ZONING BOARD OF ADJUSTMENT MINUTES

On this the 21st day of October 21, 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

Todd Pearson – Chairman
Gilbert Jurenka – Vice Chairman
Tom Kramer – Secretary
Michael Mahoney
Turf Overturf (Alt.) – (Present)

Members Absent

Leo Villa (UN-EX.)
Frank Reilly (Alt.) – (Present)

Staff Members Present

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

Guest(s) Present

Seven (7)

Call to Order

1. Called meeting to order at approximately 5:30 p.m.

2. Public Hearing to consider a request from Joy Caffey for relief from the zoning ordinance to property located at 1615 S. Water Street; also known as Lot 4 & WFE, Block 434, Manning Addition, Rockport, Texas. Purpose of the request is for a variance to the City's zoning regulations regarding side yard set-backs for development to an existing structure.

Chairman Pearson asked for comments from the audience.

Danny Kucera spoke from the audience. My wife and I own the home at 1613 S. Water St. which would be the most affected by this variance. It is just to the south (of 1615 S. Water St.). We are fulltime residents and are opposed to the variance for the following reasons: the existing structure that she (Ms. Caffey) wants to build on is built at an angle on the property line with the back of that structure approximately 4 feet 2 inches from the property line and then it angles closer at the front of the property up to 2 feet 10 inches. There is an existing slab there right now. These measurements are the best we could come up with the drawings that were furnished to us. They were hard to read drawings. We feel this would be too close and also the new addition would be over 30 feet tall and we are guessing 30 to 35 feet tall. This would be an imposition on our privacy, our view, the airflow and our property value would suffer as a result. The new addition should be required to follow the 5 foot setback. On the north side of our home, we have

the Balboa Courts. They are less than 2 and ½ feet. Their roofline sticks over onto our property. It's only one story tall. We are getting sandwiched in there. Our home complies with all the setbacks and in 2012 we added on two bedroom addition into the back of our house and we had to do it so far away from the back of the house, side yard setbacks, so far back from the easements and we did everything to code. We feel everyone should do the same. That is why these codes are written. Thank you.

Laura McBee spoke from the audience. I am located at 1623 S. Water St. which is the property that is adjacent to Ms. Caffey's property. I spoke with Mr. and Mrs. Kucera and I agreed that if I were in their shoes that I would not want to have a structure, especially a two story structure sitting so close to my lot line. I had to be a bad neighbor to Ms. Caffey but I just know if I were in their shoes I would not want that kind of encroachment on my property line. So, I would oppose the variance to change the code. I would like for her to adhere to the code that is required by the City.

Richard Rock spoke from the audience. I reside at 1635 S. Water St. and I'm torn here at this. I looked at Ms. Caffey's drawings that were drawn up by the architect and there was some doubt as to whether she was 2 foot 10 inches or 10 inches off the property (line). On the print that I saw, it wasn't clear but she could be as close as 10 inches from the property line. I would confer with the Kuceras and Ms. McBee that indeed, if it is that close, is should be set back.

Phillip Zimripa spoke from the audience. I just moved into the area a couple of months ago. I am at 1431 S. Magnolia. I have noticed how Rockport does work in the fact that it tries its best to beautify its city. What I see from what Joy is trying to do is trying to do her best. When buy property here we all look at the area and the possibilities. I myself have a property that has a contingency should any hurricane come and knock my property down I will have to rebuild 6 inches from the property line which I gladly will do. But I definitely looked at the property before I bought it. To me, that is not a factor. I love the beauty of the city and I think it's got great potential in growth. I don't see why Ms. Joy's little request will create any form of a problem. I'm sure she is going to comply with everything that is possible. She's had her good engineers look at the structure. I think it will beautify the area. It will help us. That is my view. Thank you.

There being no one else to speak, Chairman Pearson closed the public hearing.

3. Deliberate and act to approve the August 12, 2013 meeting minutes as presented.

Chairman Pearson passed on this item as the minutes were not prepared for this meeting.

4. Deliberate and act on a request from Joy Caffey for relief from the zoning ordinance to property located at 1615 S. Water Street; also known as Lot 4 & WFE, Block 434, Manning Addition, Rockport, Texas. Purpose of the request is for a variance regarding side yard set-backs for development to an existing structure.

Chairman Pearson administered the Oath to staff member Mike Henry and Ms. Joy Caffey.

Chairman Pearson asked staff to present this item. Mr. Henry stated; Ms. Caffey had turned in a

set of plans to the Building Department for permit. The plans were reviewed by staff and denied at that time because of the very fact that the side yard setback could not meet the existing zoning requirements of 5 feet. Ms. Caffey applied for an application to go before the ZBA and in doing so; she has turned in information and some pictures and plats to show you the circumstances she wants to rebuild on the property using the existing footprint of the foundation for the new building. The variances are 2.2 feet for the front right side yard setback and approximately .9 feet for the rear right side yard setback. The angle is an oblique. In a variance of approximately 6 feet distance for the storage shed from the main structure. We have got some plans showing a storage shed on the existing property. When she does her addition to the property, then that too will be encroaching on the setback of the distance of 10 feet separation distance. This is a dual request for the variance to the side yard and also to the back yard distance between the main house and the storage shed.

Joy Caffey stated; I have brought some displays. Can I show them to you? Chairman Pearson stated; yes. The Kuceras live here (on display). They are in violation with their porch because it sticks all the way out almost to the curb. They said I could not bring my porch out to here; that I might be able to bring it out 5 feet according to Mike Henry. This existing slab is renovations. It has the structure beams that surround it. My engineer had engineered the whole house addition for this structure to hold it and to use the existing slab. I have a very bad hardship that I can't do anything if I move it over. If I move it over 3 feet and I could not the existing beams. The structure is very sound; it has been here for over 53 years. I feel like it is grandfathered in because I have had it all these years. The moved in since me have maybe lived there 10 years. This has been grandfathered in for over 50 something years. I just hope y'all vote in favor that the variance request will be granted so that I can continue my construction project. I have been working on this for about a year and a half. After some additional explanation, Ms. Caffey concluded her presentation.

After some discussion by the board members, Chairman Pearson asked if anyone else would like to speak. One member of the audience asked to speak.

Chairman Pearson stated; because this is a quasi-judicial activity, then I need to swear you in if you are going to testify again. Do you swear the testimony you are about to give it the truth, the whole truth and nothing but the truth. Ms. McBee stated; yes. The only thing that I wanted to say is that as Joy's neighbor on the north side, I am not at all opposed to her rebuilding on her property. I encourage her to do that, I want her to do that. You all talked about the fact that these lots are very old. There have been pieces and parts of the lots that would have been grandfathered in. The Kuceras bought their property with the decking already there. I don't know if the decking was done in violation of the city code or not. I know when it was put in though; I remember when it was put in. I am sure that it is probably in violation. Joy's property that is adjacent to mine sits in violation. Her garage sits almost three feet over my property line. The point is that we all have properties in that area that years ago were built and they don't sit on the properties just right. I have no problems with her building whatever she wants to build as long as it stays within code and it does not violate code and it does not encroach on any of her surrounding neighbors. That is all I wanted to say.

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.

MOTION:
Chairman Pearson stated that there is no further business on the agenda asked for a motion to adjourn. Member Reilly moved to deny the request to grant a variance to the right side yard setback. Member Kramer seconded the motion. Four voted for denial, one voted against denial – motion carried.

5. Hear and deliberate on proposal to amend the Zoning Board of Adjustment regulations that will address health and safety issued related to board action.

Mr. Henry stated; Mr. Chairman and Board, in fact, some of your concerns will hopefully be addressed by these changes. These changes that are presented to you in ordinance draft and in the Finding of Facts chart that you all just got through going down through. These changes are suggested by legal counsel from a previous case heard before the board and reflect those concerns from both city staff and the board members. Such changes are directed towards specific language within the section 118.240 and section 118.242 with Code of Ordinances of the ZBA Ordinance rules. The Finding of Facts form has also got some changes to it. I will go through it with you now.

6. Hear and deliberate on orientation for new Board members.

Mr. Henry stated; Mr. Overturf is here and is coming on board as an alternate member. We welcome him aboard. Those of you who have re-signed for another year, we appreciate it. You have a very difficult task in listening to the pleas of the applicants as we heard tonight. I will try to help out any way I can over the next year to make a clear and valid presentation from these folks in their concerns.

7. Hear and deliberate on announcement of the retirement of the Building & Development Department Director.

Mr. Henry stated; this item speaks for itself. I am eligible for retirement and have been for quite some time and I put in my papers that January 31st will be my last day here with the city officially.

8. Adjournment.

MOTION:
Chairman Pearson stated that there is no further business on the agenda asked for a motion to adjourn. Member Reilly moved to adjourn. Member Kramer seconded the motion. All voted in favor – motion carried unanimously. The meeting was adjourned at approximately 6:16 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: Joy Caffey Case Number: 2013-010

Lot/Tract/: 1615 S. Water St., Manning, Blk 434, Lot 4 & WFE

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 4 for, 1 against, and 0 abstaining, the variance is hereby:

_____ **Granted** ✓ **Denied**

Presiding Officer of the Zoning Board of Adjustment

Date 10/21/13

EXHIBIT B