

Village of Wimberley
City Hall, 13210 Ranch Road 12, Wimberley, Texas

Minutes of Board of Adjustment Meeting
Monday, November 14, 2005 - 6:30 p.m.

The meeting was called to order at 6:30 p.m. by Chair Barbara Vansant. Board Members present were Jason Aldridge, Charli Manross, Bill Cline and Barbara Vansant. Mike Stevens and Steve Gartside were absent.

The minutes of the Board of Adjustment Meeting of August 11, 2005 were pulled for corrections. Charli Manross was in attendance at the August 11, 2005 meeting.

Barbara Vansant made a motion to accept the minutes with noted corrections. Bill Cline seconded. Motion approved by a vote of 5 Ayes to 0 Nays.

Discussion included conversation with City Attorney about the requirements of Open Meetings Act and the posted time of this meeting.

Chair Vansant moved the meeting ahead to Item B1 on the Agenda.

1. **BA-05-020³** – Applicant, Robert Mueller, 13811 Ranch Road 12 (Century 21 Real Estate) Planning Area E, Application has been made for variance from the following section of the Village Zoning Ordinance No. 2001 – 010.

Sec 49.6(E): Site Development Standards, Minimum Setbacks-Side Setback: Side Lot Line: The greater of three feet from the property line or six feet from the nearest existing structure, except zero in the case of a party wall agreement.

Chair Vansant opened the Public Hearing at 6:20 p.m. There were no speakers. The meeting was then opened to Applicant Robert Mueller, 13811 Ranch Road 12, Century 21 Real Estate. Mr. Mueller indicated he purchased the property about a year and a half ago. At the time he purchased it, the driveway had potholes. His intention was to offer a business location that would be attractive and safe for both his agents and prospective business associates/clients. His first order of business was to pave the caleche drive. A few months later, after he had paved the caleche, he received a notice from the Village of Wimberley that he had failed to meet certain permit requirements of which he was unaware. He noted the following violations: 1. No Permit; 2. Paving was too close to the line; 3. No Water Report; 4. No Striping – Parking lot.

Subsequently, Mr. Mueller indicated he had a typographical survey perform to locate drainage; he had a hydrological analysis performed by a professional engineer which indicated little change. Joel Wilkinson (Village of Wimberley City Engineer) looked at this analysis and agreed the water run-off is non-existent. Thus, he has complied with the permit, striping and hydrological analysis.

Mr. Mueller was present to ask for a Variance for the pavement. He showed parking lot photographs and explained the need for the current paving size to allow for safe ingress and egress in the parking area. He has spoken with neighbors and specifically to Bruce Calkins at Cypress Creek Café. All agree that the current paving is acceptable and provides no water drainage or run-off problems.

City Attorney Sid Falk advised Board of Adjustment Members the findings they make must be made in writing. In their analysis, Members must consider the following:

1. Does the "special circumstance" need to be considered because a strict application would deprive the client of reasonable use and create unnecessary hardship of property development?
2. Is the need/issue self imposed?
3. Decision must not be based solely on economic loss/profit.
4. Does the decision adversely affect other properties in the area?

Counsel advised Members to identify those factors in making their findings.

Board of Adjustment accepts jurisdiction for this matter.

Motion to grant Variance **BA-05-020³** – Applicant, Robert Mueller, 13811 Ranch Road 12, was put on floor by Board Member Cline. Motion was seconded by Barry Tyler. Vote as follows:

Barbara Vansant – Aye
P. Jason Aldridge – Aye
Charli Manross – Recused
Bill Cline – Aye
Barry Tyler – Aye

Motion passes with 4 Ayes – 0 Nays – 1 Recusal.

Chair Vansant closed the Public Hearing.

Chair Vansant moved to Item C.1, Consider and Act:

1. Consider Designation and Role of Alternates and Possible Action to Adjust By-Laws Accordingly.

Discussion of the current By Laws which require 5 regular members and 2 members designated as alternates. (in the event a hearing is conducted 5 people need to hear; if 1 of those 5 cannot attend, 1 alternate has to serve). Mayor has to approve alternates being able to serve in that process. Discussion regarding the elimination of alternates and having only regular members. City Attorney Sid Falk reminded Board Members of the Statute and Ordinance that govern the legal aspects. Alternate provision is written into the current Ordinance, in order to change this aspect it would have to go in front of City Council. The Statute (211-008) of local government code governs non-home rule municipalities and indicates we are so constrained: 5 members/2 year terms; members are appointed; 75% of members indicates a 'super majority' . Any alteration to existing method must be made through City Council.

Discussion about the process of appointing alternates. Section D in By-Laws indicate only the Mayor can currently appoint an Alternate as an acting regular member.

Motion to amend the By-Laws to include Stephen Harrison, City Administrator shall have the ability to appoint Alternates as Regular Members was made by Barry Tyler, Motion was seconded by P. Jason Aldridge. Motion passed 5-0.

Chair Vansant moved to Item C2: Consider Process for Automatic Movement of Vice Chair to Chair and Possible Adjustment to By-Laws.

Discussion included much about the detail of Item A in the current By Laws and review of the Ordinance regarding the election of Chair and Vice Chair. Legal Counsel Falk will provide language by which the Vice Chair and Chair are all selected by the Board; the Board shall designate 2 alternates and the remaining regular members; and if

circumstances arise in which the Board may by simple majority vote change status of alternates.

Discussion of election of officers. This item will be continued at the next meeting of Board of Adjustment.

Future Agenda Items: City Attorney will draft changes to By Laws for inclusion in the next meeting agenda,

Meeting adjourned at 9:05 p.m.

Respectfully submitted,

Moira Martin
City Secretary