ZONING BOARD OF ADJUSTMENT MINUTES

On this the 24th day of February 2015, the Zoning board of Adjustments for 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	Members Absent
Todd Pearson – Chairman	Turf Overturf – (Alt. EX)
Gil Jurenka – Vice Chairman	Frank Reilly – (Alt. EX)
Tom Kramer – Secretary	
Mike Mahoney	
Leo Villa	

Staff Members Present

Mike Donoho, Director of Public Works
Frank Truitt, Building Inspector
Mary Bellinger, Assistant to Building Director

Guest(s) Present

Twenty two (22)

Call to Order

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

2. Public Hearing to consider a request from Benjamin Clark for relief from the zoning ordinance to property located at 510 Scott St., also known as Lot 4, Block 1, Taylor Estates (2.5 acres), Rockport, Aransas County, Texas, for a variance to the City's regulations regarding fences.

Chairman Pearson administered the Oath to staff members Mike Donoho, Frank Truitt, and to Mrs. Benjamin Clark and to Peter Morin.

Chairman Pearson asked Mrs. Clark to present. Mrs. Clark stated: the reason for the request is to extend the existing galvanized corrugated metal fence from 510 Scott St to include 580 Scott St., which belongs to my (Clark) mother-n-law. The intent is to create one family compound so that we might take care of my aging mother-n-law. This request is only for the material being used, the fence itself is incompliance. Mrs. Clark continued with a slide point presentation. At the conclusion of the presentation Chairman Pearson thanked Mrs. Clark.

Chairman Pearson asked if there were any comments from the citizens, at which time Mr. Richard Parris addressed the members of the Board, indicating he (Parris) was against the

request. Several other citizens in attendance also voiced their opposition to the request for the variance. Mrs. Clark's daughter, Jay Clark then stated: the fence makes me feel safe at night. Several citizens also indicated they agree with the fence and oppose anyone trying to censor someone else's rights to have a fence. Mr. Bill Coxwell stated: I am opposed to the fence; however I (Coxwell) have a question…is it okay to put a fence in the front of your house? Chairman Pearson responded: it is my understanding the ordinance does not prohibit a fence in the front yard. Member Mahoney stated: you may build a fence 25 feet from the front property line.

After a lengthy discussion Chairman Pearson asked if anyone else had any comments, hearing none Chairman Pearson closed the Public Hearing.

3. Public Hearing to consider a request from Peter Morin for relief from the zoning ordinance property located at 445 S. Fuqua St., also known as Lots 7 and 8, Block 148, Doughty & Mathis Division, Rockport, Aransas County, Texas, for a variance to the City's side yard setbacks.

Chairman Pearson asked Mr. Peter Morin to present. Mr. Morin stated: I own two (2) lots, 7 and 8 at 445 S Fuqua, lot 8 backs up to a closed right-of-way. It is my understanding the City does not have any plans to develop the right-of-way. Mr. Morin continued: my plan is to build a 27 x 30 garage on the back of lot 8. My plan is to build a house on lot 7 to sell and build another house on lot 8 for myself. The reason for the variance is lot 8 backs up to a paper right-of-way and the garage will violate the side setbacks.

Chairman Pearson asked if there were any comments from the citizens, at which time a citizen stated: I live next door to the north of Mr. Morin's property and my first concern is the future building takes up more space than allowed by your (City's) ordinance. My second concern is drainage; the overhang of his roof would flood my property. Also the driveway shown on the plans is encroaching onto the right-of-way. I am concerned with my privacy and noise levels.

Another citizen spoke indicating they have owned property next door for more than 30 years. I (citizen) mowed it as a child and his parents tried for several years to purchase the property from the city and were told no. Therefor I (citizen) am against this request.

After a lengthy discussion Chairman Pearson asked if anyone else had any comments, hearing none Chairman Pearson closed the Public Hearing.

4. Deliberate and act on the January 27, 2014 and October 13, 2014, regular meeting minutes.

   Chairman Pearson asked for a motion to accept minutes from the January 27, 2014 and October 13, 2014, meetings. Member Mahoney moved to accept minutes as written, member Villa second the motion. All voted in favor. Motion carries.

5. Deliberate and act on a request by Benjamin Clark for relief from the zoning ordinance to property located at 510 Scott St., also known as lot 4, Block 1, Taylor Estates (2.5 acres), Rockport, Aransas County, Texas, for a variance to the City's regulations regarding fences.

Chairman Pearson stated: we (ZBA) have heard from the applicant and citizens, do any of the members or staff have anything to add? Mr. Donoho responded; no sir. Member Mahoney responded; I wish they would paint it now, because it will rust over time. Member Villa asked: does this one piece of property have one owner? Mr. Clark's mother responded; I am the owner of 580 Scott St. They are separate lots however extending the fence will join the two properties and would be considered a family compound.

After a lengthy discussion Chairman Pearson stated; lets then answer the fact finding questions. All of the findings must be determined in the affirmative in order for the variance to be granted. Four (4) out of eleven (11) questions were answered "no".

Chairman Pearson asked for a vote; with five (5) members present, two (2) voted for granting the variance, three (3) voted against. Motion carries, Variance Denied.

6. Deliberate and act on a request by Peter Morin for relief from the zoning ordinance property located at 445 S. Fuqua St., also known as Lots 7 and 8, Block 148, Doughty & Mathis Division, Rockport, Aransas County, Texas, for a variance to the City's side yard setbacks.

Chairman Pearson asked: is it because of the property backing up to the right-of-way the reason for setback violations? Staff member Truitt responded: the applicant needs to show why his property is unique, to any other corner setback. Mr. Jurenka asked: does he need to be fifteen feet (15') from the property line? Mr. Truitt responded: ten feet (10').

After a lengthy discussion Chairman Pearson stated; lets then answer the fact finding questions. All of the findings must be determined in the affirmative in order for the variance to be granted. Eight (8) out of eleven (11) questions were answered "no".

Chairman Pearson asked for a vote; with five (5) members present, five (5) voted against. Motion carries, Variance Denied.

Adjournment

There being no further business, Chairman Pearson adjourned the meeting at approximately 6:15 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: Benjamin Clark Case Number: 2015-013

Lot/Tract: Lot 4, Block 1, Taylor Estates (2.5 acres)

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:

All of the following findings must be determined in the affirmative in order for the variance to be granted.

		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; and		
3.	Due to special conditions, a literal enforcement of the Zoning Ordinance would result in unnecessary hardship; 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 that is not based solely on expense or financial concerns; 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; and		✓
9.	That the surrounding property will be properly protected; and		
10.	That the variance will not establish, prolong, or preserve a condition that constitutes a risk to the health, safety or welfare of the public; and		
11.	That remaining regulations are adequate to govern the project.		

With 5 members present, and upon a vote of 2 for, 3 against, and _____ abstaining, the variance is hereby:

_____ **Granted** ✓ **Denied**

Presiding Officer of the Zoning Board of Adjustment

2/23/15
Date

(9)

City of Rockport
Board of Adjustment
Sign-in Sheet

Applicant: Benjamin Clark Case Number: 2015-013

Hearing Date: February 23, 2015

Name	Address
Sarah Clark	580 Scott St RpT
Jae Clark	510 Scott St Rpt
BENJAMEN CLARK	510 SCOTT ST. RPT.
KIMBER CLARK	510 Scott St. RPT
Mary L. Voss	607 Scott St RPT
Mrs. Ed Wiesner	Six C Seven Scott St
S Patchefsky	410 Traylor Blvd.
Holly Williams	601 Scott St.
Jim Kruse	S. Live Oak
JACK Megginson	106 Timer Ln. Loop
Karen Parris	602 Scott
Richard Parris	201 Timber Lane Loop
Robin & Christopher Rice	51 Lakeshore Cr.
Bill Coxwell	203 Timberlane Loop
Mike Parris	602 Scott St.

EXHIBIT C

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

Applicant: Peter Morin Case Number: 2015-014

Lot/Tract: Lots 7 & 8, Block 148, Doughty & Mathis

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:

All of the following findings must be determined in the affirmative in order for the variance to be granted.

		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; and		✓
3.	Due to special conditions, a literal enforcement of the Zoning Ordinance would result in unnecessary hardship; 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 that is not based solely on expense or financial concerns; 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; and		✓
9.	That the surrounding property will be properly protected; and		✓
10.	That the variance will not establish, prolong, or preserve a condition that constitutes a risk to the health, safety or welfare of the public; and	✓	
11.	That remaining regulations are adequate to govern the project.	✓	

With 5 members present, and upon a vote of 0 for, 5 against, and _____ abstaining, the variance is hereby:

_____ **Granted** ✓ **Denied**

Presiding Officer of the Zoning Board of Adjustment

Date 2/23/15

City of Rockport
Board of Adjustment
Sign-in Sheet

Applicant: Peter Morin Case Number: 2015-014

Hearing Date: 2-23-15

Name	Address
Barbara Watson	443 S. Fuqua St
Pete Morin	445 S. Fuqua St.
Raul M Soliz, Jr.	506 S Verne
Jo Ann Juarez	402 W Liberty
Maria Soliz	506 S. Verne St.
Victoria L Martinez	501 S Fuqua St.

EXHIBIT C