003 Approved
- d. December 4, 2003 Approved with corrections
- e. January 8, 2004 Approved
- f. February 19, 2004 Approved

All Minutes on the Consent Agenda were approved, with corrections – Vote All For Approval

**5. CITIZENS TO BE HEARD**

Mr. Paul Lukich, 7945 Splintered Oak, Live Oak, TX 78233 - Mr. Lukich was present at this evening meeting to support Mr. Chapa's request for a variance.

Ms. Jackie Lay, 7949 Splintered Oak, Live Oak, TX 78233 – Ms. Lay stated that she did support the variance as long as her chain link fence remained. Mr. Chapa had agreed to her fence remaining in place, as his new fence would be on his property.

## 6. NEW BUSINESS

a. **V-04-04** – Variance request by owner to build one portion of his backyard fence in excess of 6-feet in height, in a R-1 (Single Family Residential District) located on Lot 51, Block 40, CB 5048B, otherwise known as 7945 Splintered Oak, City of Live Oak, Bexar County, Texas.

Mr. Reynaldo Chapa, 7945 Splintered Oak, Live Oak, TX 78233- Mr. Chapa briefly discussed his variance request and stated that the fence would only be 8 ft. on one side, and the remainder would be 6 ft. He described the property lines, dimensions, and type of fence that would be used.

Mr. Cimics made motion; second Mr. Perry – **Vote for: Cimics, Hernandez, Perry, and Hardwick – Opposed – Siepker**

### **Variance approved and accepted**

b. **V-04-05** – Variance to consider a request for parking spaces; from 2 spaces per unit to 1.88 spaces per unit. Located in a B-3 (General Business District), location CB 5048 P-34D, otherwise known as 7828 Pat Booker Road, City of Live Oak, Bexar County, Texas.

Mr. Dennis Elmore, from Embrey Properties Ltd. – Mr. Elmore corrected the property address to reflect 7828 Pat Booker verses 7818. Mr. Elmore stated that he was seeking a conditional approval for this variance request, and he provided his justification for this request. The site plan provides 611 parking spaces (2 spaces per unit), and the plan shows an easement that belonged to the Friesenhahn's. Mr. Friesenhahn put in easements, and the easements went into foreclosure in the 1980's, however the easement rights were never deed free. Mr. Elmore's lawyers advised him that there should be an access through the easements (25-foot). However, the lender/bank (State Street-Tuckerman Group) had reservations concerning this issue. The lender had concerns about the owner of the easement could sue Embrey Properties, and inform them that the parking spaces could not be placed in the allotted easement area. Finally this would be in non-compliance with the City of Live Oak Ordinance, and therefore the lender would not put money toward the project. Mr. Elmore is currently in talks with the new property owners, however at present all communication has not been completed. Mr. Elmore asked for assistance from the BOA to allow the building of their project as is. Mr. Elmore stated that Embrey Properties would never take action to remove the parking area, and they would defend to the best of their abilities, in court their right to utilize the area if the new owners pursue any action. Mr. Elmore stated that the parking would still hold 570 (highlight

parking in handout) spaces and there would be no under-parking requirements; 1.8 spaces.

There was a discussion between Mr. Hardwick and Mr. Wayman concerning platting in this area that extended down to Pat Booker Road, and 50-foot easements. Mr. Wayman replied that the drive had been extended but not to Old Spanish trail, and added that the city has never built roads in Live Oak. Mr. Elmore discussed the initial process of this project, and that they would not access through this particular area/property; Embrey and Partners had agreed.

Mr. Perry stated that all the required parking spaces Embrey would need to use the property that is owned, and is part of the easement, and his question was to Mr. Elmore was did he know about this easement when he brought the property. Mr. Elmore discussed a brief recount of legal advice given him indicating that if the easement was there, and not utilized, then to go ahead and design the plan to include the entire property. Mr. Elmore stated that he could rework the site plan and make up the parking spaces that would be eliminated by the easement. However he stated that this would require the removal of green space throughout the site plan and he felt this would not be cost effective, and the community would not be served by this act.

Mr. Elmore passed out handouts to the commission members of all the properties that he has designed and been involved with throughout San Antonio and other areas. There was a brief discussion concerning a 25-foot portion of the easement, which is a two-lane fire lane; the variance request was needed to protect his financing of this property; this variance is still two parking spaces per unit. There was a brief discussion concerning covered parking spaces, garages and in-line garages. Mr. Elmore stated that he would build this property the way it was presented to the commission, unless he was forced to go to court concerning the easement; however, he was sure that he would not need to go to court.

Chairman Hardwick asked Mr. Elmore if this project would be a gated community. Mr. Elmore stated that it was a gated community; limited access to the complex.

Mr. Elmore stated that his company was required to put the fencing up (Specific Use Permit); 80 foot masonry fence. A discussion centered on an issue concerning a 6-foot wooden fence, apparently the people that own the easement wanted an 8-foot fence; the Live Oak ordinance was discussed.

Mr. Wayman stated that staff's recommendation was to approve this variance request. Mr. Wayman stated that he was confident that Embrey & Associates would follow through with their promise to build this property.

Ms. Siepker asked a question concerning visitors parking. Mr. Elmore stated that the visitors parking count is taken into consideration and there would be a distribution of parking. In addition there were no reserved parking spaces. Mr. Elmore stated that they start construction on May 15, 2004 and completion in 16 months.

Mr. Wayman asked that the verbage to variance be amended, "from two spaces per unit and reducing the number of spaces by 42 (parking spaces).

Mr. Perry stated that variance request be granted based on "43 parking spaces less than required amount"

Mr. Cimics made a motion for approval; second Mr. Hernandez – **Vote was unanimous – Approved and Passed**

**Chairman Hardwick added that in case this went to court, that if any of the Board members are called on to testify, all notes must be presented as evidence.**

7. CITIZENS TO BE HEARD

None

8. GENERAL DISCUSSIONS AND ANNOUNCEMENTS

None

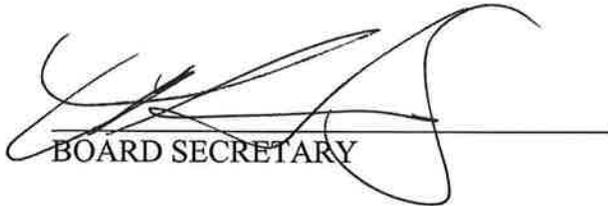
9. ADJOURNMENT

As there was no further business, it was moved and seconded to adjourn. The meeting adjourned at 7:00 p.m.

APPROVED: 11/02/2006

  
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CHAIRMAN, BOARD OF ADJUSTMENT

ATTEST:

  
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BOARD SECRETARY