

**Board of Adjustment
December 8, 2009**

Board Members Present:

Randy Hart, Chairman
Mike Pirek
Joe Milkes
Greg Suttle
Edward Stankunas, Alternate

Staff Present

Victoria Huynh, Assistant City Attorney
Selso Mata, Building Official
Tony Han, Plan Review Supervisor
Robert Whitley, Code Compliance Representative
Diana Gallegos, Sr. Administrative Assistant

A public hearing of the Board of Adjustment was called to order by Chairman Randy Hard on Tuesday, December 8, 2009 at 3:07 p.m. in the Council Chamber of the Municipal Center. A quorum was present and notice of the meeting had been posted for time and manner required by law.

1. **Public Comments:** There were no public comments
2. **Approval of Minutes:** November 10, 2009

Mike Pirek made a motion got approve the minutes of November 10, 2009 as written. Greg Suttle seconded the motion. The motion was approved unanimously with a vote of 5/0

Chairman Hart admitted all records and testimony given into the official Board record.

3. **Appeal #09-23Z 2204 Plantation LN:** A request to vary Subsection 3.1002 (1) of the Zoning Ordinance number 2006-4-24 to:
 - a) allow an existing wrought iron gate to exceed the previously approved variance height of 78 inches by 11 inches for a total height of 89 inches (49 inches above the code's allowed maximum height of 40 inches); and its brick support columns to exceed the previously approved variance height of 78 inches by 12 inches for a total height of 90 inches (50 inches above the code's allowed maximum height of 40 inches); and,
 - b) allow an existing wrought iron gate to exceed the previously approved variance height of 78 inches by 24 inches for a total height of 102 inches (62 inches above the code's allowed maximum height of 40 inches); and its brick support columns to exceed the previously allowed variance height of 78 inches by 12 inches for a total height of 90 inches (50 inches above the code's allowed maximum height of 40 inches).

This appeal is requested by property owner Kelly Mitchell of VGA Leasing, L.P., and is represented by Justin Zuniga.

The Board examined the application and received a brief presentation from Robert Whitley, Code Compliance Representative

Mr. Justin Zuniga, representing the applicant, VGA Leasing, provided a detailed presentation of his appeal.

Mr. Zuniga testified that the fence was built according to the variance, and was completed in August of 09, however, when they built the gate, they were matching the other gates in the neighborhood and put an architectural arch on the gate.

At this time, Chairman Hart closed the public meeting for discussion of the Board.

No letters of opposition were received for this case.

Chairman Hart stated this situation is a little different, a variance was granted, however, the construction did not follow what the board approved. Based on the photos, it is a very nice fence and if the original variance application had contained the same measurements of what was actually built, he would have supported it at that time. Board members; Greg Suttle, Ed Stankunas, and Joe Milkes, stated they would support the approval of the request.

Mike Pirek agreed there appears to be other fences and gates that could be exceeding the height ordinance. But he has no information on those properties. Each case stands on its own, and according to the four points the Board of Adjustment must meet he does not see that there appears to be a hardship, nor special features of the lot, it is a very nice fence that fits with the neighborhood but there is not enough to grant a variance and he could not support this request.

After discussion, Chairman Hart made the motion to approve appeal #09-23Z located at 2204 Plantation Lane to allow the fence to remain as constructed. Mr. Suttle seconded the motion. The Board voted 4/1 in favor of the motion with Mr. Pirek casting the dissenting vote.

- 4. APPEAL # 09-24Z 8013 STONEHILL DR:** A request to vary Subsection 3.204 (8), Subsection 3.702 and Subsection 3.708 of the Zoning Ordinance number 2006-4-24 to:
- a) allow an accessory building located in a required rear yard to exceed the allowed maximum height of 10 feet by 1 foot for a total height of 11 feet (Subsections 3.204 (8) and 3.702); and,
 - b) allow an accessory building to encroach 6 feet into the required 25 foot rear yard setback for an overall reduced setback of 19 feet (Subsection 3.708).
- This appeal is requested by property owner Richard Curry.**

The Board examined the application and received a brief presentation from Robert Whitley, Code Compliance Representative.

No letters of opposition were received for this case.

Richard Curry, Property Owner, testified this pergola is for a shade structure only and was designed for aesthetics to make the structure visually appealing. He also testified that his home is deeper than his neighbors and he has less backyard than other around him and therefore their pergola/patio covers do not cross the building line.

Commissioner Hart closed the floor to public comment.

After discussion, the Board stated there were alternative ways that the applicant could design and build the pergola to meet the setback requirements. Chairman Hart opened the floor to public comment and gave the applicant the opportunity to withdraw this request to work with staff to explore alternative designs to meet code. Applicant, Richard Curry, requested to withdraw his variance request. Chairman Hart accepted this request.

5. **Election of Vice Chairman**

Randy Hart made the motion to approve Joe Milkes as Vice Chairman for the calendar year 2010. Gregg Suttle seconded the motion. The Board voted 5/0 in favor of Joe Milkes serving as Vice Chairman for 2010.

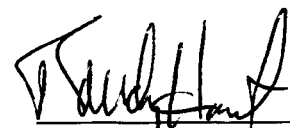
6. **Discussion and vote on whether to amend vice chairman nomination process in Board of Adjustment by-laws.**

The Board discussed possibly amending the by-law provision requiring the nomination of a vice chairperson to take place a month prior to the December meeting. With the holidays and only one meeting in November and December, this bylaw provision could be burdensome to require two separate meetings. The Board expressed interest in having the nomination and election take place in a single meeting and asked to see the proposed language at the next meeting. The Board also discussed about the possibility of having the nomination and election take place in August or September since the Board member's term begins in October and ends in September of the applicable year. The Board requested that language would like to see new language presented at the next BOA meeting.

Chairman Hart made the motion to table this item until the next Board meeting. Joe Milkes seconded the motion. The motion passed 5/0 to table this agenda item.

7. **Items for future agenda:** Staff has not received any appeals for the January 12, 2010 meeting; however the cutoff is not until December 18, 2009.

The public hearing adjourned at 4:06 P.M.


Randy Hart, Chairman