CITY OF ROCKPORT
ZONING BOARD OF ADJUSTMENT MINUTES
5:00 p.m., Tuesday, March 15, 2011
Rockport City Hall, 622 East Market Street

On this the 15th day of March, 2011 the Zoning Board of Adjustment of the City of Rockport held a Called Meeting at 5:00 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
Tom Kramer, Secretary
Jimmy Fowler
Greg Harlan
Frank Riley

MEMBERS ABSENT

Gilbert Jurenka, Vice-Chairman (EX)
Michael Mahoney (EX)

STAFF MEMBERS PRESENT

Mike Henry, Director Building and Development
Mary Bellinger, Assistant to Director

GUEST PRESENT

Four (4)

I. CALL TO ORDER

Chairman Pearson called the meeting to order at 5:00 p.m.

II. PUBLIC HEARING – The Zoning Board of Adjustment will conduct a Public Hearing to consider a request from the Rockport/Fulton Area Chamber of Commerce for relief from the zoning ordinance to property located at 319 N. Broadway. Purpose of the requests is for a variance to building set-backs from a front property line.

Chairman Pearson opened the Public Hearing, noting no one in the audience. Chairman Pearson closed the Public Hearing at approximately 5:01 p.m.

III. ITEMS FOR CONSIDERATION

A. Deliberate and take action to approve the Tuesday, February 15, 2011 Meeting Minutes as presented.

Chairman Pearson called for consideration of the minutes from the meeting held on Tuesday, March 15, 2011. Chairman Pearson noted one correction. Member Riley moved to approve the minutes with a correction. Member Harlan seconded the motion. All voted in favor - motion carried unanimously.

B. Deliberate and take action on a request from the Rockport/Fulton Area Chamber of Commerce for relief from the zoning ordinance to property located at 319 N Broadway. Purpose of the request is for a variance to building set-backs from a front property line.

Chairman Pearson administered the Oath to Mr. Mike Henry, Mr. John Jackson, and Ms Diane Probst.

Chairman Pearson continued by asking Mr. Henry to introduce the subject, Mr. Henry stated: on or about February 14th, 2011 a building permit application was submitted to our (Building and Development) office and was denied to the Rockport/Fulton Chamber of Commerce for property located at 310 N Broadway. Mr. Henry continued: construction plans that were turned in failed to meet the set-backs from the front property line. There were some adjustments made along the Austin Street side, however still failed to meet the twenty (20) foot set-back from the front of the property line on the Broadway side. Zoning Ordinance 1027, Article 20, paragraph 20.2, requires a property set-back in a B-1 (General Business Dwelling District) to be at least twenty (20) feet back from the front property line. I (Henry) would like to add that the existing building which was built prior to the ordinance is currently in violation of the set-backs. With that said if this variance is granted it would alleviate two situations; one the existing building and two the new addition violations. As you (ZBA) can see this is a pie shape or odd shape lot and there isn't much you can do as far as improvements, unless you go up multiple stories. Mr. Henry stated; you (ZBA) have the Findings of Fact which must be filled out and answered affirmative to all questions to grant the variance.

Chairman Pearson asked have you (Henry) received any correspondence from any of the notices sent out. Mr. Henry responded no.

Chairman Pearson asked Mr. Jackson to present. Mr. Jackson stated; first I (Jackson) would like to thank this committee for having an ordinance like this, which has an expedience way of resolving issues like this one. Mr. Jackson stated: most of the new construction is for a visitor center. Mr. Jackson then stated; Master Planer, Mr. Bob Christian is responsible for the drawings with Richard Dias doing the construction. Mr. Jackson continued; it was shortly after contracting with Mr. Dias that the set-back violations were discovered. So I (Jackson) had a meeting at City Hall with Mayor C. J. Wax, City Manager Tom Blazek, Building Official Mike Henry, Public Works Director Billy Dick, County Surveyor Jerry Brundrett, Chamber President Diane Probst, Chamber Chairman Linda Pouyer, Building Contractor Richard Dias and myself, to discuss some possible solutions. We (Jackson) move the new addition more to the

Broadway side of the property and still could not comply with the set-backs. I (Jackson) was encouraged though, that I (Jackson) was told that I could bring this to the Zoning Board of Adjustment for a variance. So on behalf of the Rockport/Fulton Chamber I (Jackson) am asking for a variance to the City of Rockport's Ordinance regarding the twenty (20) foot front set-back from the property line in a B-1 (General Business Dwelling District). Mr. Jackson stated; I will be happy to answer any questions you (ZBA) might have.

Chairman Pearson asked if there were any questions and if Ms. Probst had anything else to add. Ms. Probst responded no. Member Riley asked; the existing building is not in compliance anyway is that right? Mr. Henry stated; that is correct. Chairman Pearson then stated; before we (ZBA) work through the Findings of Fact, does staff have any recommendations. Mr. Henry stated; looking at the hardship of the issue there are two (2) issues; one the shape of the lot would almost preclude any new development and the fact is, if it were a vacant piece of property then they (Chamber) would have know that it is an odd shape and make the plans conform. But the fact is, this is an existing building that already doesn't conform and two being the lot is pie shaped and the building is rectangular shape makes it difficult to do anything other than build up and with the age of the building I (Henry) don't believe the building would support a second story structure.

Member Riley asked; Mr. Henry where is the line between B-1 (General Business Dwelling District) and B-2 (Central Business District)? Mr. Henry responded; North Street where the old Western Auto is. Member Riley then stated; there are several structures in this area which do not comply due to the fact they were there prior to the ordinances.

Chairman Pearson stated; let's go over the Findings of Fact sheet and answer the findings (see attached)

Motion: Member Harlan moved to grant the request for waiver on property located at 319 N Broadway. Member Fowler seconded the motion. All voted in favor – motion carried unanimously.

C. Presentation and general discussion regarding the Building & Standards Commission (a.k.a.: Zoning Board of Adjustment) acting as Board of Appeals for the Electrical Code and the Building Codes.

Mr. Henry stated; the council as already acted on this and I (Henry) just want to keep things going in a positive manner so that if someone were to request a variance to a particular a ordinance they (requester) would have a board to go to. The Zoning Board of Adjustment was created because the City Council could no longer act as a judicial sounding board to approve variance and waivers to various ordinances. Mr. Henry continued; we (city) have other ordinances within the city

that pertains to land development that required the council to act as a board of appeals, namely the electrical code and the building code. The city has a prescriptive ordinance for electrical standards, which we (city) have; add a section that allows the ZBA (Zoning Board of Adjustment) to approve variances and/or waivers from the ordinance, this is also true for the building code.

D. Presentation and general discussion regarding procedures for the ZBA information packets.

Mr. Henry stated; this is just general information as to how we (building department) will handle any in coming request for a variance. Typically we (building) receive an application for a variance which requires us to post notices on the city bulletin boards, put notice in the paper, and notify property owners; within two hundred (200) feet of effected property. Packets are put together for the board members to pick up. Mr. Henry continued; well in the mean time someone approaches one of the members of a particular issue and you have no knowledge of the issue. With that said the procedure will be; any time we (building) receive an application for a variance we will notify each member of this board so you (ZBA) may pick up a copy of said application. This will give you (ZBA) knowledge of any up coming issues and also alert you of an up coming meeting.

IV. ADJOURNMENT

Chairman Pearson stated that there is no further business on the agenda asked for a motion to adjourn. Member Riley moved to adjourn. Member Harlan seconded the motion. All voted in favor – motion carried unanimously. The meeting was adjourned at approximately 5:35 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
Sign-in Sheet

Applicant: Rockport Fulton Area Chamber of Comm (Dian Probst) Case Number: 2011-003

Hearing Date: March 15, 2011

Name	Address
Todd Pearson	1830 Bay Shore Dr
GREG HARLAN	916 E. CEDAR ST.
F N. [illegible]	1915 Crescent Dr.
Jim Fowler	105 Whistler's Bend, Rockport
DIANE PROBST	404 BROADWAY, ROCKPORT TX 78382
John P. Jackson	2304 Harbor Drive Rockport, TX 78382
Lynda Pouyer	1309 Poinciana Rockport
KAREN MELLA	21 FLAMINGO Rd. 78382
[illegible]	1913 Crescent Dr.
Tom Kruse	1228 So. LIVE OAK ST.

EXHIBIT C

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

Applicant: Dian Provost (Rockport Fulton area Chamber of Comm.) Case Number: 2011-003

Lot/Tract/: Smith & Wood Reserve, Block B & Triangle ADJ to B

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 4 members present, and upon a vote of 4 for, 0 against, and _____ abstaining, the variance is hereby:

✓ **Granted** _____ **Denied**

Presiding Officer of the Zoning Board of Adjustment

Date 3/15/11

EXHIBIT B