CITY OF ROCKPORT
ZONING BOARD OF ADJUSTMENT MINUTES
6:30 p.m., Tuesday, May 3, 2011
Rockport City Hall, 622 East Market Street

On this the 3rd day of May, 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

MEMBERS ABSENT

Greg Harlan (EX)
Frank Riley (EX)

STAFF MEMBERS PRESENT

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

GUEST PRESENT

Five (5)

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 Madeleine J Legner for relief from the zoning ordinance to property located at 1105 S Paisano Street. Purpose of the requests is for a variance to fence height regulation.

Chairman Pearson opened the Public Hearing, noting two citizens in attendance. Chairman Pearson asked if either parties would like to address the board members; one indicated yes; my name is Diana Tchida and I live at 117 S Paisano. I (Tchida) do to have any particular issues with the Legner's fence, however I would like the members to know that approximately four (4) years ago I (Tchida) built an addition on my house and before it was done I had to have eleven permits, so my question is; if there was a permit for this fence this wouldn't be an issue would it? Chairman Pearson asked; is a permit required for this fence? Mr. Henry responded; no, if the fence were six (6) foot or under. The other

member in attendance (did not state name) stated; she had the same concerns as Mrs. Tchida, not with the fence but the with the fact that when they (property owners) do any kind of repair or remodel to their property they are required to obtain a permit and we (property owners) would like to know how this fence got pass that. Chairman Pearson responded; it is the responsibility of the property owner to secure a permit to do work. The unidentified attendee asked; so there was a permit secured. Chairman Pearson responded; no there was not. Mr. Henry stated; a permit was not required in a residential area only in a business or an industrial district. City attorney Bill Walston stated; a permit is required if the fence is over six (6) feet.

Chairman Pearson then asked if there were any other questions or comments. Hearing none Chairman Pearson closed the Public Hearing.

III. ITEMS FOR CONSIDERATION

A. Deliberate and take action to approve the Tuesday, March 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 a few corrections. Member Fowler moved to approve the minutes with corrections. Member Mahoney seconded the motion. All voted in favor - motion carried unanimously.

B. Deliberate and take action on a request from Madeleine J Legner for relief from the zoning ordinance to property located at 1105 S Paisano Street. Purpose of the requests is for a variance to fence height regulation.

Chairman Pearson administered the Oath to Mr. Mike Henry, and Mrs. Madeleine Legner.

Chairman Pearson continued by asking Mr. Henry to introduce the subject. Mr. Henry stated; on or about March, Code Enforcement officer observed a fence erected behind Bluebird which is located directly behind Paisano. Mr. Henry continued; you can not see the fence from Paisano Street, you can only see it from Bluebird, which you (ZBA) can see by the pictures in your packets. There was an existing fence and the Legner's fence is directly behind the existing fence which is made of new wood and a couple of feet higher. We (code enforcement) sent a letter on March 30th, 2011 to the Legner's, underling Section 22.2, Article 22, of the Zoning Ordinance that the fence was indeed in violation of the ordinance. Mr. Henry stated; under the ordinance fences in residential areas are to be no higher than six (6) feet, eight (8) feet in commercial, and ten (10) feet in industrial. The Legners at that point requested a variance to the fence ordinance.

Chairman Pearson asked Mrs. Legner to present. Mrs. Legner stated; it was my unfortunate mistake. I (Legner) though the ordinance was eight (8) feet. There was a fence already there and it was five (5) feet. The main reason we want and needed the fence to be higher is there is a sewer lift station directly behind the fence and we (Legner) wanted obscure the view of the lift station and for privacy issues. The other reason we wanted a higher fence is one morning I (Legner) was in my back yard and a deer jumped over the fence and was trapped in my back yard. I (Legner) was in fear for my two (2) small dogs which were back there with me. I (Legner) would not have spent the time or money to put up the fence if I knew it where in violation of the ordinance. I got the idea from a neighbor who did the same thing with their fence, which I learned later that they got a variance to do so. The biggest issue is the lift station and with the guys back there doing their jobs the five (5) foot fence afforded us (Legner) no privacy. Member Mahoney asked; is that the lift station there. Mrs. Legner responded; yes, it is the top of the lift station. Member Mahoney asked; were you standing on the ground or were you standing on something when you took these pictures? Mrs. Legner responded; I was standing on the ground. Member Flower asked; is this, an eight (8) foot fence? Mrs. Legner responded; no it is seven (7) to seven and one half (7 1/2) feet in height.

Chairman Pearson asked; Mr. Henry, did code enforcement investigate this due to a complaint? Mr. Henry responded: yes someone did call to complain and asked if this fence was a standard height and we (code enforcement) responded; no, which prompted the investigation. Chairman Pearson then asked; Mr. Henry, did you receive any comments from the letters sent to the affected property owners? Mr. Henry responded; no.

After a brief discussion, Chairman Pearson stated; let's go over the Findings of Fact sheet and answer the findings (see attached).

Motion: Member Mahoney moved to grant the request for waiver on property located at 1105 S Paisano 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 asked for a motion to adjourn. Member Mahoney moved to adjourn. Member Jurenka seconded the motion. All voted in favor – motion carried unanimously. 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
Sign-in Sheet

Applicant: MADELEINE LEGNER Case Number: 2011-004

Hearing Date: May 3, 2011

Name	Address
Todd Pearson	1830 Bay Shore Dr
Tom [illegible]	1228 So. Live Oak St.
GIL JURENKA	210 DORAL LANE
Bill Walton	PO Box 1174 RKP
[illegible]	622 Market St.
Jim Fowler	105 whistlers Bend
[illegible]	2211 Cape Charles
Madeleine Legner	1105 S. Paisano Dr.
[illegible] Legner	1105 S. PAISANO DR.
Wanda Carpenter	1110 S. Paisano
Dione Tonedo	1117 S Paisano

EXHIBIT C

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

Applicant: MADELEINE LEGNER Case Number: 2011-004

Lot/Tract/: LOT 10, BLK 4, PENINSULA PARK UNIT 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 5 for, 0 against, and 0 abstaining, the variance is hereby:

✓ **Granted** _____ **Denied**

Presiding Officer of the Zoning Board of Adjustment

Date 5/3/11

EXHIBIT B