

MINUTES
CITY OF LIVE OAK
BOARD OF ADJUSTMENT
8001 SHIN OAK DRIVE, LIVE OAK, TEXAS
HELD ON THURSDAY, NOVEMBER 2, 2006

1. CALL TO ORDER

Chairman Hardwick called the Board of Adjustment meeting to order on November 2, 2006 at 6:30 p.m.

2. INVOCATION/PLEDGE OF ALLEGIANCE

See General Announcements

3. ROLL CALL

Chairman Keith Hardwick
Vice Chairman Robert Perry
Member John Talbot
Member Al Hernandez
Member Truman Kimmey
Alt Member Sarah Toten

ABSENT

Alt Member Sonny-Peter Merrell

4. CITIZENS TO BE HEARD

None

5. CONSENT AGENDA

A. Approval of Minutes

1. April 1, 2004

Motion made by Member Talbot; seconded by Vice Chairman Perry.

Approved- 5-0

2. October 20, 2005

Motion made by Member Talbot; seconded by Member Hernandez.

Approved – 5-0

6. OLD BUSINESS

None

7. NEW BUSINESS

- A. The plaque presentation was made by Chairman Hardwick to former member, Ed Cimics, for his years of service with the Board of Adjustment. Longtime member, Isabelle Siepker was not present to receive her plaque; however, Chairman Hardwick read aloud Ms.Siepker's plaque to the Board and the audience.
- B. **Appointments of new officers-** Chairman Hardwick entertained a motion to nominate and elect the new officer for Secretary. A nomination was made by Member Talbot for Member Al Hernandez as Board Secretary. Chairman Hardwick asked for any additional nominations. Since there were no additional nominations, Chairman Hardwick asked for a motion to vote for Secretary.

Vice Chairman Perry made a motion that nominations cease and the board elects Member Hernandez by acclamation; seconded by Member Talbot.

Voted For- Members, Talbot, Kimmey, Hernandez, and Vice Chairman Perry and Chairman Hardwick
PASSED- 5-0

- C. **V-06-05- Southland Log Homes-** Variance request submitted by Southland Log Homes of Texas, Incorporated for an exception from the Live Oak Zoning Ordinance; Section 5.2, requiring 100% masonry, to allow the use of pine logs on exterior walls fronting on a street. This log home structure will be used as a regional sales office for a log home manufacturer. Located at 13568 IH 35N, Live Oak, Texas.

Chairman Hardwick read the legal description.

Mr. Steve Quarles, representative of Southland Log Homes, gave a brief summary about the Southland Log Homes project. He introduced Mr. Ron Weir, Managing Partner from Conroe, Texas, and Arnold Hotchkiss, Vice-President of Southland Log Homes. Mr. Quarles asked Mr. Hotchkiss to introduce associates from Carter-Burgess Engineering.

Mr. Hotchkiss introduced Billy Klaussen and Catherine Paez to answer any technical questions.

Mr. Quarles gave a brief history of the company and the sales plan they hope to accomplish in the City of Live Oak. The objective of the business is to sell log home packages, financing, mortgage, and the construction of the product. The City of Conroe was the initial Texas city to have constructed a Southland Log Homes sales office in March. Mr. Quarles mentioned Mr. Weir would speak later in reference to their success. He continued with a color photo presentation of the model home completed to include landscaping. He stated the landscaping creates an oasis which is the environment they provide around the model home to sell the product to the potential customers. Mr. Quarles continued with information from the site plan.

Mr. Hotchkiss mentioned the appearance from the IH 35 side visibility was presented in the elevation demonstrated in the photo presentation. This elevation depicted the front of the model home including the landscaping and the professional signage facing the roadway. Mr. Hotchkiss explained on the back side of the property, 15-20 foot mature trees would be planted as a backdrop in keeping with the oasis environment. Mr. Hotchkiss closed by asking the board for any questions.

Member Hernandez asked to review the first photo presented in Mr. Quarles' presentation. He asked if the particular photo depicted what the model home would look like. Mr. Hotchkiss stated it was the exact model home that would be constructed. He added the particular photo that Member Hernandez asked to review was the rear elevation of the model home. Member Hernandez asked if Southland Homes intended building only one model home on the property. Mr. Hotchkiss answered, "Yes". Member Hernandez also clarified this building would serve as a sales office. Mr. Hotchkiss answered the garage would serve as the sales office the home would serve as a "model home".

Member Toten asked if the hotel being built would be in the same area. Mr. Wayman stated the hotel property would be located one lot over from Southland Log Homes.

Member Hernandez asked for the total square footage of the model home at completion. Mr. Quarles answered the model home would be 4000 sq. ft. Mr. Hotchkiss interjected the model home is a two story, five bedroom structure. The building would be 70 feet wide, by 45 feet deep, not including the decks. The total square footage of the structure including the sales office (garage) would be 6000 square feet.

Chairman Hardwick asked for the type of fire retardant used on the wood in the structure. Mr. Hotchkiss said the wood did not have a fire retardant, but the density of the wood would prevent it from igniting. Each log is 6 feet by 8 feet and has been tested with a blow torch. The results of the test was scorching of the logs but not igniting the logs. Chairman Hardwick asked for the type of finish that would be used on the logs. Mr. Hotchkiss explained the exterior logs have an applied oil based sealer and stain wood guard to protect from the elements. The applied color will be a "honey tone" stain. The honey tone would compliment the yellow pine used inside the home. Chairman Hardwick asked if a "composition roof" would be used. Mr. Hotchkiss confirmed the type of roof constructed would be a "composition roof". Chairman Hardwick asked if a "shaker" roof style would be used. Mr. Hotchkiss stated numerous customers do prefer the "shaker" roof style, but the model home roof would be constructed with a "composition roof".

Mr. Quarles distributed an Economic Impact sheet to the members and staff. He continued with information on how this business would affect Live Oak. He stated the business would employ eight full time employees and two to three part-time employees. The payroll including sales commission would approximately generate \$580,000 per year. The company would hire locally. Southland Homes' initial investment which includes the building and the land is between \$1.2 and \$1.4 million dollars. Mr. Quarles also stated an estimated 108 homes at \$8.6 revenue would be sold from the Live Oak sales office. An

important fact to note about the company would be they provide the structure which is 40%, but 60% of the work will be completed by local contractors, roofing, and landscaping businesses.

Mr. Quarles continued by stating Southland Log Homes anticipates becoming a member of the Chamber of Commerce within the Metrocom and the Live Oak community. Mr. Quarles asked Mr. Weir to say a few words about the Conroe, Texas office. He mentioned the atmosphere in the Conroe sales office is relaxing and a great place to stop and get a complimentary cup of coffee and home baked cookies. The office would become a landmark for Live Oak. He describes the log structure as a beautiful piece of architecture with "top notch" landscape work. Mr. Weir continued by giving a brief summary of the success of the sales in the Conroe office. He stated he anticipated working in the Live Oak area.

Mr. Wayman reminded the Board the ordinance dictates having a 100% masonry requirement on the front of the building. He explained staff had met with Southland Homes and discussed the possible use of a masonry product on the model home. Southland Homes stated they had used masonry before, but it was not their usual practice or type of business. Mr. Wayman explained Live Oak had already approved a variance similar to this request for the Texas Roadhouse Steakhouse. He stated staff had no objections with the variance request. He advised the Board he had invited Captain Galindo from the Live Oak Fire Department to provide fire information or answer fire related questions.

Chairman Hardwick asked Captain Galindo to approach the podium. He asked for any questions from the Board.

Member Kimmey asked if the description of the burn test on the logs completed by Southland Homes would be considered accurate or realistic. Captain Galindo verified the tests are realistic and it would be consistent to the requirements of the Code. The Code requires for "heavy timber". He also stated the building is a "commercial structure" over 5,000 square feet, so it would require the protection of a fire suppression system. He explained in the meeting with Southland Log Home owners and Fire Chief Charles Foster, an agreement was made to provide a fire suppression system for the structure.

Chairman Hardwick asked Captain Galindo for the nearest location of a fire hydrant in reference to the property. Captain Galindo said he had not seen the site plan and could not answer the question. Mr. Wayman advised through the plan review process of the City, the contractor would be required to construct fire hydrants with 300 feet hose lay. Mr. Wayman and Mr. Quarles agreed a fire hydrant was located within the required boundaries. Captain Galindo mentioned the Fire Department would measure and confirm the distance once the utility plans were received.

Chairman Hardwick asked Mr. Wayman how hiring from HVAC would benefit the City of Live Oak. Mr. Wayman explained it would not benefit Live Oak, unless citizens of Live Oak owned HVAC companies or if they were construction workers that could

possibly be employed to work on the project. Mr. Wayman commented there would be no sales tax generated that would come to the City. There would be sales tax at the site or in the city that the log home would be built. Live Oak would be a point of sale, not a point of delivery. Mr. Wayman felt this was a big economic developer.

Chairman Hardwick asked how the business would impact the property appraisal to the surrounding homes on Woodview Drive. Mr. Wayman stated there would be no way of determining the impact. He stated if Southland Homes was an improved development to the area, their property value would go up which would cause the Ad Valorem to increase. Mr. Wayman could see no reason the homes behind the business would be affected. Chairman Hardwick asked staff if there were any letters of concern returned by any residents. Ms. Lowder confirmed there were no additional letters of concern other than the letter included in the board member's packets. Chairman Hardwick asked Mr. Hotchkiss to return to the podium for additional questions. He asked if there were future development plans to include additional buildings on the property. Mr. Hotchkiss stated at the present time, there were no plans to have multiple buildings on the property. Mr. Hotchkiss said in the future they would look for other locations and possibly build multiple buildings at those locations. Chairman Hardwick asked Mr. Wayman how feasible this would be. Mr. Wayman said Southland Homes would have stringent restrictions of the front and side set back requirements of the ordinance to obey before any multiple model homes would be allowed on one lot in the city limits.

Member Toten asked what would happen to the building if the business meets its potential quota. Mr. Quarles asked the Board if he could approach the podium to address the question. Mr. Quarles explained the owners have never sold nor abandoned the properties. He stated the first office built in 1978 still remains an active business and has not saturated the market. Member Toten asked if the model home and property would be sold in the future, would it be sold as a home or business office. Mr. Quarles stated the owners have never walked away from a model homes and have never experienced the scenario given by Ms. Toten.

Chairman Hardwick asked Mr. Quarles why Southland Log Homes had chosen Live Oak as a site for the model home. Mr. Quarles commented the corridor of IH 35 was chosen for the visibility, accessibility to Austin, San Marcos, and New Braunfels areas. The traffic count was important and the "look" of the Live Oak community was the selling factor. Chairman Hardwick asked if the "Forum" and the "Fountains" shopping centers were considered as a marketing factor. Mr. Quarles answered, "Yes, without a doubt, you look for a thriving market".

Member Hernandez asked if in the future Southland Homes leaves the Live Oak area, as a Board, if they could force them to remove the model home. Mr. Wayman said if they wanted to sell the property, the owners would have to apply for a re-zoning to change the property to a "residential property". They would likely sell the property as a commercial business. Member Hernandez insisted as a Board, they should be able to force Southland Homes to remove the model home if ever they should "go out of business". Chairman Hardwick reiterated as a Board, they could not force Southland Homes to remove the

model home. He also reminded the Board, they were only approving the variance to the owner and not the land or product.

Vice Chairman Perry commented in the past few years, there had been operations come into Live Oak without an “exit plan”. He thanked Mr. Quarles for the patience he had shown with the questions from the Board. He stated it was to prevent Live Oak from “getting burned”.

Member Talbot made a motion to approve the Southland Homes variance; seconded by Vice Chairman Perry.

VOTE FOR – Chairman Hardwick, Members Hernandez, Talbot, Kimmey and Vice Chairman Perry - PASSED 5-0

- D. V-06-06-Gunn Auto Park-** Variance Request for a setback Variance from the required 25’ front and 10’ side setback - Hail protection structures – Tract of Land of the new city Block 5049E, City of Live Oak, Bexar County, Texas, Lots 3, Block 2, Records of Bexar County, Texas in the City of Live Oak, Texas

Chairman Hardwick read the legal description and asked the representative of Gunn Auto Park, Kelly Collins to approach the podium for the presentation.

Kelly Collins, Vice President and CFO of Gunn Automotive Group, gave a brief history of the company and introduced Bill Lamberdise, Director of Security, and Don Messick, President of Tri-Co Shade. He stated the two major reasons for the variance request were economics and customer convenience. Earlier this spring, Gunn Auto Park experienced a major hail storm and suffered major inventory loss. As a result of the loss the insurance premiums substantially increased. The insurance company has advised Gunn Auto to erect hail nets over the vehicle inventory to reduce the premium cost. He proposed several phases of this project, Phase I would cover 1,000 vehicles. The ultimate goal is to cover 70%-90% of the inventory, which would be 25 total acres in the Live Oak area. The off site, 10 acres located on Toepperwein Road, would also be covered. He explained the design of the hail nets would be beautiful solid structures.

Mr. Collins invited Mr. Messick to approach the podium for design and structure questions. He explained the structures were made of steel frames with UV protected high density netting. The first phase has been completed at the Toepperwein location and has passed all fire ratings. The structures are bolted to piers in the ground; however, they can be removed if necessary. Mr. Messick offered to answer any questions from the Board.

Member Talbot asked Mr. Messick what was the life expectancy for the UV protected high density netting. Mr. Messick stated the manufacture warranty is for ten years, but it had yet to be determined on the life expectancy. Member Talbot questioned the accessibility of changing the netting as needed. Mr. Messick stated the process takes approximately 45 minutes.

Member Toten had questions about the color choices. Mr. Messick stated the Gunn Group had chosen the color grey for their surplus lots, blue for Pontiac and Chevrolet lots, and red for the Dodge lot. The three colors were chosen due to the corporate colors. Mr. Collins confirmed they were designed to match the manufacture's color scheme.

Mr. Wayman gave a summary on the attorney ruling reference permanent structures. Any structures set in concrete would be considered a permanent structure and permanent structures can not be in the setbacks. He explained the measurement from the front of the business is 25 feet to the property line and the side lots are 5 feet from the side walks. Mr. Lamberdise and Staff had met and looked over the areas that would be prohibited from erecting the structures, it was determined he would file for a variance request for this allowance. Mr. Wayman concluded staff had no objections to the request. The setback ordinance had been developed to prevent structures from crowding the roadway and he felt these low profile structures would not cause crowding.

Chairman Hardwick commented in the past, similar structures had been erected prior to the Board receiving a variance request. Member Talbot confirmed Chairman Hardwick's statement and added Gunn Auto would be an example of one of the businesses. Mr. Wayman stated the Gunn Group had been made aware if the variance was denied, the Board could force Gunn to remove the current unapproved structures immediately. Member Talbot commented the current structures had been in place for a long period of time prior to the request. Mr. Wayman confirmed.

Vice Chairman Perry confirmed Gunn was definitely one of the businesses that erected a structure and requested a variance "after the fact." The difference from the past variances would be by not approving the variances it would have caused a "hardship". In this case with Gunn, Vice Chairman Perry expressed the "hardship" would be the increase in the insurance premiums.

Chairman Hardwick produced the letter of rebuttal from Fiddlers 60 GP, LLC for this variance and he asked Mr. Wayman for clarification on the location of this property owner. Mr. Wayman stated the Fiddlers property was located across Judson and portions on both sides of Retama Hollow. Chairman Hardwick asked the status of the Fiddlers' property. Mr. Wayman stated they requested a permit with the City for a Hydra Axe, which is a ground clearing device to remove the under brush. Chairman Hardwick asked if the Fiddlers property was same area the City approved developing as an apartment complex in the past. Mr. Wayman confirmed it was the same property but with a different owner. Chairman Hardwick asked if the variance was approved, would it affect Fiddlers 60 in any manner. Mr. Wayman clarified the location Gunn proposes to erect the structures, will not be on the side of the Fiddlers property. He explained the concern Fiddlers property owners had was their preference of having "high-end" quality netting structures due to the future Medical Village coming to the area.

Member Toten asked how this would relate to the fact the City does not approve carports in residential driveways. She was concerned the Board would have to go back to all the residents that were denied for carports and now grant them.

Member Talbot reminded Member Toten the carport request was in a residential area and this variance is in a commercial area. Chairman Hardwick commented the City possesses codes that were written for both businesses and residents which has a “fine line” of differences. He emphasized each case needs to be looked at separately and not grouped together.

Vice Chairman Perry commented that not only is “hardship” a big factor, but aesthetics is a factor as well. The previously denied projects would have affected the aesthetics of the neighborhood. He felt the structures Gunn had erected would not affect the aesthetics.

Chairman Hardwick reminded the Board once a decision is made, the only entity that can overturn the decision would be a court of law.

Vice Chairman Perry asked staff if the variance is approved, how soon it would be before other auto dealerships in the area would request the same type of variance. Mr. Wayman stated the hail storm hit Live Oak in the spring and no one had requested a variance other than Gunn Auto.

Mr. Messick asked to approach the podium to illustrate with photos of what the structures would look like and where on the property they would be located. Mr. Messick pointed out the structures would be behind the tree line, steel railing and life standard. He hoped the Board would take all these aspect into account before making their decision.

Chairman Hardwick asked what the height of the structures would be. Mr. Messick answered the structures would be seven feet at the lowest point and ten foot at the highest point of the structure. Chairman Hardwick asked Mr. Wayman if the hail net structures would require additional lighting for the Gunn property. Mr. Wayman stated he was certain the existing lights would penetrate through the netting. Mr. Messick confirmed light would be able to penetrate through the netting.

As there were no further questions, Chairman Hardwick asked for a motion. Vice Chairman Perry made a motion to approve the variance request; seconded by Member Talbot.

Vote For: Chairman Hardwick, Members Hernandez, Talbot, Kimmey and Vice Chairman Perry. PASSED 5-0

8. CITIZENS TO BE HEARD

None

9. GENERAL DISCUSSION & ANNOUNCEMENTS

A. Chairman Hardwick requested the Invocation and the Pledge of Allegiance be observed at every Board of Adjustment meeting. Chairman Hardwick asked if the other board members agreed and asked for a motion.

Vice Chairman Perry asked if other boards and commissions observed both the Invocation and the Pledge of Allegiance. Chairman Hardwick stated the City Council observes a moment of silence and recites the pledge. Chairman Hardwick asked Harvey Johnson, commissioner for the Planning and Zoning Commission, if the Commission observed the same. Commissioner Johnson confirmed in the beginning they did not, but the commission now observes the moment of silence and the pledge at every meeting.

Vice Chairman Perry asked who would address the invocation. Chairman Hardwick stated it would be observed as a "moment of silence". Member Hernandez suggested the Board would stand and recite the Pledge of Allegiance at every meeting. Chairman Hardwick concurred and asked for a motion.

Vice Chairman Perry made a motion to observe a moment of silence and recite the pledge; seconded by Member Talbot.

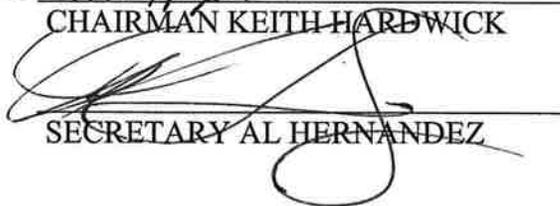
Vote For: Members Hernandez, Talbot, Kimmey and Chairman Hardwick, and Vice Chairman Perry. PASSED 5-0

10. **ADJOURNMENT**

Motion was made by Member Talbot; seconded by Vice Chairman Perry. The meeting was adjourned at 7:35 p.m.

APPROVED: *July 26, 2007*



CHAIRMAN KEITH HARDWICK


SECRETARY AL HERNANDEZ

ATTEST:



DONNA LOWDER, EXECUTIVE SECRETARY