

MINUTES
CITY OF LIVE OAK
BOARD OF ADJUSTMENT
8001 SHIN OAK DRIVE, LIVE OAK, TEXAS
THURSDAY, JULY 26, 2012

1. CALL TO ORDER

Chairman Keith Hardwick called the meeting to order on July 26, 2012 at 6:00 p.m.

2. INVOCATION/PLEDGE OF ALLEGIANCE

A moment of silence was observed and the Pledge was recited.

3. ROLL CALL

Chairman Keith Hardwick
Vice Chairman Al Hernandez
Member John Talbot
Member Margaret Zucco
Alternate David Emler

ABSENT

Alternate Member James Jackson - Unexcused
Member Brenda Jackson – Unexcused

Chairman appointed Alternate Member David Emler to substitute in the absence of Member Brenda Jackson.

4. CITIZENS TO BE HEARD

None

5. CONSENT AGENDA

A. Approval of Minutes – March 22, 2012 – Regular

Member Talbot made the motion to accept the consent agenda; seconded by Member Hernandez.

Vote FOR: Members Talbot and Zucco; Alternate Emler; Vice Chairman Hernandez; and Chairman Hardwick - **PASSED 5-0**

6. NEW BUSINESS

A. V-12-0002-THE OWNER HAS SUBMITTED A REQUEST TO KEEP A NEWLY CONSTRUCTED 20 FT X 20 FT WOODEN CARPORT STRUCTURE, IN ACCORDANCE WITH CITY OF LIVE OAK'S ZONING ORDINANCE. THE PROPERTY IS DESCRIBED AS LOT 33, BLOCK 46, COUNTY BLOCK 5048B,

CURRENTLY KNOWN AS 8131 DRY CANYON, LIVE OAK, TEXAS, BEXAR COUNTY, TEXAS.

Chairman Hardwick read the legal description of the property; Mr. Wayman gave the brief presentation of the property at Dry Canyon which included the following:

- Described to the Board that this project/structure encroached the front setback according to the Zoning Ordinance.
- Carport was constructed 20' within the front setback
- Clarified for Member Talbot that the setback is 25' from inside sidewalk to the residence.
- Clarified for Member Hernandez that the sidewalk to the first post of the structure measures out to 12 feet.
- Described the contents of the Board packets as having the public notices received, pictures of the structures and application.

Public Proponents or Opponents:

Proponents Received By Mail – (5)
Neutral Proponents Received By Mail – (1)
Opponents Received By Mail – (0)

- Thanked Board members for visiting the property prior to the meeting.
- Thanked Staff members for their due diligent work on this agenda item.

Chairman Hardwick asked Ken Steiner, Building Official to approach the podium for questions and clarification of the building code.

Board Questions for Staff:

Chairman Hardwick - Ken Steiner explained how the Code Compliance officer, John Dalton had discovered the structure after it was erected by the homeowner. Contact was made with the homeowner to explain how the structure violated the zoning ordinance. It was also verified by Code Compliance that the homeowner had failed to obtain city approval and permits for the carport structure. Mr. Steiner stated he advised the homeowner to contact the office to file for a variance or remove the structure. The homeowner stated that she had a medical reason for the structure and would file for a variance to keep the structure. Mr. Steiner stated that the homeowner's medical condition has an onset due to the heat and the structure would allow the vehicle to be 10-20 degrees cooler for the homeowner.

Chairman Hardwick - Asked Mr. Steiner how much of the structure was actually legal according to the ordinance; Mr. Steiner stated that only 3 feet of the carport from the eave of the house was legal according to the ordinance. **(Pictures were provided in the Board Packets of the structure)**

Member Hernandez – Asked Staff if the applicant was willing to cut the structure down to the legal limit size of 3 feet? Mr. Steiner stated he did not know that answer.

Member Zucco – Ask for clarification on how the structure was identified and by whom; was property owner aware that she needed building permits for the structure? Mr. Steiner advised John Dalton had identified the illegal structure two (2) days after the homeowner's son constructed the structure and did not think it required a permit.

Chairman Hardwick asked the applicant to make presentation.

Robert Strauch – 8131 Dry Canyon, Live Oak, Texas 78233 – Homeowner's son presented for the applicant variance #V-120002. He stated that he is a licensed contractor within the city of San Antonio and built the structure for his mother (homeowner) over the Memorial Day weekend. He admitted to not obtaining permits to build the structure but thought he had met the necessary requirements on the setback. He stated that due to his mother's diagnosis of Ocular shingles (related to the sense of sight); the shaded area would benefit her. The carport would provide shade for the front room of the home. The homeowner felt that the structure was aesthetically pleasing to the neighborhood. He respectfully asked the Board to approve the variance and offered to answer any questions from the public, staff or Board members.

Board Questions & Concerns to Applicant:

Chairman Hardwick – Asked for clarify on the medical condition of his mother and the effects it had from the heat. **Mr. Strauch** – Stated that the medical condition was only a portion of the reason for the carport. The second reason was for shading the vehicle to lower the temperatures inside the vehicle. The prior loss of large trees that were diseased left the vehicle exposed to the heat. The carport will lower the temperature inside the vehicle anywhere from 10-20 degrees cooler. He stated that he thought the setback in San Antonio of 10 foot from the curb was the standard for all of Bexar County cities. He state that he was asking for the approval of the variance but also requesting that the Board or Council change the setback rule in the ordinance from 25 foot to a lesser amount. Mr. Strauch also noted at 7522 Dry Canyon, the resident had previously built a garage into the setback and the city had allowed the homeowner to keep the structure. Not only did it violate the setback ordinance but the materials used on the garage at 7522 Dry Canyon were already deteriorating. His project had been built aesthetically pleasing with hardy materials, not cheap materials.

Member Hernandez – Asked Mr. Wayman what type of modification to the structure would rectify the issue to be able to keep the carport. Mr. Wayman stated that the ordinance would have to be changed to allow the size of the structure or the applicant could shorten the structure to be five feet in length. Mr. Wayman stated that in the Members packets, he noted two previous variances that were similar in request. Both were denied. The setback ordinance is set by the city so that the streets ultimately don't have the allusion of looking like "tunnels". Their purpose is to prevent residents from building up against the streets. He reminded the Board that a variance is a deviation of the ordinance due to a "financial hardship". But staff would take the Board's recommendation to the Council for review.

Chairman Hardwick - Asked Mr. Steiner what would the repercussions be if the Board were to approve the variance. Mr. Steiner stated the current ordinance does not give standards for this type of project. This would include standards on size or materials used to construct the structure. Without setting boundaries and strict standards, one would be able to erect any material type structure.

Mr. Strauch - Offered to assist Council and/or the Board as a master carpenter in any way should they decide to change the ordinance to allow such structures as carports and would advise on stringent material guidelines to be used. Chairman Hardwick suggested that Mr. Strauch present the idea to Council.

Alt. Member Emler – Asked Mr. Strauch why he conducted researched on San Antonio setback rules and not the city of Live Oak’s setback rules. Mr. Strauch stated he did not have an answer for the question other than he grouped Bexar County cities as one standard rule.

Chairman Hardwick asked for additional questions; seeing none called for a motion.

Alt. Member Emler made a motion to approve the variance with two stipulations; the awning be shortened 5’ to comply with the setback rule; and submit plans and permit application to Development Services for processing; seconded by Member Talbot.

VOTE FOR: Member Zucco, Talbot; and Alt. Member Emler

VOTE AGAINST: Member Hernandez, and Chairman Hardwick

Motion Failed.

Member Talbot asked staff if the Board could table Variance #V12-0002 until the Board could review and submit changes to this particular portion of the ordinance for Council.

Scott Wayman state both Council and Planning & Zoning Commission have reviewed this portion of the ordinance before without changes being approved.

Member Talbot made a motion to deny request #V12-0002 as presented; seconded by Vice Chairman Hernandez.

Vote FOR: Members Talbot and Zucco; Alternate Emler; Vice Chairman Hernandez; and Chairman Hardwick - **PASSED 5-0**

Mr. Strauch asked how much time would be allowed to remove the structure. Mr. Wayman stated the city would allow two (2) months for the removal.

7. ADJOURNMENT

Member Talbot motioned to adjourn; seconded by Member Zucco. The meeting was adjourned at 6:45 p.m.

APPROVED:



MEMBER JOHN TALBOT

ATTEST:



DONNA LOWDER, ADMINISTRATIVE ASST.