ZONING BOARD OF ADJUSTMENT MINUTES

On this the 12th day of August, 2013 the Zoning Board of Adjustment of the City of Rockport held a Meeting at 5:30 p.m. at the City Hall, 622 E. Market Street, Rockport, Texas and notice of meeting giving time, date and subject having been posted as described in V.T.C.A., Government Code § 551.041.

Members Present	Members Absent
Todd Pearson – Chairman	Frank Reilly - Alt. (EX)
Gilbert Jurenka – Vice Chairman	
Tom Kramer – Secretary	
Michael Mahoney	
Leo Villa	
Turf Overturf - Alt.	

Staff Members Present

Mike Henry, Director Building and Development
Angie West, Assistant to Director

Guest(s) Present

Three (3)

Call to Order

1. The meeting was called to order at approximately 5:30 p.m.

2. Public Hearing to consider a request by Mr. Robert J. Hewitt for relief from the zoning ordinance to property located at 401 S. Fulton Beach Rd., also known as Gibbs, Block 1, N Pt of & WFE, Acres 8.6983, Rockport, Aransas County, Texas. Purpose of the request is for a variance to the City's fence regulation regarding fences in the vision triangle.

Chairman Pearson asked for any comments from the public. Ms. Roberta Wiederman spoke on the subject.

There being no further citizens to be heard, Chairman Pearson closed the Public Hearing portion of the meeting.

3. Deliberate and act to approve the Tuesday, April 2, 2013 meeting minutes as presented.

Chairman Pearson asked for a motion to accept minutes from meeting held April 2, 2013. Member Mahoney moved to accept minutes as written. Member Kramer seconded the motion. All voted in favor – motion carried unanimously.

4. Deliberate and act on a request by Mr. Robert J. Hewitt for relief from the zoning ordinance to property located at 401 S. Fulton Beach Rd., also known as Gibbs, Block 1, N Pt of & WFE, Acres 8.6983, Rockport, Aransas County, Texas. Purpose of the request is for a variance to the City's fence regulation regarding fences in the vision triangle.

Chairman Pearson administered the Oath to staff member Mike Henry and to the defendant's attorney Mr. Micah Hatley.

Chairman Pearson asked staff to present this item. Mr. Henry stated; before you in your packet, there is the application that was filled out by the applicant. Mr. Micah Hatley is the attorney representing Mr. Hewitt tonight. The cover page informs you that we complied with the public hearing notice, publishing in the paper and we have notified person by mail within the area on this issue. So, we have met all the requirements of the ZBA Ordinance. There are numerous pictures in your packet we will discuss as we go through it. There is also an amended variance request from the O'Connor/Bremen interest in your packet. Also, Mr. Hatley has a power point presentation to go through with you at this time.

Mr. Hatley stepped to the podium and stated: My name is Micah Hatley and I do work for Mr. Hewitt at O'Connor/Bremen Interest, which is his family company. Mr. Hewitt's home is a frontage property on Fulton Beach Road. The closest intersection street is Henderson and the area in question is the corner of Henderson and Fulton Beach Road.

Mr. Hatley discussed the acreage of the property and the property in general. He discussed previous fences located on the property over the years of ownership. He discussed the city's ordinance and where their property line is in comparison to where they have placed the fence. He included pictures of properties in the area of similar fences to the fence they have replaced. He also discussed their specific fence and what possible changes they could make if the board would not grant the variance to the ordinance.

Chairman Pearson stated; the purpose of the ordinance is for the safety of the general public. There does seem to be an issue with the location of the fence and being able to see down Fulton Beach Road. You have to ease up past the stop sign to have a better view. Then you have an issue if someone would be turning left onto Henderson from Fulton Beach Road.

Mr. Hatley stated; the issue with Mr. Hewitt's fence is how far the street already sits from the street if you angled it at forty-five, that is more vision than anyone else will have at any corner that I have shown you. The real issue is safety and other fences I have shown you have less vision but are allowed because they are "grandfathered" in.

After some additional discussion by the board members, Chairman Pearson stated; let's go over the Findings of Fact sheet and answer those questions. After answering the Findings of Fact questions in the majority of non-affirmative answers, the board finds that the application for variance must be denied.

5. Orientation by staff for new Board members.

Chairman Pearson stated; do we need the old board members here Mike? Mr. Henry stated; no. Mr. Turf Overturf here is our newly appointed member. He took the place of Greg Harlan who did not re-up. For the benefit of the new member, I have some information to hand out to you that reinforces what is pertinent to ZBA activities. Mr. Overturf is the alternate member. His services are rendered when regular members cannot attend.

Here is a statement from legal counsel. He answered some questions that the board had on our Findings of Fact list. There are several questions on there that you all had some concerns with and I did too, when I read through them. Particularly numbers three and four. Number three says that the literal interpretation of the ordinance will deprive the applicant of rights commonly enjoyed by other properties in the same district under the ordinance. Number for is that proposed variance is in harmony with the ordinances general purpose and intent. If you take the code literally, all these things do not fit the mold. He had some concerns here. He is going to give us some language to insert for another purpose that is going to hint on the health, safety and welfare of the general public concerning this particular case. I will put this together in a packet and bring it back to the board in the near future before we take it to council. Mr. Henry further discussed the recommendations of the counsel.

The ZBA was organized within the last few years because Rockport did not have a Zoning Board of Adjustment. The Charter didn't call for it. Legal opinion is that you can still have a board that would not conflict with anything. It didn't necessarily have to be in the charter. ZBA's are actually part of the Zoning code. Most cities that have zoning ordinances have a section in there that deals with the ZBA. So, it doesn't have to be a charter provision per-say. I feel the ZBA is important because the public should have a legal body to go to for relief. After that, they would go to a court of law.

6. Adjournment.

Chairman Pearson stated that there is no further business on the agenda and asked for a motion to adjourn. Vice-Chairman Jurenka moved to adjourn. Member Villa seconded the motion. All voted in favor – motion carried unanimously. The meeting was adjourned at approximately 6:14 p.m.

Prepared By:

Angie West, Assistant to Director

Approved By:

Todd Pearson, Chairman

Tom Kramer, Secretary

City of Rockport
Board of Adjustment
Findings of Fact for Zoning Ordinance Variance

Applicant: ROBERT J. HEWITT Case Number: ~~33~~ 2013-009

Lot/Tract/: 8.6983 ACRES N PT OF & WFE BLK 1 GIBBS

Upon giving public notice and conducting a public hearing on this variance request in accordance with the City of Rockport Code of Ordinances, the Zoning Board of Adjustment adopts these specific, written findings as follows:

		YES	NO
1.	That there are special circumstances or conditions peculiar to the property involved; and		✓
2.	That the strict application of the terms of the Ordinance will impose upon the applicant unusual and practical difficulties or particular hardship.		✓
3.	That literal interpretation of the Ordinance will deprive the applicant of rights commonly enjoyed by other properties in the same district under the Ordinance; and		✓
4.	That the proposed variance is in harmony with the Ordinance's general purpose and intent; and		✓
5.	That the granting of the variance will not merely serve as a convenience to the applicant; and		✓
6.	That the granting of the variance will alleviate some demonstrable and unusual hardship or difficulty for the applicant; and		✓
7.	That granting the variance will not confer upon the applicant any special privilege that is denied by the Ordinance to other similarly-situated properties in the same district; and	✓	
8.	That the variance is in the public interest and will ensure that public substantial justice will be done.		✓
9.	That the surrounding property will be properly protected.	✓	
10.	Remaining regulations are adequate to govern the project.	✓	

All findings must be determined in the affirmative for the variance to be granted.

With 5 members present, and upon a vote of 0 for, 5 against, and 0 abstaining, the variance is hereby:

_____ **Granted** ✓ **Denied**

Presiding Officer of the Zoning Board of Adjustment

8/12/13
Date

EXHIBIT B

City of Rockport
Board of Adjustment
Sign-in Sheet

Applicant: ROBERT J. HEWITT

Case Number: ~~#33~~ 2013-009

Hearing Date: August 12, 2013

Name	Address
GIL JURENKA	210 DORAL LN. ROCKPORT
TOM KRAMER	1228 So. LIVE OAK ROCKPORT
Micah Hatley	401 S. Fulton Beach Rd. Rockport
Todd Pearson	1830 Bay Shore Dr
Roberta Wiedeman	307 S Fifth St. Rockport
"Turf" Overturf	1916 Picton Ln - Rockport
Leo Villa	520 So. Fugua
	2211 Cape Charles, RP. TX

EXHIBIT C