



MINUTES OF THE
BOARD OF ADJUSTMENTS
OF THE VILLAGE OF VOLENTE, TEXAS
THURSDAY, APRIL 23, 2015 at 7:00 P.M.
City Hall, 16100 Wharf Cove, Volente, Texas

Members Present

Mike Gold, Chair
Gary Cowsert
Gary Murphy
James Jordan
Roe Fleenor

Also in Attendance

Marc Dickey, City Engineer

1. Open Regular Meeting.
Chair Mike Gold calls the meeting to order at 7:00 p.m.
2. Call Roll.
City Secretary Julia Vicars calls roll. A quorum is established.
3. Discussion and Possible Action on variance requests from Brian Baird, Authorized Agent for David Robinson, on the property at 8132 Joy Road for Variances from the Zoning Ordinance. Variances' Hearing will be on Encroachment into the Side Setbacks (Section 30.109(i)), Exceeding the 35-foot Height Limitation (Section 30.109 (i)), Walls within Front Setback in Excess of 1-foot Height (Section 33.341(A)(2)) and Encroachment of Retaining Walls into the 5-foot Utility Easements (Section 33.365)(C).
 - a. Staff Presentation.
Barbara Wilson, City Administrator states that the PUEs have been vacated by all utility companies. The walls within the front setback have been removed from the plan and are no longer a matter of consideration. For the Joy/Sharon, this is the only height variance request. The deed sets the side setbacks at ten feet. A ten foot setback would allow the applicant to fit in his house, garage, and septic field. She then illustrates how height is measured, given the current definition of height and structure.
 - b. City Engineer Presentation.
Marc Dickey, City Engineer, mentions that the existing house is within the setback and the existing garage is completely in the side setbacks. The new plans would not be unusual for the property or surrounding properties. The new house would have a very similar footprint to the existing structure, with little change to encroachment. States that because the pool is considered when measuring for height, then a variance is required. The grade is 730 at the low and 771 at the high. The average grade is then 750.5 with a max ridge of 785.5. So the variance would need to be granted for 5.26 feet.
Member James Jordan asks if the variance, if granted, should be for six foot to allow for variation in the construction process.
The Board agrees.

c. Applicants Comments.

David Robinson, applicant and owner of 8132 Joy Rd, gives a presentation detailing his justifications and hardships. The lot does not meet the R-1 zoning requirements of a one acre sized lot. The lot is .6 acres with 30% of the lot in the floodplain, which leaves very little buildable land. In addition to that, the lot is narrow and steep and populated with trees. States that this design saves a 20" oak tree in the front yard. The applicant adds that neighboring properties are at or inside of the ten foot original setbacks. His proposed encroachment is standard for the neighborhood. Mr. Robinson states that he has notified his neighbors of his plans, sought their input, and that everyone he has spoken to is accepting of his proposed house plans. The applicant adds that moving the house on the lot may not allow enough space for the desired home and a septic field, and that this design is the only one that achieves what the long-term resident is looking for as his dream house while still allowing for the required septic field. The pool, which has to go in now because of the topography of the lot, shares a foundation with the house. Because of this, it must be considered in measuring the height. Mr. Robinson adds that the granting of the variance would not be detrimental to the health, safety, welfare or property values of the surrounding neighbors.

d. Citizens Comments.

Nancy Carufel, 8138 Joy Rd, states that she saw the plans and measuring from the bottom of the pool is unreasonable. After asking the applicant why the pool could not be added later, and discussing it with him, she understands and is in full support of the granting of the variance. She feels this does not affect property values negatively.

Bill Connors, 8016 Lakeview, states that he has viewed the applicant's plans and is in support of the variance being granted. He adds that our ordinances, built as a one size fits all ordinance, creates hardships for our residents with smaller, narrow, or steep lots. Feels that since the applicant has lived in Volente for ten years and has worked hard to build his dream home, he deserves to. States that the Board of Adjustments does not need to grant a variance but instead correct poor administrative interpretation of our ordinances.

Doug Heineman, 8130 Joy Rd, states that in the spirit of Volente we should help our neighbors. Setbacks are meant to protect how we live and protect neighbors from encroaching onto our property. Ten feet is reasonable and fair, given the neighborhood. Adds that six feet for the height variance is reasonable and allows for some wiggle room with construction. As the next door neighbor to the applicant, he feels that Mr. Robinson has gone out of his way to inform his neighbors of his plans and look for their input on any issues they may have. Feels this variance should be granted for a resident who is working hard to come as close to compliance as his property will allow.

Roe Fleenor states that the R-1 Zoning use was intended to apply to larger one acre square lots and that the smaller and narrower lots are not able to meet the requirements laid out. States that this plan seems to be in line with the surrounding properties and the neighborhood.

Gary Murphy states that the purpose of the Board of Adjustments is to use common sense and help the citizens of Volente use and enjoy their property. States he is in support of granting a variance for the setbacks and the height.

Mike Gold mentions that he drove through the neighborhood and this is consistent with houses nearby. States that this does not seem to change the footprint of the neighborhood.

Gary Cowser adds that the dorpoff and placement of the house are enough to grant the variance. Feels that the way height is measured is a hardship for this property.

James Jordan states there could be unintended consequences with granting the variance for a rough number. States he is in support of granting the variance because of the width and slope of the property. Encourages the Board to add into their motion regarding height concrete numbers to ensure the granting of the variance is not abused.

Member Gary Cowsert makes a motion to approve the side setbacks to ten feet. Member Gary Murphy seconds. The motion carries unanimously.

Member James Jordan makes a motion to approve the variance for height stating that the applicant has requested 5.26 feet variance on height and Board of Adjustments is granting a relative six feet based on the measurements of the 730 MSL and ridge height of 771 MSL, which gives an average of 785.5 with 791.5 as the max elevation with the six foot tolerance granted by the Board of Adjustments based on the site plans presented to the board on this day and the current definitions of height and structure.

Chair Mike Gold thanks the applicant for his patience.

4. Discussion and Possible Action on Water Tanks within the Village of Volente.
Barbara Wilson, City Administrator reads aloud the definition of structure in the Zoning ordinance. States that because of the severe drought, the Village is recommending to residents the implementation and use of water tanks in case of a well running dry.
Marc Dickey, City Engineer states that if a treatment system is attached to the water tank, then, according to the definition in the ordinance, it becomes a structure and no longer portable.
Council Member Bill Connors states that Council is looking for input on the issue of water tanks. Because of the drought and low lake levels, this has become a hot issue. Given the current rules, structures cannot go in the setbacks. States that on Lakeview, nearly every house has a tank in the setback and because most of those properties have the back of their property in the floodplain, there is nowhere else to move the tank. States that water and access to water to drink from is a right that the city should not prevent by rules about tank placement. Asks that the Board of Adjustments simply state their opinion, collectively as a Board, for him to take back to Council.
 - a. Portable Structures.
 - b. Setbacks.
 - c. Size, Width, and Height Limitations.
 - d. Citizen Comments.

Discussion taken out of order with a, b, c, and d (above) discussed at once.

Mike Gold, Chair, states that based on definitions and based on the size a water tank would need to be to be useful, they are not portable structures in his opinion. States that a little more leeway to grant variances on water tanks should be allowed to make access to water easier for residents.

Member Roe Fleenor states that he is putting in a water tank and can empty the tank and move it around, which leads him to believe that they are a portable structure. States that the Village of Volente should encourage the use of tanks by its residents and that with a large property, the tank can be arranged to be left out of the setback. But with a smaller tank, it may be near impossible to not have the tank in the setbacks. States that aesthetics policing and telling property owners how to use their property is not in the spirit of Volente.

Member Gary Cowsert states that he has probably one of the smallest lots in the Village and his water tank is not in the setback. He agrees that the Village of Volente should encourage the use of tanks, but they should not be allowed to be set in the setbacks. Variances should be looked at case by case.

Member James Jordan states that we cannot live without water and it is a right to have access to water. Agrees that water tanks should be allowed with less regulation and less restriction but that they should only be in the setbacks within reason. Aesthetics could be determined in the variance process. People have to have water, and the Village needs to think about access to water in the context of the Community as a whole. When a variance is required, then the Board of Adjustments should look at it with the standpoint of a little more leniency towards water tanks. Feels that size and height limitations should be put in place depending on the size of the home and need of the household.

After discussion among the Board of Adjustments, they come to agreement that the restrictions on water tanks should be loose – less restrictive than a structure but not unrestricted. Water tanks possibly need a special definition.

5. Discussion and Possible Action on Lake Views within the Village of Volente as to whether or not they should be a protected right.

Member Roe Fleenor makes a motion to table. Seconded by Member Gary Cowsert. The motion carries with Roe Fleenor, Gary Cowsert, and Mike Gold voting aye. Gary Murphy and James Jordan abstain.

Gary Murphy makes a motion to re-open the motion and to discuss the topic of lake views. James Jordan seconds. Gary Cowsert, Mike Gold, Gary Murphy and James Jordan vote aye. Roe Fleenor votes nay. Roe Fleenor then rescinds his nay to vote aye. The agenda item is re-opened.

- a. Staff Presentation.

Barbara Wilson, City Administrator, gives a presentation of the past variance that spurred the inclusion of this agenda item. The applicant from a past variance insisted that lake views were a property owner's right.

- b. Citizen Comments.

None.

A straw vote commences for opinion as to whether or not a lake view is a protected right. 4/5 (80%) vote that lake views are not a protected right.

6. Adjourn.

The meeting adjourns at 9:45 p.m.

Passed and Approved this 14 day of May, 2015.

Signed: MG

Mike Gold, Chair of Board of Adjustments

JV

Julia Vicars, City Secretary