



AGENDA
City of Lucas
Board of Adjustments Meeting
March 9, 2020
6:00 PM
City Hall - 665 Country Club Road – Lucas, Texas

Notice is hereby given that a regular meeting of the Board of Adjustment of the City of Lucas will be held on March 9, 2020 at 6:00 pm at Lucas City Hall, 665 Country Club Road, Lucas, Texas at which time the following agenda will be discussed.

Call to Order

- Roll Call
- Determination of Quorum
- Reminder to turn off or silence cell phones
- Pledge of Allegiance

Public Hearing Agenda

1. Public hearing to consider the request by Brian and Christi Murphy for a variance from the Code of Ordinances, Chapter 3, Article 3.21, Swimming Pool and Spa Code to install a pool barrier fence that does not meet the City's code requirements for the property located at 650 West Blondy Jhune Road, Abs A0506, John W Kerby Survey, Tract 39, being all of a 14.95 acres. **(Development Services Director Joe Hilbourn)**
 - A. Presentation by Development Services Director Joe Hilbourn
 - B. Conduct public hearing
 - C. Take action on the variance request

2. Public hearing to consider the request by Robin and Joan Phillips, for a variance from the literal interpretation of the City's Code of Ordinances to allow an accessory building located within the side yard setbacks for a parcel of land located in the Montgomery Birch Survey, Abs A0115, Tract 6, being all of a 3.226 acre tract of land, otherwise known as 2020 Snider Lane. **(Development Services Director Joe Hilbourn)**
 - A. Presentation by Development Services Director Joe Hilbourn
 - B. Conduct public hearing
 - C. Take action on the variance request

Regular Agenda

3. Consider approval of the minutes of the December 18, 2019 Board of Adjustments meeting.
(City Secretary Stacy Henderson)

Executive Session Agenda

The Board of Adjustment may convene into a closed Executive Session pursuant to Chapter 551.071 of the Texas Government Code for the purpose of seeking confidential legal advice from the City Attorney regarding any item on the agenda at any time during the meeting.

4. Executive Session: An Executive Session is not scheduled for this meeting.
5. Adjournment.

Certification

I hereby certify that the above notice of meeting was posted on the bulletin board at Lucas City Hall by 6:00 p.m. on March 6, 2020 as required in accordance with Government Code §551.041.

Stacy Henderson

This building is wheelchair accessible. Any requests for sign interpretive services or other special requests for assistance of the hearing impaired must be made 48 hours in advance of the meeting. To make such arrangements, please call 972-912-1211 or send an email to Stacy Henderson at shenderson@lucastexas.us.



City of Lucas

Board of Adjustments Agenda Request

March 9, 2020

Item No. 01

Requester: Development Services Director Joe Hilbourn

Agenda Item Request

Public hearing to consider the request by Brian and Christi Murphy for a variance from the Code of Ordinances, Chapter 3, Article 3.21, Swimming Pool and Spa Code to install a pool barrier fence that does not meet the City's code requirements for the property located at 650 West Blondy Jhune Road, Abs A0506, John W Kerby Survey, Tract 39, being all of a 14.95 acres.

- A. Presentation by Development Services Director Joe Hilbourn
- B. Conduct public hearing
- C. Take action on the variance request

Background Information

The property owner applied for a pool barrier permit requesting approval to construct a four-foot, six-inch aluminum fence which would be code compliant. Upon inspection, a no-climb horse fence consisting of posts and wire mesh had been installed. The applicant is requesting a variance for the installed fence, not meeting code, to remain in place.

The City's Code of Ordinances, Chapter 3, Building Regulations Article 3.21, Swimming Pool and Spa Code, reads as follows:

Swimming Pool Enclosures and Safety Devices:

General. Swimming pools shall comply with the requirements of this section and other applicable sections of this code.

Definition. The following word and term shall, for the purposes of this section and as used elsewhere in this code, have the meaning shown herein.

Swimming Pools. Any structure intended for swimming, recreational bathing or wading that contains water over 24 inches (610 mm) deep. This includes in-ground, above ground and on-ground pools; hot tubs; spas and fixed-in-place wading pools.

Residential swimming pools. Residential swimming pools shall comply with Sections 3109.4.1 through 3109.4.3.

Barrier height and clearances. The top of the barrier shall be at least 48 inches (1219 mm) above grade measured on the side of the barrier that faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be 2 inches (51 mm) measured on the side of the barrier that faces away from the swimming pool. Where the top of the pool structure is above grade, the barrier is authorized to be at ground level or mounted on top of the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be 4 inches (102 mm).



Item No. 01

City of Lucas
Board of Adjustments Agenda Request
March 9, 2020

Openings. Openings in the barrier shall not allow passage of a 4-inch-diameter (102 mm) sphere.

Chain link dimensions. Maximum mesh size for chain link fences shall be a 2.25-inch square (57 mm square) unless the fence is provided with slats fastened at the top or the bottom which reduce the openings to no more than 1.75 inches (44 mm).

Attachments/Supporting Documentation

1. Public hearing notice
2. Application for variance
3. Location map

Budget/Financial Impact

NA

Recommendation

Staff is not in favor of this variance request.

Motion

I make a motion to approve/deny the variance request by Brian and Christi Murphy from the Code of Ordinances, Chapter 3, Article 3.21, Swimming Pool and Spa Code to install a pool barrier fence consisting of _____ for the property located at 650 West Blondy Jhune Road.



NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN, that the Board of Adjustments of the City of Lucas, Texas will conduct a public hearing on March 9, 2020 at 6:00 p.m. at Lucas City Hall, 665 Country Club, Lucas, Texas to consider a request for a variance from the literal interpretation of the City's Code of Ordinances more particularly described as follows:

An application submitted by Brian and Christi Murphy for a parcel of land located in the Abstract A0506 John W Kerby Survey, Tract 39, being all of a 14.95-acre tract of land, otherwise known as 650 W. Blondy Jhune Road, Lucas Texas. The request is to install a pool barrier fence that does not meet the City of Lucas Code of Ordinances.

The relevant portions of City's Code of Ordinances, Chapter 3, Building Regulations Article 3.21, Swimming Pool and Spa Code, reads as follows:

SWIMMING POOL ENCLOSURES AND SAFETY DEVICES

General. Swimming pools shall comply with the requirements of this section and other applicable sections of this code.

Definition. The following word and term shall, for the purposes of this section and as used elsewhere in this code, have the meaning shown herein.

SWIMMING POOLS. Any structure intended for swimming, recreational bathing or wading that contains water over 24 inches (610 mm) deep. This includes in-ground, above ground and on-ground pools; hot tubs; spas and fixed-in-place wading pools.

Residential swimming pools. Residential swimming pools shall comply with Sections 3109.4.1 through 3109.4.3.

Barrier height and clearances. The top of the barrier shall be at least 48 inches (1219 mm) above grade measured on the side of the barrier that faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be 2 inches (51 mm) measured on the side of the barrier that faces away from the swimming pool. Where the top of the pool structure is above grade, the barrier is authorized to be at ground level or mounted on top of the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be 4 inches (102 mm).

Openings. Openings in the barrier shall not allow passage of a 4-inch-diameter (102 mm) sphere.

Chain link dimensions. Maximum mesh size for chain link fences shall be a 2.25-inch square (57 mm square) unless the fence is provided with slats fastened at the top or the bottom which reduce the openings to no more than 1.75 inches (44 mm).

Those wishing to speak for or against the above item are invited to attend. If you are unable to attend and have comments you may send them to City of Lucas, Attention: City Secretary, 665 Country Club Road, Lucas, Texas 75002, email shenderson@lucastexas.us and it will be presented at the hearing. If you have any questions about the request, please contact Joe Hilbourn at jhilbourn@lucastexas.us.



APPEAL TO THE BOARD OF ADJUSTMENT CITY OF LUCAS

DATE: FEB 01 FEE: \$450.00 APPEAL # _____

SUBMITTED BY: Name: Brian & Charish Murphy
Address: 650 W. Blondy Thune
City: LUCAS State: _____ Zip: 75002
Phone: _____

FILING DEADLINE: An appeal shall be filed with the Board within ten (10) days after the date of decision of the Enforcing Officer. Every appeal shall be filed with the City Secretary no later than fifteen (15) days prior to the scheduled Board meeting. When the filing deadline falls on a holiday, the following workday shall be observed as the filing deadline.

TYPES OF APPEALS: Please check the type of appeal you are filing. The Board shall consider two types of appeals authorized under Article 1011G, Revised Civil Statutes of Texas, as amended:

- 1. For a special exception for use or development of property on which the Board is required to act.
- 2. For a variance from the literal enforcement of the Ordinance in order to achieve a reasonable development of property.

BRIEFLY DESCRIBE YOUR APPEAL:

Pool fence - requesting approval
of field fence with metal pole for
the barrier of our pool. Very secure
and appealing aesthetically. Keeps dog
in, cutter out and is safe; very similar
to chain link only safer

PLEASE NOTE: Contact City Secretary for proper filing procedures. If applicant fails to appear without notice, the Board may require the applicant to re-file appeal.

EXPIRATION OF GRANDTED APPEAL: Approval of any appeal shall expire 90 days after the Board's decision unless authorized construction or occupancy permits have been obtained, or unless a greater time is requested in the application and is authorized by the Board. Any approval may be granted one extension of an additional 90 days on written request filed with the Board before expiration of original approval. The time limit for every granted appeal shall commence on the first day of the month succeeding the month in which the Board renders its decision.

SIGNATURE OF PERSON FILING FOR APPEAL:



DECISION OF THE BOARD: _____

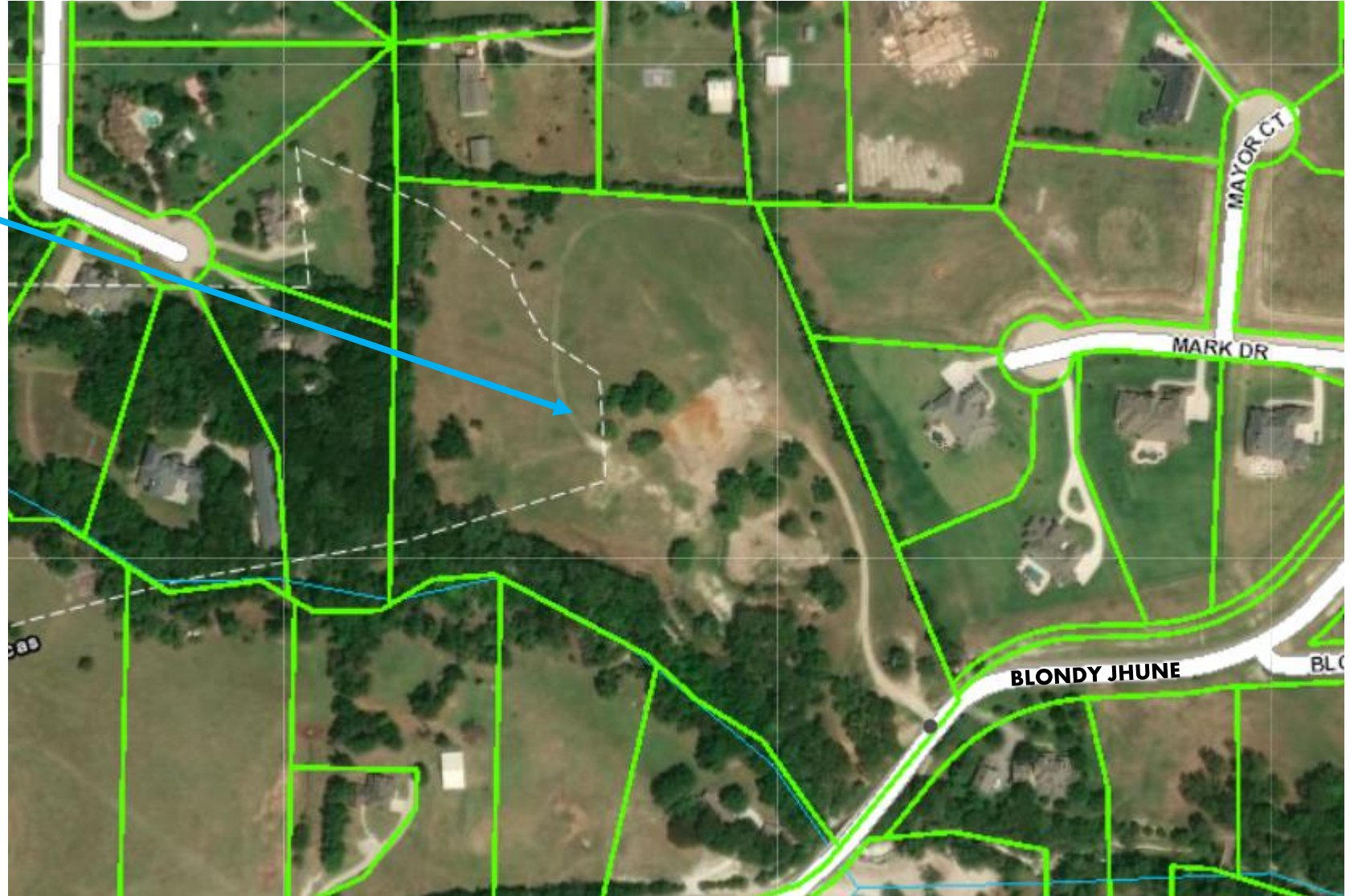
DATE: _____

If not granted by the Board, state reason why:

CHAIRMAN

Location Map

650 W Blondy Jhune





City of Lucas

Board of Adjustments Agenda Request

March 9, 2020

Item No. 02

Requester: Development Services Director Joe Hilbourn

Agenda Item Request

Public hearing to consider the request by Robin and Joan Phillips, for a variance from the literal interpretation of the City's Code of Ordinances to allow an accessory building located within the side yard setbacks for a parcel of land located in the Montgomery Birch Survey, Abs A0115, Tract 6, being all of a 3.226 acre tract of land, otherwise known as 2020 Snider Lane.

- A. Presentation by Development Services Director Joe Hilbourn
- B. Conduct public hearing
- C. Take action on the variance request

Background Information

An accessory structure located at 2020 Snider Lane on the west side of the property was destroyed by more than 50 percent recently by a fallen tree and is located within the side yard setback. The applicant is requesting to repair the legal nonconforming structure and in doing so, with the structure located within the required setbacks, the building must meet the side yard setback requirements when it is reconstructed.

The test for making a determination as to whether to grant a variance is based on the criteria in the zoning ordinance.

Section 14.04.175 Repairs

Repairs and alterations may be made to a nonconforming building provided that no structural alterations or extensions shall be made except those required by law or ordinance unless the building is changed to a conforming use. (1995 Code, sec. 9-184)

Section 14.04.176 Nonconforming use not to be extended or rebuilt

A nonconforming use shall not be extended or rebuilt in case of obsolescence or total destruction by fire or other causes. In the case of partial destruction by fire or other causes not exceeding fifty percent (50%) of its value, the building inspector shall issue a permit for reconstruction. If destruction is greater than fifty percent (50%) of its value, the board of adjustment may grant a permit for repair or replacement after public hearing and having due regard for the property rights of the persons affected when considered in the light of public welfare and the character of the areas surrounding the designated nonconforming use and the purposes of this chapter. (1995 Code, sec. 9-185)

Attachments/Supporting Documentation



City of Lucas
Board of Adjustments Agenda Request
March 9, 2020

1. Public Hearing Notice
2. Application for Variance
3. Location Map

Budget/Financial Impact

NA

Recommendation

The Board of Adjustment may grant a permit for repair or replacement provided the damage exceeds 50% of the value and it does.

Motion

I make a motion to approve/deny the variance request by Robin and Joan Phillips from the literal interpretation of the City's Code of Ordinances to allow an accessory building located within the side yard setbacks for a parcel of land located in the Montgomery Birch Survey, Abs A0115, Tract 6, being all of a 3.226 acre tract of land, otherwise known as 2020 Snider Lane.



NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN, that the Board of Adjustments of the City of Lucas, Texas will conduct a public hearing on March 9, 2020 at 6:00 p.m. at Lucas City Hall, 665 Country Club, Lucas, Texas to consider a request for a variance from the literal interpretation of the City's Code of Ordinances more particularly described as follows:

An application submitted by Robin and Joan Phillips for a parcel of land located in the Montgomery Birch Survey, Abs A0115 Montgomery Birch Survey, Tract 6, 3.226 Acres, being all of a 3.226 -acre tract of land, otherwise known as 2020 Snider, Lucas Texas. The request is to rebuild a legal nonconforming structure that was damaged by more than 50%.

The relevant portions of City's Code of Ordinances, Chapter 14, Zoning Sec. 14.04.175 Repairs and Sec. 14.04.176 Nonconforming use not to be extended or rebuilt, read as follows:

Sec. 14.04.175 Repairs

Repairs and alterations may be made to a nonconforming building provided that no structural alterations or extensions shall be made except those required by law or ordinance unless the building is changed to a conforming use. (1995 Code, sec. 9-184)

Sec. 14.04.176 Nonconforming use not to be extended or rebuilt

A nonconforming use shall not be extended or rebuilt in case of obsolescence or total destruction by fire or other causes. In the case of partial destruction by fire or other causes not exceeding fifty percent (50%) of its value, the building inspector shall issue a permit for reconstruction. If destruction is greater than fifty percent (50%) of its value, the board of adjustment may grant a permit for repair or replacement after public hearing and having due regard for the property rights of the persons affected when considered in the light of public welfare and the character of the areas surrounding the designated nonconforming use and the purposes of this chapter. (1995 Code, sec. 9-185)

Those wishing to speak **FOR** or **AGAINST** the above item are invited to attend. If you are unable to attend and have comments you may send them to City of Lucas, Attention: City Secretary, 665 Country Club Road, Lucas, Texas 75002, email shenderson@lucastexas.us and it will be presented at the hearing. If you have any questions about the request, please contact Joe Hilbourn at jhilbourn@lucastexas.us.



APPEAL TO THE BOARD OF ADJUSTMENT CITY OF LUCAS

DATE: 2/6/2020

FEE: \$450.00

APPEAL # _____

SUBMITTED BY: Name: Robin Phillips & Joan Phillips
Address: 2020 SNIDER LANE
City: LUCAS State: TX Zip: 75002
Phone: [REDACTED]

FILING DEADLINE: An appeal shall be filed with the Board within ten (10) days after the date of decision of the Enforcing Officer. Every appeal shall be filed with the City Secretary no later than fifteen (15) days prior to the scheduled Board meeting. When the filing deadline falls on a holiday, the following workday shall be observed as the filing deadline.

TYPES OF APPEALS: Please check the type of appeal you are filing. The Board shall consider two types of appeals authorized under Article 1011G, Revised Civil Statutes of Texas, as amended:

1. For a special exception for use or development of property on which the Board is required to act.
2. For a variance from the literal enforcement of the Ordinance in order to achieve a reasonable development of property.

BRIEFLY DESCRIBE YOUR APPEAL:

my double carport was destroyed by a
Fallen tree and I am requesting a Permit to replace this structure in the
same location. I am planning to replace this structure with a new
structure very similar to the one depicted in Attachment 2 & 3, in the location
shown in Attachment 1. I have always parked my vehicles in this location as
it is at the end of my driveway and is in close proximity to the garage
entrance to the house. Any other options would conflict with the established
ingress and egress to the barn and home as well as the existing power pole,
power lines, and fences. See Attachments 4, 5, 6.

PLEASE NOTE: Contact City Secretary for proper filing procedures. If applicant fails to appear without notice, the Board may require the applicant to re-file appeal.

EXPIRATION OF GRANDTED APPEAL: Approval of any appeal shall expire 90 days after the Board's decision unless authorized construction or occupancy permits have been obtained, or unless a greater time is requested in the application and is authorized by the Board. Any approval may be granted one extension of an additional 90 days on written request filed with the Board before expiration of original approval. The time limit for every granted appeal shall commence on the first day of the month succeeding the month in which the Board renders its decision.

SIGNATURE OF PERSON FILING FOR APPEAL:

Robert Phillips

DECISION OF THE BOARD: _____

DATE: 2/6/20

If not granted by the Board, state reason why:

CHAIRMAN

**CITY SECRETARY CHECK LIST
BOARD OF ADJUSTMENT
APPLICATIONS FOR VARIANCE**

	DATE
APPLICATION FILLED OUT	_____
FEE COLLECTED - \$300.00	_____
SET DATE FOR HEARING	_____
PUBLISH NOTICE (10 DAYS PRIOR TO HEARING DATE)	_____
NOTIFY BOARD OF ADJUSTMENT MEMBERS (MEMO)	_____
NOTIFY APPROPRIATE CITY STAFF & COUNCIL LAISON PERSON	_____
PREPARE & SEND MEETING AGENDA, LAST MEETING MINUTES & APPEAL BACK-UP INFO TO MEMBERS	_____
NOTIFY ADJACENT PROPERTY OWNERS & APPLICANT	_____
POST AGENDA 72 HOURS IN ADVANCE	_____
HOLD HEARING	_____
ADVISE APPROPRIATE PARTIES OF RESULTS	_____
PREPARE MINUTES	_____

Sec. 14.04.175 Repairs

Repairs and alterations may be made to a nonconforming building provided that no structural alterations or extensions shall be made except those required by law or ordinance unless the building is changed to a conforming use. (1995 Code, sec. 9-184)

Sec. 14.04.176 Nonconforming use not to be extended or rebuilt

A nonconforming use shall not be extended or rebuilt in case of obsolescence or total destruction by fire or other causes. In the case of partial destruction by fire or other causes not exceeding fifty percent (50%) of its value, the building inspector shall issue a permit for reconstruction. If destruction is greater than fifty percent (50%) of its value, the board of adjustment may grant a permit for repair or replacement after public hearing and having due regard for the property rights of the persons affected when considered in the light of public welfare and the character of the areas surrounding the designated nonconforming use and the purposes of this chapter. (1995 Code, sec. 9-185)

ORIGINAL STRUCTURE



Attachment 1 →



Attachment 2



Attachment 3



Attachment 4



Attachment 5

CORNER BEST FROM ORIGINAL
STRUCTURES

DRIVE-THROUGH gate to barn

Pole AND POWER SERVICE line to home

ORIGINAL Double CARPORT



DRIVEWAY

SNIDER LANE

ATTACHMENT 6

Location Map

2020 Snider





City of Lucas
Board of Adjustments Agenda Request
March 9, 2020

Item No. 03

Requester: City Secretary Stacy Henderson

Agenda Item Request

Consider approval of the minutes of the December 18, 2019 Board of Adjustments meeting.

Background Information

NA

Attachments/Supporting Documentation

1. Minutes from the December 18, 2019 Board of Adjustments meeting.

Budget/Financial Impact

NA

Recommendation

NA

Motion

I make a motion to approve/deny the minutes from the December 18, 2019 Board of Adjustments meeting as presented.

City of Lucas
Board of Adjustment Meeting
December 18, 2019
6:00 PM
City Hall – 665 Country Club Road – Lucas, Texas

Minutes

Call to Order

Chairman Bierman called the meeting to order at 6:04 p.m.

Members Present:

Chairman Chris Bierman
James Foster
Brian Blythe
Ron Poteete
Brenda Rizos, Alternate
Michael Dunn, Alternate

Staff Present:

City Manager Joni Clarke
Development Services Director Joe Hilbourn
City Secretary Stacy Henderson

City Council Liaison:

Mayor Pro Tem Kathleen Peele

Member Absent:

Tom Redman

It was determined that a quorum was present and Chairman Bierman led the Pledge of Allegiance.

Chairman Bierman identified all witnesses that would be presenting before the Board, including City staff members, and conducted the swearing in process for all witnesses. Chairman Bierman also noted that Alternate Member Brenda Rizos would be serving as a voting member due to the vacancy of a regular member position.

Public Hearing Agenda

- 1. Public hearing to consider the variance request by Michael Bailey, 5 Edgefield Lane for a variance from the literal interpretation of the City's Code of Ordinances to allow a fence located within the side and rear yard setbacks that is less than 50% see through for a parcel of land located at 5 Edgefield Lane, located in Lucas Country Estates #2 (Unrecorded), Lot 3 being all of a 2-acre tract of land in the City of Lucas, Texas.**

Development Services Director Joe Hilbourn reviewed the request explaining that per the City's Code of Ordinances, Section 14.104.176 there was no requirement to prove a hardship when requesting a variance for a fence. Mr. Hilbourn noted that a fence was on the property previously and was dilapidated. The property owner is requesting to replace that portion of the fence as there is a concern about keeping the children safe from the pond on the neighboring property. Mr. Hilbourn stated that the Board of Adjustment may not grant an adjustment for an ADA accommodation;

however, the Board may grant a variance if they choose based on replacing more than 50% of a dilapidated fence. For that reason, staff would recommend approval of the fence variance.

Chairman Bierman opened the public hearing at 6:10 pm.

The following individuals came forward to speak:

Michael Bailey, property owner at 5 Edgefield advised the Board that there was previously a fence between properties that was constructed of barbed wire and metal posts, that had fallen into disrepair and become dilapidated. Mr. Bailey removed the dilapidated fence and desired to build a new privacy fence to improve aesthetic value, property value, and to address safety concerns because of an exposed pond on the neighboring property. Mr. Bailey stated that a fence was needed as his home directly faces the neighbor's property and the existing pond. Mr. Bailey stated that the primary reason for requesting the variance was to accommodate the safety of his children.

The Board discussed with Mr. Bailey the location of the fence, setback location and height.

Brad Tucker, 3 Edgefield stated that the pond was located on his property and he was in favor of the variance request as it would add more privacy to their property since the front of Mr. Bailey's faces their home and a separation between the properties was needed.

David Eberwine, 270 Holly Lane expressed concerns with changing flow of water. He stated that currently water flows onto his property from the two neighbors during heavy rain and he did not want to create additional concerns.

Chairman Bierman read into the record emails received from Larry Bowman and Diane Grisham, neighbors of 5 Edgefield that were in favor of the variance request.

There being no further public comment, the public hearing was closed at 6:34 pm.

The Board discussed the unique layout of the home on the lot, as well as the front setback and side yard setbacks, with the front yard setback being 50 feet, and the side yard setback being 20 feet.

MOTION: A motion was made by Chairman Bierman, seconded by Mr. Poteete to approve the variance requested by Michael Bailey of 5 Edgefield Lane to allow a fence located within the side and rear yard setbacks on the south property lines that is less than 50% see through for a parcel of land located at 5 Edgefield Lane. The motion to approve passed unanimously by a 6 to 0 vote.

Regular Agenda

2. Consider approval of the minutes of the August 13, 2019 Board of Adjustments meeting.

MOTION: A motion was made by Ms. Rizos, seconded by Mr. Foster to approve the minutes as submitted. The motion passed unanimously by a 6 to 0 vote.

Executive Session Agenda

3. Executive Session.

An Executive Session did not occur at this meeting.

4. Adjournment.

Chairman Bierman adjourned the meeting at 6:46 pm.

Chris Bierman, Chairman

Stacy Henderson, City Secretary