

Meeting Packet
Board of Adjustment Regular Meeting

July 2, 2018

Consent Agenda
Board of Adjustment Regular Meeting

July 2, 2018

Draft Minutes

June 11, 2018 Regular Meeting

MINUTES
Monday, June 11, 2018 Regular Meeting
Board of Adjustment
City of Lago Vista

Chair Bob Graff called the meeting to order at 3:04 P.M. in the Council Chambers, City Hall, located at 5803 Thunderbird St., in Lago Vista, Texas. Other members present were John Schroeder, Vice-Chair; Jim Cason, Tim Collins, Frank Robbins, Kent Leipold, Jim Cason, Freth Carroll and Arch Davila, City Council Liaison. Development Services Director Roy Jambor and Administrative Assistants Alice Drake and Guadalupe Arredondo were also present. The City Attorney was absent.

Freth Carroll and Frank Robbins were sworn in as Regular Members by Alice Drake.

Citizen Comments for Non-Hearing Related Items

There were no public comments.

CONSENT AGENDA

1. Consideration of the Following Minutes:

A. May 7, 2018, Regular Meeting

On a motion by Bob Graff, the Board voted all in favor to approve the minutes for May 7, 2018.

PUBLIC HEARING AND ACTION

- 1. 18-1260-ZON-VAR:** Consideration of a variance to construct a six foot privacy fence along all boundaries of the property located at 3405 Ross Lane (Highland Lake Estates, Section 11, Lot 11061A) from Chapter 14, Section 22.10.

A. Staff Presentation

Roy gave his staff presentation. He reported that the applicant was not present at the meeting and stated that the reason for the variance is unknown since it wasn't included on the application. He noted that the lot is located on the corner. He discussed the Ordinance and reported that the front setback for residential properties is quasi-public space, which is not a paved right-of-way and that there are restrictions on building and fencing for front yards. He reported that this requirement is for maintaining some green space and it must not obstruct sight.

Roy also mentioned that the applicant could have built a different kind of fence that was less sight obstructive. He mentioned that the proximity of the paved portion of the right-of-way is also taken in consideration so that sight is not obstructed. He stated that it does not appear to be the case in this situation since it's a corner lot and the pattern has already been interrupted (whether the fence is there or not). He noted that the adjacent corner right-of-way on Boggy Ford is extremely wide in comparison to the paved width, so the obstruction is not as noticeable.

B. Applicant Presentation

The applicant's spouse, Carla Berry, 3405 Ross Lane, stated that her spouse submitted the permit to build a fence for privacy for their pool, which will be built in the near future. She stated after the fence was built, they received a notice that it was too close to the road. She reported that she consolidated her lot with the adjacent lot next door. She mentioned that they followed the rules when building the fence, but was confused as to why they received the violation notice.

E. Discussion

Roy reported that when the fence permit application was received, it was reviewed and when John went out to inspect it, the posts were already in the ground. John informed the applicant that if they want to install a fence in that location that they would need to build a fence that was less sight obstructive or they could move the posts back. The applicant stated that she was not informed about this issue. Roy stated that the applicant applied for the permit and it was denied. As a result, a variance was requested. The applicant explained that many of her neighbors have the same type

of fence and stated that she was shocked to hear that it was denied. Roy responded that there wasn't anything in the application that stated that as a reason for the variance. The applicant mentioned that the main entrance to the residence is on Ross Lane and that they wanted to build a fence around both of their consolidated lots. She also mentioned that they will be building a pool on their adjoining lot in the near future and that the fence was built for privacy.

Jim mentioned that the fence was built too close to Ross Lane and that the fence should not have been built passed the corner of the house. The Board and Roy discussed the fence options that could have been built on the lots and compared them with the fences already built in the neighborhood.

Roy mentioned that the purpose of the Ordinance is to establish consistency for the front yard. He stated that, as a result, the permit was applied for and denied. The applicant responded that they didn't understand why the permit was denied and didn't know who she spoke to when she applied for the permit. Roy stated that he was told the same thing when he spoke with the applicant.

Roy stated that he doesn't see a traffic issue on Boggy Ford, unless a driveway was built in that area. Roy discussed the Ordinance and mentioned that it was designed to maintain visual consistency. He stated that it would be different if the fence broke the pattern, which is not the case here.

Jim stated that the fence went too far past the front corner on the side of the house and asked the applicant if this was needed for the pool. The applicant stated that the fence was built for a future pool and also a concrete space for boat storage. The applicant also mentioned that the six foot fence reduces noise and headlights at night.

The Board and Roy discussed the basis for physical hardship for the item. Roy stated that the purpose of the Ordinance is to create a uniform quasi-public space in the front yard of a residential street which is consistent with the pattern across the lot. He stated that in this case, the location of the fence does not help or hurt because of the location on the corner lot and noted that there isn't a house located on the corner. Roy stated that if the fence was moved back, then they would have been in compliance.

Roy and the Board discussed the comments received from the 200 foot notices that were mailed out before the meeting and noted that were all in favor of the item. Roy reported that while the permit was denied, the applicant went ahead and built the fence anyway.

F. Decision

On a motion by Frank Robbins, seconded by Freth Carroll, the Board voted all in favor to deny item 18-1260-ZON-VAR on the basis that the fence was built in violation without an approved permit and hardship was not an issue.

Roy discussed the Ordinance for external building materials with the Board and mentioned that it needs to be revised for clarification of the requirements for both commercial and residential buildings.

BUSINESS ITEMS

1. Consideration of action to adopt rules of procedure for the Board of Adjustment.

Bob mentioned that the document had changed from the original and that there have been several additions to the rules and procedures for the Board. Frank stated that he has problems with the document and said that he created a revised version. Roy reported that there are two versions posted on the OneDrive and this wasn't clear to everyone.

Roy and the Board discussed accessing the agenda packet on the website instead of posting the items on the OneDrive to avoid confusion. Roy mentioned that some of the agenda packets can't

be sent out via email because the document size is too large. He reported that they have recently increased the capacity for emailing the packets and noted that they will be either emailed or posted on the city website.

Frank recommended that the two documents be combined and then discussed at a future meeting. Bob announced that the item would be postponed until next month so that the issue can be resolved. Roy asked if the version came from another city and Bob responded that it did. Roy stated that he would take that version off of the OneDrive to avoid confusion.

Roy reported that if there isn't an issue with the size of the document, then the agenda packet for future meetings would be emailed to the members of the Board.

FUTURE AGENDA ITEMS

The Board stated that the next meeting will be rescheduled for July 2, 2018. Roy announced that the next agenda will include further discussion of the rules and regulations for the Board.

ADJOURNMENT

On a motion by Bob Graff, the Board voted unanimously to adjourn at 3:55 P.M.

Bob Graff, Chair

Alice Drake, Administrative Assistant

On a motion by _____, seconded by _____, the foregoing instrument was passed and approved this ____ Day of _____, 2018.

Business Items

Consideration of rules of procedure for the Board of Adjustment

THE BOARD OF ADJUSTMENT
CITY of LAGO VISTA, TEXAS

RULES OF PROCEDURE

Adopted July 2, 2018

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BOARD OF ADJUSTMENT

RULES OF PROCEDURE

SECTION 1. ORGANIZATION, OFFICERS, AND STAFF

1.1 Organization

The Board of Adjustment (“Board”) shall consist of members appointed by the City Council and shall be organized under the laws of the State of Texas and the ordinances of the City of Lago Vista, Texas.

1.2 Officers

A Chair and Vice-Chairman shall be appointed in accordance with the Lago Vista Code of Ordinances. The Director of Development Services shall designate a representative to serve the Board as Secretary.

1.3 Duties

a. The Chairman, or in his absence the Vice-Chairman, shall preside at all meetings, shall decide all points of order or procedure, and shall swear in witnesses and, when necessary, compel their attendance.

b. In the absence of both the Chairman and the Vice-Chairman, the Chairman Pro Tem shall preside. The Chairman Pro Tem shall be a member who is elected by a majority of the members present at the beginning of the meeting.

c. The Director of Development Services shall be custodian of the minutes and other official records, shall attend to the correspondence of the Board, and shall cause notices to be given as are required and in the manner prescribed by law.

1.4 Rules of Order

Robert’s Rules of Order Newly Revised shall generally be the Board’s final authority on all questions of procedures and parliamentary law not covered by these Rules of Procedure. A failure to strictly adhere to the procedures set forth in Robert’s Rules of Order shall not constitute grounds for the invalidation of any motion or order made by the Board.

1.5 Administrative Official

The Director of Development Services shall be the Administrative Official of the Board.

SECTION 2. MEETINGS

2.1 Quorum

A quorum shall consist of at least 75% of the members. No proxies shall be allowed to establish a quorum or to transact business of the Board. In the absence of a quorum, the following persons (in the noted order) shall call the meeting to order. The Chairman, the Vice-Chairman, the Chairman Pro Tem, or (if no Member is present) a Staff member may call the meeting to order, announce the absence of a quorum, and announce the adjournment of the meeting until a specific date, time, and place when the scheduled agenda items / public hearings would be held.

Should the absence of a quorum be known in advance of a scheduled meeting, the Administrative Official, or other Staff member may reschedule the hearing to a date certain, or cancel the meeting.

2.2 Agenda

- a. An agenda shall be prepared by the Administrative Official and the Chairman for each meeting of the Board. Items may be placed on an Agenda by at least two members of the Board.
- b. Each agenda shall include a Future Agenda item when the Board may discuss and consider future agenda items.
- c. Issues not on the Agenda shall not be discussed.

2.3 Board Meetings

- a. Regular Meetings - Regular meetings shall be held on the first Monday of each month at 3:00 p.m. in the City Council Chambers at City Hall unless otherwise posted. Should no matters be scheduled for consideration by the Board, no meeting shall be held except as directed by the Chairman of the Board.
- b. Special Meetings - Special meetings may be called at any time by the Chairman or the Administrative Official and shall be subject to the Open Meetings Act. The Administrative Official shall cause notice of the special meeting to be sent to each Board Member and shall provide any information necessary for consideration of the Board. Any case requiring a public hearing and being considered in a special meeting shall meet the notice requirements set forth in the state statutes and in the Zoning Ordinance of the City of Lago Vista, Texas.
- c. Work Sessions - The Board may schedule work sessions to address administrative matters or proposed ordinance revisions. These sessions are for discussion purposes only. No decisions on case-related matters shall be

made.

d. Executive Sessions (Closed Meetings). The Board may convene into executive session pursuant to Section 551.071 of the Texas Local Government Code to seek the advice of the City Attorney about pending or contemplated litigation or to seek or receive the attorney's advice with regard to legal issues relative to a case pending the Board's consideration. Such advice may also be given in open meeting at the discretion of the Presiding Officer.

2.4 Public Meetings

All meetings shall be held in full compliance with the provisions of state law, the Zoning Ordinance of the City and these Rules of Procedure.

SECTION 3. APPLICATION PROCEDURES

Application procedures shall be defined by the Administrative Official and shall be in accordance with state law and the Lago Vista Code of Ordinances.

SECTION 4. HEARINGS AND DECISIONS

4.1 Public Hearings

Hearings on all matters on which a decision of the Board is required by law shall be open to the public. Any party in interest may appear on his own behalf or be represented by legal counsel or agent.

4.2 Order of Business

The Chairman shall call the meeting to order, and the Secretary shall record the members present and absent. The Chairman shall publicly advise those present of the procedures followed in the hearing and disposition of cases. Unless the Board suspends the rules pertaining to the order of business, the Chairman shall call each case in the order listed on the agenda.

4.3 Procedures for Hearing

- a. After opening the public hearing, the Chairman shall first call for a staff report and then upon the applicant, if present, to present the applicant's case and all evidence supporting the applicant's request. A true and correct copy of all written evidence, documents, photographs, and audio or videographic evidence presented at the hearing shall be included in the record of the case.
- b. The Chairman shall then call upon those members of the public who wish to express their support for the granting of the applicant's request. The Chairman shall next call on those members of the public

who wish to express their opposition to the granting of the applicant's request. Each person who wishes to speak shall state their name and address for the record. Each person who is called on to speak may be required by the Chairman to first swear that the testimony the person shall give shall be the whole truth and nothing but the truth.

- c. The Chairman may establish reasonable time limits for the members of the public to speak.
- d. The applicant shall then be given the opportunity to rebut the arguments presented by those in opposition.
- e. Each person speaking shall proceed without interruption by any other person, and all arguments and pleadings shall be addressed to the Board. It shall be the responsibility of the Presiding Officer to maintain order and proper decorum during the hearing. No questioning or arguments between individual witnesses will be permitted. Nothing herein shall be construed to prohibit a member from expressing his or her opinion as to the merits of the applicant's request or as to the existence of any hardship.
- f. The Chairman shall order the public hearing closed at his discretion at which time the public or applicant may not speak unless the chairman reopens the public hearing. After the hearing is closed, the members may deliberate regarding the merits of the applicant's request and may vote on a motion made and seconded with respect to the disposition of the request.
- g. The Board may act on any request for which the applicant fails to appear after conducting the pre-scheduled public hearing.
- h. After being recognized by the Presiding Officer, Board members may ask questions of anyone in attendance before, during or after the public hearing.

4.4 Board Review

The Chairman and members of the Board recognized by the Presiding Officer may direct any question to the applicant or any persons speaking in order to bring out all relevant facts, circumstances and conditions affecting the request, and may call for questions from other members of the Board and from the City staff. At any time prior to the time a vote is called for, the Board may call back any applicant or speaker or staff member for clarification of fact presented by him in the hearing or to answer one

or more questions of the members of the Board.

4.5 Suspension of Rules

Any provision of these rules not governed by other law may be temporarily suspended by the affirmative votes of a majority of the voting members present.

4.6 Disposition of Cases

a. The Board may unconditionally grant, conditionally grant, or deny an applicant's request. The Board may also defer action on any request in response to the applicant's request for deferral of the action or whenever it concludes that additional evidence is needed or that alternate solutions need further study. An applicant's request may be dismissed when the Board finds that the request has been improperly filed or, upon notification by the City, that permits have been issued for a conforming use or development of the property.

b. If items are deferred, they shall by motion to postpone until a date, time, and place made part of the motion to postpone.

4.7 Participation in Deliberations and Voting

a. All members present may participate in the deliberations of each case and may directly question the applicant/agent or Staff members.

b. Should any member be unable to vote and participate on any matter before the Board, he or she shall clearly acknowledge this for the record prior to the vote, and the Presiding Officer shall clearly designate, for the record and for the audience, which of the alternate members will be voting.

c. Members may not abstain from voting.

4.8 Vote Required

a. The concurring vote of 75% of the voting members shall be necessary to grant, or to grant conditionally, any request for a variance, special exception, or approval of an appeal (hereafter called a "request") made to the Board. When a motion to approve a request fails to receive at least 75% of all the members' affirmative votes, the request is denied. A motion to deny a request shall pass on the vote of a simple majority of the members. Should a motion to deny fail to receive a majority vote, another motion must be made (e.g., "motion to approve", "motion to postpone", etc.) to dispose of the case. A simple majority vote of the members shall be required to approve any motion other than a motion to approve a request. All motions must receive a second to be considered by the Board.

b. Matters other than a request for a variance, or approval of an appeal, such as a special exception, may be disposed of by simple majority of the members present.

SECTION 5. CERTIFICATION AND AMENDMENTS

5.1 Certified Copy

A certified copy of these Rules of Procedure and of any amendments thereto will be placed on record in the office of the City Secretary within ten days following their date of adoption.

5.2 Repealing Clause

All previously adopted Rules of Procedure of the Board shall be and the same are hereby expressly repealed.

5.3 Amendment Procedure

Amendments to these Rules of Procedure may be made by the Board at any meeting upon the affirmative vote of a simple majority of the voting members present.

ADOPTED this 2d day of July, 2018.

Chairman, Board of Adjustment

ATTESTED:

Board Secretary

Filed in the Office of the City Secretary this _____ day of _____, 20____.
_____, City Secretary, City of Lago Vista, Texas