CITY OF ROCKPORT
ZONING BOARD OF ADJUSTMENT MINUTES
6:30 p.m., Tuesday, December 21, 2010
Rockport City Hall, 622 East Market Street

On this the 21st day of December, 2010 the Zoning Board of Adjustment of the City of Rockport held a Called Meeting at 6:30 p.m. at the City Hall, 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
Michael Mahoney
Tom Kramer
Jimmy Fowler
Gilbert Jurenka

MEMBERS ABSENT

Frank Riley (EX)
Greg Harlan (EX)

STAFF MEMBERS PRESENT

Mike Henry, Director Building and Development
Bill Walston, City Attorney
Mary Bellinger, Assistant to Director

GUEST PRESENT

Four (4)

I. CALL TO ORDER

Mr. Todd Pearson called the meeting to order at 6:30 p.m.

II. ITEMS FOR CONSIDERATION

A. Deliberate and take action to elect officers for the Board of the positions of (1) Chairman, (2) secretary and/or (3) other officers it may deem necessary (i.e. Vice Chairman) pursuant to Section 118-202 "Rules and Procedures of the Board" of the Code or Ordinances.

Mr. Todd Pearson asked if there was any discussion or nominations.

Motion: Michael Mahoney moved to elect Todd Person as Chairman. The motion was seconded by Mr. Kramer. All voted in favor - motion carried unanimously.

Motion: Michael Mahoney moved to elect Gilbert Jurenka as Vice-Chairman. The motion was seconded by Mr. Fowler. All voted in favor – motion carried unanimously.

Motion: Michael Mahoney moved to elect Tom Kramer as secretary. The motion was seconded by Vice-Chairman Jurenka. All voted in favor – motion carried unanimously.

B. Board to conduct drawing to determine terms of service pursuant to Section 118-201 "Members of the Board of Adjustment" for two members to sever a one year term and three members to serve a two year term.

Chairman Pearson conducted a drawing to determine terms of service as follows:

Terms for one (1) year are for Chairman Todd Person and Member Michael Mahoney.

Terms for two (2) years are for Vice-Chairman Gilbert Jurenka, Secretary Tom Kramer, and Member Jim Fowler.

C. Deliberate and take action to approve the Wednesday, November 17, 2010, Meeting Minutes as presented.

Chairman Pearson called for consideration of the minutes from the meeting held on Wednesday, November 17, 2010. Secretary Kramer moved to approve the minutes as written. Member Mahoney seconded the motion. All voted in favor - motion carried unanimously.

III. <u>PUBLIC HEARING</u> – The Zoning Board of Adjustment will conduct a Public Hearing to consider two requests for relief from the zoning ordinance to property located at 1210 Cedar Street. Purpose of the requests is (1) for a variance to building set-backs from a property line and (2) a variance to building separation from another building. Current owner, Tandy W. Wilkerson, Jr.

Chairman Pearson asked if there was anyone from the audience to speak. One member of the audience, John Brett, spoke to the board and indicated that due to the size of the lot they (Wilkerson) could not move the structure and that he (Brett) had no objections to the current structure's location.

Chairman Pearson asked if there were any other individuals wanting to speak? Hearing none, Chairman Pearson asked Mike Henry if he (Henry) had received any input from the public. Mr. Henry responded he (Henry) had not. City Attorney Walston indicted that a public notice was sent out to the affected property owners within two hundred (200) feet of the requested variance and none of the affected property owners responded.

Hearing no other comments, Chairman Pearson closed the Public Hearing.

Chairman Pearson then stated: Before we (the Zoning Board of Adjustment) get started I would like to remind the members of this board that we are a quasi-judicial process. The action we (ZBA) take will follow the proper rules of order. With this said any one testifying before this board will be sworn in under oath.

III. ITEMS FOR CONSIDERATION

A. Deliberate and take action on request for relief from the zoning ordinance to property located at 1210 Cedar Street for a variance to building set-backs from a property line as requested by owner representative Priscilla Oaker, for Owner; Tandy W. Wilkerson.

Chairman Pearson open by asking Mike Henry to give an overview of this request. City Attorney Walston asked the Chairman if he (Walston) should swear Mr. Henry in, at which point Chairman Pearson stated yes, please do. Attorney Walston then stated he could swear in all persons interested in speaking, at which point Mr. Mike Henry and Mrs. Priscilla Oaker both were sworn in.

Mr. Henry stated: As stated in the packet, on or about April 1st, 2010, it was found that construction was being done at 1210 Cedar Street. Mr. Henry continued: After further investigation it was discovered that no permit was obtained for this construction, therefore staff issued a cease and desist order. It was noted that more than fifty percent (50%) of construction was completed and also noted were violations regarding building set-backs to the side street and building separation from the main structure. Chairman Person asked if there were any thing else. Mr. Henry responded "no". Chairman Person asked for a motion.

Motion: Vice Chairman Jurenka moved. Member Mahoney seconded.

Attorney Walston stated; I'm not sure exactly what was moved on. At this point I (Walston) don't feel we need a motion as of yet, due to the fact that not all facts have been presented to the board. Chairman Pearson agreed and asked Mrs. Oaker to present.

Mrs. Oaker introduced herself and stated she is representing her son Tandy W Wilkerson Jr., owner of the property. Mrs. Oaker continued by thanking Mayor Charles J Wax, City Council Members, and Mike Henry for their time and efforts in helping her (Oaker) with this issue. I (Oaker) will keep this brief due to the fact that all members of this board have had an opportunity to review the materials presented. To summarize the old dilapidated

structure has been torn down and replaced by a newer structure. Mrs. Oaker continued; due to false information from the builder of the project and lack of understanding on my (Oaker) part we are here today. Mr. Henry stated to me (Oaker) that the new structure is not grandfathered, thus fore does not comply with the current set-backs. This lot size is only fifty-six feet (56') deep and with the utility easements, we (Oaker) can not meet the current set-backs. In my opinion the new structure meets or exceeds current building codes.

Chairman Pearson asked if there were any more questions or comments. Hearing none Chairman Pearson asked for a motion.

Motion: Secretary Kramer moved to grant the variance to building set-backs from a property line on property located at 1210 Cedar Street. Gilbert Jurenka seconded the motion.

Member Mahoney then asked the question; Mr. Henry; had the owner presented plans to the Building and Development department as such, would the plans been approved? Mr. Henry responded; "No, due to the fact it would not meet set-back standards". "If the plans had been submitted we (Building & Development) could have made adjustments accordingly before a permit was issued". Member Mahoney then asked; so if the documents were presented could the requirements have been met? Mr. Henry responded "yes".

After a brief discussion Chairman Pearson stated; we (ZBA) have a motion and a second. We need to vote, all those in favor of granting this variance to set-backs say "Aye". All voted in favor – motion carried unanimously.

B. Deliberate and take action on request for relief from the zoning ordinance to property located at 1210 Cedar Street for a variance to building separation from another building as requested by owner representative Priscilla Oaker, for owner; Tandy W. Wilkerson.

Chairman Pearson asked if there was any discussion. Hearing none, Chairman Pearson asked for a motion.

Motion: Vice Chairman Jurenka moved to grant a variance to building separation for the zoning ordinance to property located at 1210 Cedar Street. Member Mahoney seconded the motion.

Before a vote was taken, Mr. Henry stated the reason for the building separation is due to fire. The building code allows the structures to be closer, however the closer the structures get to one another the code requires fire resistance construction. Mr. Henry then asked the Board (ZBA) to amend the motion to include a requirement to have the applicant construct fire resistance material, according to the building code, on the wall closest to the main building.

Motion: Vice Chairman Jurenka moved to amend his motion for the variance to building separation on property located at 1210 Cedar Street, provided some type of fire resistance material, per building code, is used on the wall closest to the main building. Member Mahoney seconded the motion. All voted in favor – motion carried unanimously.

IV. ADJOURNMENT

Chairman Pearson stated that there is no further business on the agenda; therefore, this concludes the meeting. The meeting was adjourned at approximately 7:30 p.m.

Prepared By:

Mary Bellinger

Mary Bellinger, Assistant to Director

Approved By:

Todd Pearson, Chairman

Tom Kramer

Tom Kramer, Secretary

ZONING BOARD OF ADJUSTMENT
PUBLIC HEARING

NOTICE is hereby given that the City of Rockport Zoning Board of Adjustment will hold a Public Hearing on Tuesday, December 21, 2010 at 6:30 p.m., Rockport City Hall, 622 E. Market, Rockport, Texas, to consider two requests for relief from the zoning ordinance to property located at 1210 Cedar Street. Purpose of the requests is for a variance to building set-backs from a property line and a variance to building separation from another building. Current owner – Tandy W. Wilkerson, Jr.

The City encourages citizens to participate and make their views known at this Public Hearing. For further information on this request please contact the Building Department at (361) 790-1155. This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's office at (361) 729-2213 ext. 225 or FAX (361) 790-5966 or e-mail citysec@cityofrockport.com for further information. Braille is not available.

POSTED this the 30th day of November, 2010 on the bulletin boards at Rockport City Hall, 622 E. Market Street and Rockport City Hall Annex, 621 E. Market Street and on the webpage www.cityofrockport.com. **TIME: 5:00 p.m.** **NOTICES** sent to the applicant and to affected property owners within 200 feet of the subject property on Friday, December 3, 2010. **PUBLISHED** in the Saturday, December 4, 2010 edition of the *Rockport Pilot*.

CITY OF ROCKPORT, TEXAS

Irma G. Parker

Irma G. Parker, City Secretary

Removed from board
Date: 1-7-2011
By: Irma Parker