



**City of Lucas
Board of Adjustment
Video Conference Meeting
August 25, 2020
6:00 PM**

City Hall – 665 Country Club Road – Lucas, Texas

Minutes

Call to Order

Chairman Bierman called the meeting to order at 6:00 p.m. and noted that Alternate Member Michael Dunn would be serving as a voting member.

Members Present:

Chairman Chris Bierman
Ron Poteete
Tom Redman
Michael Dunn, Alternate Member

Staff Present:

City Manager Joni Clarke
Development Services Director Joe Hilbourn
City Secretary Stacy Henderson
Courtney Morris, City Attorney

Absent:

Brian Blythe
James Foster
Brenda Rizos, Alternate Member

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.

Public Hearing Agenda

- 1. Public hearing to consider the request by Tommy and Wendy Adams to rebuild a home that was destroyed by fire that does not meet the City of Lucas Code of Ordinances and continue a nonconforming use, that includes (1) the number of homes permitted on a single family lot within the R-2 zoning district, (2) the minimum size of the home, and (3) the required side yard setbacks for a parcel of land located in the John S. Thompson Survey, Abs A0893, Tract 2, being all of a 5.0-acres, otherwise known as 1764 Shady Lane, Lucas Texas.**

Development Services Director Joe Hilbourn gave a presentation noting that a home on the owners property was destroyed by fire. The property is zoned R-2 that allows one single family home on a residential lot, requiring the minimum size of a home to be 2,000 square feet, and a minimum side yard setback of 20 feet. Mr. Hilbourn noted that the applicant was requesting the following nonconforming uses to be allowed:

1. Reconstruct the nonconforming residential structure
2. Construction of a nonconforming 1,368 square foot residential structure
3. Continue to use the nonconforming 10-foot side yard setback

Mr. Hilbourn discussed Section 14.04.176 of the City's Code of Ordinances that states "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".

Chairman Bierman asked if the structure was completely removed. Mr. Hilbourn responded that the only structure remaining was the septic system, water meter and electric meter. The foundation had been removed.

The Board discussed that there were currently four homes on the property consisting of 5-acres. Three homes were rented, and one home was the main residence.

The Board discussed whether setbacks could be met by placing the home elsewhere on the property. The applicant stated that they wanted to rebuild where existing utilities were located.

Mr. Hilbourn noted that a permit could have been issued to rebuild the home if it had been only 50 percent affected.

Chairman Bierman opened the public hearing at 6:20 pm.

Tommy and Wendy Adams, property owners, stated that he would try and meet setback requirements by reducing the size of the home. Ms. Adams explained that the house did not burn completely, but because it was a hazard, they removed the remaining structure. Ms. Adams stated that the home needs to be built to ADA standards in order to accommodate their parents, and the other homes on their property do not meet those standards.

The Board discussed possibly renovating one of the other homes. Mr. Hilbourn stated that the home would have to be brought into current code compliance.

There being no one else wishing to speak, the public hearing was closed at 6:38 pm.

Chairman Bierman expressed his opinion that the applicant should be able to rebuild their home due to the fire event. The character of the area with some of the surrounding lots also having similar nonconforming uses and more than one home on the lot warrants approval.

Mr. Dunn also expressed his opinion of the applicant being able to rebuild their home due to the fire that was beyond their control, but he would like to see the home meet the current size requirements if constructed.

Mr. Redman noted that the property was purchased with nonconforming uses, and when unfortunate events occur, the owner is required to bring the property into compliance. Mr. Redman stated that because of the multiple homes on the lot, its constraining where the owner can rebuild his home and the footprint size. Mr. Redman noted his opposition to approving the request.

The Board asked the City Attorney if the request meets hardship requirements. Ms. Morris explained that the property rights of the person affected, public welfare, and the character of the area around the use can determine if a variance can be approved in this instance. When declaring a hardship, factors to consider include it was self-imposed.

Mr. Poteete discussed the number of houses on the 5-acre tract and its noncompliance with City codes and the Comprehensive Plan. Mr. Poteete noted that if several of the other homes were removed, the main structure could be rebuilt.

The Board discussed at length the number of homes on the property, the noncompliance status, removal of existing homes on the property, and if they should be allowed to rebuild given the number of existing homes on their lot.

MOTION: A motion was made by Chairman Bierman, seconded by Mr. Dunn to approve rebuilding a home that was destroyed by fire to allow the following: (1) reconstruct the nonconforming residential structure, (2) construction of a nonconforming 1,368 square foot residential structure, and (3) be allowed to continue to use the nonconforming 10-foot side yard setback for the property located at 1764 Shady Lane. The motion failed for lack of majority with Mr. Redman and Mr. Poteete voting in opposition. The motion failed by a 2 to 2 vote.

Regular Agenda

2. Consider approval of the minutes of the July 15, 2020 Board of Adjustments meeting.

MOTION: A motion was made by Chairman Bierman, seconded by Mr. Poteete to approve the minutes as presented. The motion passed unanimously by a 5 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 7:50 pm.

Chris Bierman
Chris Bierman, Chairman

*for Chris
Bierman*

Stacy Henderson
Stacy Henderson, City Secretary

