

Board of Adjustment

The Board of Adjustment met Wednesday, November 7, 2012 at 6:30 p.m. in the City Council Chambers, 1311 Chestnut Street, Bastrop, Texas.

1. Call to Order.

Dan Hays-Clark called the meeting to order at 6:32 p.m.

2. Roll call and confirmation of a quorum of Board members.

Blas Coy	- present
Michael Gibbons	- present
Dan Hays-Clark	- present
Debra Thorne-Francis	- present
Clifford Wright	- present
Drew Pickle	- absent (prior notice was given)
Herb Goldsmith	- present

3. Citizen's comments.

There were no citizen's comments.

4. Consideration and approval of the October 18, 2012, Board of Adjustment's workshop meeting minutes.

Blas Coy made a motion to approve the workshop meeting minutes of October 18, 2012. Seconded by Debra Thorne-Francis and the motion passed unanimously.

Michael Gibbons addressed the Board Chair, Dan Hays-Clark, stating he would be recusing himself from voting on public hearing items 6, 7, and 8 this evening.

5. Public Hearing: The Board of Adjustment will Convene a Public Hearing on Variance Request, BOAV 11:05 as follows:

Variance to Zoning Ordinance Section 38.2.B to allow the use of decomposed granite rather than asphalt or Portland cement binder pavement consistent with the City of Bastrop Construction Standards for the driveway. The subject property consists of +/- 0.466 acres on a Farm Lot, Block 18, West of Main Street commonly known as 1316 Wilson Street in an area zoned SF7, Single Family Residential within the city limits of Bastrop, Texas.

Melissa McCollum addressed the Board stating this variance is a continuation of the Applicant's previous request that came before the Board of Adjustment on December 7, 2011. She stated that at that time it was postponed by this Board, in order to allow an opportunity for the City Council to review and evaluate potential changes and amendments to the City's Code pertaining to the array of materials that would be appropriate for residential driveway construction. Mrs. McCollum stated our codes and regulations for this requirement were adopted by the City Council September 14, 1999. After several months of discussion by the Planning and Zoning Commission and City Council, action was taken by the Council on August 14, 2012, to not amend the City's Code, at this time for granite driveways. Therefore, as per the Code, the only materials that may be used for residential driveway construction continues to be

either 'asphalt' or 'Portland cement binder pavement.' Accordingly, the Applicant's continue to request that a variance be granted to allow them to use crushed red granite for the residential driveway at 1316 Wilson.

Judi Hoover addressed the Board stating they moved a structure onto this un-level lot in 2010 and restored that structure that was moved onto the lot. Mrs. Hoover stated when it rains, water from several surrounding locations will run towards and onto their property and has caused the south bank of the lot to erode. She stated the existing ravine has been there over 100 years and had to be reinforced by a retaining wall. Mrs. Hoover stated by having a crushed granite driveway, it will help absorb rain water that runs onto their property versus having a concrete or asphalt driveway in which the water would just stand. Mrs. Hoover stated having a crushed granite driveway would not impose any threat to neighboring properties and that there are several driveways of this sort along Wilson Street and speaks of several of those by name. Mrs. Hoover presented several photos to the Board of City streets with asphalt driveways and stated they feel the erosion would be better controlled with pervious cover.

Discussions were held between the Board members and Mr. and Mrs. Hoover regarding proper channels for variance requests, being in compliance with City codes, the grades of the streets and the suggestions presented by Gene Kruppa of Befco Engineering. The Hoover's stated they always felt a variance was an alternative to being out of compliance and feels they are cleaning up and clearing up the neighborhood in the development of their properties.

Mr. Joe Grady Tuck addressed the Board speaking in favor of the Applicant's request for the use of decomposed granite as a permeable cover. He stated there was an architect present to speak on permeable coverage as well. Mr. Tuck stated the neighborhood was in shambles with fifteen feet of bamboo on this lot that the City never maintained, and the Hoover's cleared the land, saved an old home by moving it onto the lot and restoring it, therefore getting rid of an eyesore.

Mr. Harley Levine addressed the Board stating he previously gave a presentation to the Planning and Zoning Commission on permeable versus non-permeable coverage; the advantages and disadvantages of the different types of driveway materials.

Mr. Bob Rogers addressed the Board stating he had attended both the Planning and Zoning meeting as well as the City Council meetings regarding granite driveways. Mr. Rogers did state that asphalt does not last forever and must be maintained, and that concrete is the best material for driveways.

Blas Coy asked Mr. Rogers when installing a crushed or decomposed granite driveway, should it be engineered and Mr. Rogers stated it should require an engineered installation. Mr. Rogers further stated the ravine should have concrete walls for support.

Mrs. Hoover addressed the Board regarding previous mention of their entire front yard being granite and she stated it is called zero landscaping.

Dan Hays-Clark closed the public hearing.

Dan Hays-Clark requested this be on the record; that as a designer in this town who has worked with historical homes for over 20 years, he is surprised the City has no ordinance allowing crushed granite driveways and we only allow concrete or asphalt; as there are many historical homes with grandfathered granite driveways. These were the reasons behind the request for

P&Z and Council to look at the ordinance again and research this ordinance to potentially allow decomposed/crushed granite driveways. He stated to the Board members they must base their findings in accordance with the existing ordinance based on the facts and criteria.

Blas Coy made a motion to deny the variance stating he does not feel any special circumstances or conditions exist, the site/property could support/use a permanent driving surface such as concrete or asphalt; nothing on the site/property prevents the placement of an appropriate driveway and a driveway of concrete or asphalt doesn't prohibit any property rights. At the time of permitting the applicant/owner understood the requirement for asphalt or concrete driveway, and cement and asphalt driveways provide a seamless connection to the street which limits the transfer of gravel particulates as gravel particulates have the potential to increase maintenance responsibilities to roadway and drainage systems. This property is not unique, in that it is currently being used as and is adjacent to residentially zoned properties.

Clifford Wright seconded the motion to deny the variance request. The vote went as follows:

Blas Coy	– deny
Clifford Wright	– deny
Debra Thorne-Francis	– deny
Herb Goldsmith	– deny
Dan Hays-Clark	– opposed to denial

The variance request was denied.

6. **Public Hearing: The Board of Adjustment will Convene a Public Hearing on Variance Request, BOAV 12:03 as follows:** Variance to Zoning Ordinance Sections 40.7.A.1, 40.7.A.2, 17.4.B.1 and 17.4.B.2. Section 40.7.A.1, to allow a detached accessory building in front of the main building. 40.7.A.2 and 17.4.B.2 to allow an interior side yard of 6 feet, where 10 feet is required. 17.4.B.1, to allow a front setback of 17 feet where 25 feet is required. The subject property consists of +/- 0.466 acres on a Farm Lot, Block 18, West of Main Street commonly known as 1316 Wilson Street in an area zoned SF7, Single Family Residential in the city limits of Bastrop, Texas.

Melissa addressed the Board stating the subject property is located on the west side of Wilson Street mid-block between Buttonwood and Farm Streets. She stated the garage in question has already been constructed by the Applicants' on the property and that the Applicants were cited twice of code violations concerning this garage during this past summer. Melissa stated the location of the garage varies from the Applicant's moving permit letter agreement.

Melissa stated these are actually three separate variances: 1) a variance to allow construction of a detached accessory building in front of the residential structure; 2) a variance to allow a front-yard setback that is proposed to be between from 17 feet to 12, depending on which survey is consulted, down from the 25 foot required setback, which is a total reduction of between 8 to 13 feet, and; 3) a variance to allow a side-yard setback that is proposed to be reduced to 6 feet, down from the required 10 foot setback, for a reduction of 4 feet. She stated this request came to the Board in August, but was postponed at the Applicants' request, and this item has had no previous actions or hearings.

Melissa said the variances requested are to allow the existing, substantially constructed, carport/garage to be built over the front and side building setbacks and to allow the garage in

front of the residential structure. Notably, the carport as proposed would encroach 4 feet into the City's standard side setback and anywhere from 8 feet to 13 feet into the front yard setback.

Discussions between the Board and Melissa were held regarding the City's permitting process. Melissa stated a permit was not applied for or issued before construction of the garage/carport. Dan Hays-Clark asked Melissa about the permit process and if it was common for things to change during construction, and she stated it does happen. Blas Coy asked Melissa if staff actually sees building plans before permits are issued and she stated we do. Clifford Wright questioned the City's timeframe on following up on permits that have been issued and Melissa stated an applicant or contractor's permit is valid for 6 months or longer as long as they continually work on the project; if work ceases for a period of more than 6 months, a new permit is required.

Judi Hoover addressed the Board presenting discrepancies in the before mentioned comments such as a building permit was not applied for before construction, that they did obtain a permit for an accessory structure in July 2011 and a permit was released to them. She stated they intend to orient the carport to connect with main structure and that by granting this variance, it will allow the owner's a safe way to enter and exit the property as they have witnessed citizens driving as fast as 50 or 60 miles an hour down their road and to back out into that would be dangerous.

Joe Grady Tuck addressed the Board restating his previous comments regarding the Hoover's cleaning up the area that was covered in bamboo for years, that there is not enough room on the property to place this carport anywhere else which makes this a hardship and that this Board should grant the Hoover's their variance request for this item.

Mr. Levine addressed the Board stating he was contacted by the owners to conduct an independent third party site inspection. Mr. Levine stated the lot is long, narrow and tapered with existing native shade trees the owner wishes to save. He did state he did not look at the retaining wall, but a retaining wall should be built to an engineer's specifications.

Bob Rogers addressed the Board stating the Hoover's have self-inflicted this problem, they knew the lot was narrow and tapered but yet they still purchased it; that the Hoover's violated stop work orders and have no regard for the law; and that they could bring this property into compliance and should have done this from the beginning.

Tommy Hoover addressed the issue of the Stop Work Order stating it was not a stop work order, that as soon as it was brought to their attention, they came in and met with Mr. Bowers, Mr. Talbot and Mrs. McCollum.

Blas Coy asked Mr. Hoover if when he applied for his permits, if his intention was to build the carport under City codes and be in compliance. Mr. Hoover replied he would, if this variance is granted he will be able to connect the carport to the main structure with a walkway. Mr. Coy asked Mr. & Mrs. Hoover if the variance is granted, how long would it take them to complete the carport. The Hoover's stated a week or two and Melissa stated this should not be an inhibiting factor. Mrs. Hoover presented a photograph she stated she took that morning showing what is currently existing on the lot.

Herb Goldsmith asked if variances requested were denied, would the Applicant's be allowed to ask for a variance again for this issue. City Attorney, JC Brown, stated once a variance is denied, it is denied and is a final decision.

Dan Hays-Clark closed the public hearing.

Herb Goldsmith stated the lot was purchased knowing the unique shape of the lot and the existence of the native shade trees; that the Applicant's brought this on themselves.

Mr. Goldsmith made a motion to approve the variance request with stipulations being the lot shape and native shade trees making this a special circumstance and existing condition that affects the land; the yard is necessary for the preservation and enjoyment of the property right of the applicant; the retaining wall will be inspected and approved for structural integrity by an engineer, and built to comply with City code so as not to be detrimental to the public health, safety or welfare or injurious to other property in the area; granting of the variance has an unusual condition or circumstance as the exceptional irregularity of the land, lot shape and ravine.

Clifford Wright seconded the motion to grant this the variance with the above stipulations. All Board members voted to grant the variance with the same stipulations.

7. **Executive Session:** The Bastrop Board of Adjustment convened into executive session pursuant to the Texas Government Code at 8:30 p.m. At 8:55 p.m. the Bastrop Board of Adjustment adjourned executive session and reconvened to regular session.
8. **Public Hearing: The Board of Adjustment will Convene a Public Hearing on Variance Request, BOAV 12:07 as follows:** Zoning Board of Adjustment consideration to approve the reconstruction and expansion of a nonconforming structure in accordance with Section 9.7.B and 9.7.C for the subject property consisting of +/- 0.183 acres on a Farm Lot, Block 1 West of Main Street commonly known as 1305 Wilson Street in an area zoned SF7, Single Family Residential in the city limits of Bastrop, Texas.

Melissa McCollum addressed the Board stating the structure on this lot was constructed in approximately 1980, by then owners Alfred and Annette Bishop. Originally this was a residential structure comprised of approximately 1,140 sq. ft. of living space, with associated carports, driveway and a front porch, etc. In 1982, a fire occurred that substantially destroyed the residence and rendered the structure uninhabitable. Melissa also stated that exposure to the elements over the past 30 years has caused further deterioration to the remnants of the structure. All that remains of the structure today is brick exterior walls, the concrete slab and portions of a concrete driveway. The structure was not rebuilt or repaired by the Bishops and has remained open to the elements since 1982. The property has been vacant and unoccupied for approximately 30 years.

Melissa stated the property was not cleaned or maintained by the Bishops over the years, and in fact, the City found it necessary to occasionally enter the property to mow and remove debris. In 2007 and 2011, the City's Building Inspector notified the Bishops that the remnants of the structure that remained on the property constituted a public nuisance and must be repaired or removed. The Bishops never responded to any of the notices or requests of the City.

In August of 2011, the Hoovers purchased the Property. In June, 2012, the Applicant requested and was issued a 'demolition permit', by the City, to clear the property and Mr. Hoover has taken action to clean and secure the property.

Melissa stated the Hoover's have now indicated that they would like to "remodel" and "expand" the remains of the structure on this property. The Applicants have filed this request with the Board indicating that they would like to use the remaining portions of the burned residential structure in the new enlarged structure, including use of a portion of the existing brick walls and portions of the original concrete foundation.

Tommy Hoover presented the Board with photographs of the existing structure located at 1305 Wilson and briefly went over his plans for this property. Mr. Hoover stated the slab that is existing will be used for a porch only. He stated the first thing he did was remove a very large dead tree and cleared the property of debris.

Bob Rogers addressed the Board with concerns that the concrete slab currently on the property is still viable after a fire and 30 years of exposure to the elements. He stated he would like to see a nice home built there but that what currently exists on this lot should be demolished and removed and a home rebuilt according to City code.

Mr. Hoover addressed the Board stating the house was built in the early 1980's by a builder he feels put in a slab that is still viable after 30 years. Mrs. Hoover suggested the City inspector look at the slab.

Blas Coy confirmed with Melissa that the Hoover's will have to build according to City code and asked if after a house fire, were foundations inspected. Melissa responded anything new will have to be built per City code and that a foundation inspection could be a condition this Board can place on this variance.

Dan Hays-Clark closed the public hearing.

Herb Goldsmith made a motion to approve this variance request with the stipulation the slab is inspected and found to be structurally sound by an engineer, and the existing slab be used for the front porch only. Seconded by Debra Thorne-Francis and the motion passed unanimously by all Board members voting in favor of this request with the above stipulations.

9. Director's Report:

Melissa gave a brief overview of a request by the City Manager on reporting an absence from Board/Commission meetings, in which a written document be provided directly to the City Manager within 2 weeks of a missed meeting.

Melissa reminded the Board of the City's annual Christmas Party to be held Friday, December 14th at the Convention Center and hoping to see everyone there.

10. Adjourn.

Blas Coy made a motion to adjourn the meeting at 9:15 p.m. Seconded by Clifford Wright and the meeting adjourned.



Dan Hays-Clark, Chair