CITY OF ROCKPORT
ZONING BOARD OF ADJUSTMENT MINUTES
6:30 p.m., Tuesday, February 15, 2011
Rockport City Hall, 622 East Market Street

On this the 15th day of February 15, 2011 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, Chairman
Gilbert Jurenka, Vice-Chairman
Tom Kramer, Secretary
Jimmy Fowler
Michael Mahoney
Greg Harlan

MEMBERS ABSENT

Frank Riley (EX)

STAFF MEMBERS PRESENT

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

GUEST PRESENT

One (1)

I. CALL TO ORDER

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

II. PUBLIC HEARING – The Zoning Board of Adjustment will conduct a Public Hearing to consider a request from Rick James, acting as contractor /agent for property owner Alton Hackebeil, for relief from the zoning ordinance to property located at 1003 S Pearl Street. Purpose of the requests is for a variance to building set-backs from a side property line.

Chairman Pearson opened the Public Hearing, noting no one in the audience. Chairman Pearson closed the Public Hearing at approximately 6:32 p.m.

III. ITEMS FOR CONSIDERATION

A. Deliberate and take action to approve the Tuesday, December 21, 2010 Meeting Minutes as presented.

Chairman Pearson called for consideration of the minutes from the meeting held on Tuesday, December 21, 2010. Member Fowler moved to approve the minutes as written. Member Mahoney seconded the motion. All voted in favor - motion carried unanimously.

B. Deliberate and take action on a request from Rick James, acting as contractor/agent for property owner Alton Hackebeil, for relief from the zoning ordinance to property located at 1003 S. Pearl Street. Purpose of the request is for a variance to building set-backs from a side property line.

Chairman Pearson administered the Oath to Mr. Rick James and Mr. Mike Henry.

Chairman Pearson continued by asking Mr. Henry to introduce the subject. Mr. Henry stated: on or about January 12, 2011, Mr. James submitted an application for a building permit to our (City) inspector Gary Payne for review. Mr. James asked Mr. Payne if the plans would be accepted. Mr. Payne reviewed the plans and indicated to Mr. James they were not acceptable due to side yard set-back violations. Mr. Payne told Mr. James city ordinance requires a five (5) foot side yard set back. Mr. Henry continued; Mr. James plans fall short by approximately two (2) and one-half (½) feet.

Chairman Pearson asked Mr. James to address the Committee. Mr. James asked if all the members had received all the pictures of the purposed project. All members indicated yes. I (James) really don't have anything else to add at this time other than ask you (Zoning Board of Adjustment) for the set-back variance. Mr. James continued; all the houses beside Mr. Hackebeil were built by the same builder and all Mr. Hackebeil is asking is to have the same type of carport his (Hackebeil) neighbors have. Chairman Pearson asked if any of the members had anything to ask Mr. James.

Member Fowler asked; is there enough room for the AEP meter. Mr. James responded all utilities run along the back side of the house, therefore utilities would not be an issue.

Secretary Kramer stated; I drove by the property and it appears you (James) have already started. Mr. James responded; I put the post up at which point I (James) realized there was a problem and stopped the project. Secretary Kramer asked; was the additional concrete already there. Mr. James responded 'yes, the concrete was poured when the house was built'.

Member Fowler stated; we (ZBA) have a Findings of Fact for Zoning Ordinance Variance, which consist of 10 different findings. According to our (ZBA)

Ordinance, we (ZBA) must answer 'yes' all ten findings in order to grant a variance. I (Fowler) get to the first item and have to answer it 'no'.

Member Mahoney asked; let me make sure I understand; there is a total of seventeen (17) feet from the house to the property line is that correct? Mr. James responded; no, there is sixteen (16) feet, three (3) inches. Member Mahoney continued; sixteen (16) feet minus five (5) feet leaves eleven (11) feet and in my opinion, eleven (11) feet is plenty wide enough for a laundry room and to park a car. I (Mahoney) feel it is extremely important to have a five (5) foot set-back for safety concerns.

Chairman Pearson asked member Mahoney if he were making a motion. Mr. Henry stated; Mr. Chairman, I feel if we (ZBA) responded to each one of the Findings of Fact, it will make it easier to determine weather or not to grant this request. Chairman Pearson responded; you (Henry) are right. Chairman Pearson read each of the ten (10) findings (see attached). Chairman Pearson asked for a motion on the action of the findings.

Motion: Member Mahoney moved to deny the request for a variance based on negative responses to the Finding of Facts form for property located at 1003 S. Pearl Street. Member Fowler 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 7:00 p.m.

Prepared By:

Mary Bellinger

Mary Bellinger, 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: Rick James (Agent) Case Number: 2011-002

Lot/Tract/: Stewart, Block 5, Lot 1

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 _____ for, 5 against, and none abstaining, the variance is hereby:

_____ **Granted** ✓ **Denied**

Presiding Officer of the Zoning Board of Adjustment

2-15-11
Date

EXHIBIT B

City of Rockport
Board of Adjustment
Sign-in Sheet

Applicant: Rick James (Agent) Case Number: 2011-002

Hearing Date: 2/15/11

Name	Address
Tom Kraus	
GIL JURENKA	
Todd Pearson	
Jim Fowler	
Rick James	104 W. James
Greg Harlan	
Mike Mahoney by Mary Bellinger	

EXHIBIT C