

MINUTES
of the
BOARD OF ADJUSTMENTS
OF THE VILLAGE OF VOLENTE, TEXAS
WEDNESDAY, NOVEMBER 12, 2014 at 6:00 P.M.
City Hall, 16100 Wharf Cove, Volente, Texas.

1. Open Regular Meeting.
Mike Gold, Chair, calls the meeting to order at 6:00 p.m.
2. Call Roll.
Julia Vicars, Acting City Secretary, called roll. Chair Mike Gold, Board Members Roe Fleenor, Gary Cowsert, Richard Rocloux, and Joe Lamoreax are present. Board Member James Jordan absent.
3. Approval of Meeting Minutes for October 15, 2014.
Roe Fleenor makes a motion to approve. Seconded by Joe Lamoreaux. Carries unanimously.
4. Continuation of the Public Hearing for a variance request from Lori and Scott Ratcliffe regarding side yard setback for 15757 Booth Circle, Volente, Texas 78641. Reference Zoning Ordinance Section 30.109, (i) Height and Placement Requirements, and Chart 1 page 32).
 - a. Staff Presentation.
Barbara Wilson, City Administrator, details the visual representation of the placement of the well, the floodplain, the septic field, and the trees on the property. She also details the tree survey and what is required of the tree permit to remove trees on the property. Walks the Board through the pictures of the property and how they relate to the plat to obtain a general idea of the existing encroachments and the neighboring properties' proximity to the Applicant's house. Barbara then shows the differences between the existing site conditions and what would be the new site conditions.

Mike Gold, Chair, thanks Barbara for her presentation.
 - b. Applicants Comments.
Lori Ratcliffe, Applicant, states that the new house would be further from the water than the existing structure is. Adding that pulling the house back actually means they have lost some of their view, so view is not the main objective behind her request.

Mike Gold, Chair, asks of the applicant if the list of clauses or expectations that was given to her at the close of the last meeting was taken into consideration for preparing for this meeting.

Applicant responds that when she became aware that the house was in the floodplain she contacted the Village offices and she was given a detailed list at that time (last

March) of what would be required for her building. Since then, things have changed. She adds that she attempted due diligence and did not go into this process blindly. States she has never lived in a floodplain or dealt with FEMA or LCRA, so there is a learning curve. The applicant references the letter to the Board (see attached) that addresses the points they were looking for, especially her desire to preserve some of the historical elements of the property. While there will still be an encroachment, the total amount will be reduced.

Board Member Gary Cowsert asks of the applicant was just planning a remodel of the house when they purchased.

Applicant responds yes.

Board Member Gary Cowsert asks what the final decision on the water tank was, in regards to the site plan.

Barbara Wilson, City Administrator, says the applicant is willing to move the water tank. Where it needed to be moved to could be a stipulation of the approval from BOA.

Mike Gold, Chair, opens the Public Hearing at 6:25 p.m.

c. Citizen's Comments

Allison Thrash, 15100 FM 2769:

Believes applicants should come to the Village and be aware of the regulations and requirements of Volente, rather than buy property and expecting exceptions to be granted before becoming knowledgeable on the Village's ordinances. She cautions the Board of Adjustments that granting this for the view would possibly set a precedence that it is acceptable to get permission to make changes solely for views. Lake views are not always a given with lake front properties. Applicants should do their due diligence before designing and building a property.

Judy Graci, 15775 Booth Circle:

The Village cannot enforce view corridors. View Corridors are under deed restrictions. She clarifies that talk of a lawsuit in regards to view corridors from Volente's past was instead a lawsuit for the Village to confirm that the applicant had indeed properly followed through with the stipulations of a granted variance.

5. Close Public Hearing.

Mike Gold, Chair, closes the Public Hearing at 6:43 p.m.

6. Consider and take possible action on variance request from Lori and Scott Ratcliffe regarding side yard setback for 15757 Booth Circle, Volente, Texas 78641. Reference Zoning Ordinance Section 30.109, (i) Height and Placement Requirements, and Chart 1 page 32).

- a. Staff and City Engineer question and answer. (City Engineer not present)

Board Member Richard Roeloux says that he discussed this variance with the Engineer after the last meeting and that he was hesitant to provide answers to questions, that the answers needed to instead come from the Applicant and Applicant's architect. The Board needs to address if there is a right or not a right to a property owner to obtain a lake view on their property. I believe the decision on this variance needs to be made without discussion of the view or gaining a better view. The septic limits some of the ability to relocate the house.

Barbara Wilson, City Administrator, says that there were at one time different Ordinances for different view corridors. The Board of Adjustments has to be careful because there are issues with defining a lake view and defining property rights regarding views and view corridors.

Board Member Roe Fleenor states that at the last meeting he had suggested that the view was a property owner's right. I do not think that the view supersedes any other justification or can be used to justify violations of the building code, but it is a consideration we should make. If we grant someone the right to move to gain a view, we have to ensure it doesn't encroach upon the neighbors. By moving the house, the applicant is not encroaching on any neighbor's view corridor. The purpose as a BOA is to decide if this variance is in the spirit of our community. Our ordinances are not all-encompassing and we need to use our best judgment for the community standards. This is an individual, not a major development, that wishes to move their house slightly, which is consistent with the houses around this property. Fear that making a decision would set a precedence should not limit the BOA's ability to work with an Applicant.

Board Member Gary Cowsert states he was hoping the applicant would come back with some hard facts about their hardship, adding he only is hearing about the view. States the applicant chose the new spot for the new structure solely for the view. The trees being lost are small enough that they do not qualify for the tree survey, but should be considered.

Chair, Mike Gold, says that the encroachment is being made smaller. The view is not the hardship, but it is a piece of the puzzle. The BOA is here to make exceptions where it makes sense, within the spirit of the Village of Volente. Is there enough justification to move the house as it stands before us? In my opinion, this is not an unrealistic request but we do have to be able to justify it and I think the view, while not a major justification, comes into play slightly.

Board Member Joe Lamoreaux says this is reducing the encroachment into the setbacks. The alternative, with the applicant doing nothing, would result in more total encroachment. This is an improvement.

Board Member Richard Roeloux says he would like for the disputes over view or no views being a right to be presented to Council to gain some insight and direction as to whether or not a view is a property owner's right. The Board of Adjustments should have clarification on whether to consider views or not consider views.

Board Member Richard Roeloux states that he thinks at this point the Board of Adjustments has enough information before it to make a decision without including the view. Adding that the job of the Board of Adjustments is not to deter people from moving to Volente, but instead to ensure that decisions are made in the spirit of Volente. It is the responsibility of the BOA to work with applicants and practical requests. Precedence is not set by one individual decision.

Board Member Joe Lamoreaux agrees, the BOA could make a decision without taking into effect the view corridor.

Mike Gold, Chair, says the applicant is coming closer to compliance. Adding that the uniqueness of this request is evident, but the hardship needs to be found.

Hardship

Moving the house back, towards the street, is impossible with the existing well, which has to be positioned 100 feet away from septic field.

Removing the rock walls would change the natural drainage.

The lot is not a cookie cutter square, which creates a smaller building space.

Neighboring homes create a hardship upon the applicant.

Uniqueness

Bringing the property into overall more compliance than the existing structure.

The Hollow, moving the house forward would be extremely difficult due to the drainage from both sides. Topography moving forward difficult.

Lessening the total encroachments, which brings it closer to compliance with existing ordinances.

Preserving small clusters of elm trees and oak trees.

Board Member Joe Lamoreaux makes a motion to grant the variance based on the points articulated with the stipulation that the water tank would not be placed in the front or side 15757 Booth Circle, which should be reflected on a new site plan.

Seconded by Roe Fleenor. Passes with Roe Fleenor, Richard Rocloux, Joe Lamoreaux and Mike Gold voting yes; Gary Cowesrt votes no.

7. Adjourn.

Board Member Roe Fleenor makes a motion to adjourn. Seconded by Gary Cowesrt, Carries unanimously. The meeting adjourns at 7:02 p.m.

Passed and approved this _____ day of _____, 20__.

Signed:

Mike Gold, Chair

Attest:

Julia Vicars, Acting City Secretary

DRAFT