

Village of Wimberley
Board of Adjustment
Minutes of Public Hearing
Thursday, June 26, 2003 – 6:30 p.m.

Minutes of Village of Wimberley Board of Adjustment Thursday, June 26, 2003, 6:30 p.m. City Hall, 13210 RR 12, Wimberley, Texas I. Board chair Sue Johnson called meeting to order at 6:30 p.m.

Roll Call: Present were Board members Barbara Vansant, Susan Thurber, Sue Johnson, and Bill Cline, and Alternate Board member Steve Gartside.

Board member Mike Stevens was absent. Member Bob Flocke recused himself from this case.

II. Consider and Act (Public Hearing)

Request for Variance from Zoning Ordinance: Case No. BA-03-009, Nix Bodden and Anna Beth Zimpelman, 2112 Flite Acres Road, Wimberley

- Section 15.4(c) - Development Regulations: Minimum setback for side yard 15% of lot width but not greater than 25 feet; exit driveway be allowed in setback but no closer than 10 feet to property line;
- Applicant requests that the exit driveway be allowed in the setback but no closer than 10 feet to property line;
- Applicant requests to be allowed to build well house over existing water well.

Chair Johnson opened the Public Hearing.

City Administrator Steve Harrison presented the case and explained the reasons for the request for a Variance from Zoning Ordinance Sec. 15.4(c). Applicant's plans for a new residence, garage, and utility building on a narrow lot are such that a building will extend into the setback on one side, and an exit driveway will extend into the setback on the other side.

Chair Johnson accepted jurisdiction for the Board in this case.

Mr. Harrison went into further detail on the case. The property was zoned R-1 on May 1, 2003, under City-initiated zoning of residential properties on Flite Acres Road. He cited Zoning Ordinance language on minimum setbacks for R-1 properties, and said notices of the variance hearing had been mailed to all property owners within 200 feet.

Letters were received from Joe Dunlop at 2100 Flite Acres Road and Al Flocke at 2200 Flite Acres Road, which were entered into the record by Chair Johnson. Applicant Nix Bodden described his property and showed Board members a site plan indicating location of his planned residence, adjacent buildings, driveway, and other features on the lot. Board members questioned him in detail about the property and reasons for siting the residence as he proposed. Chair Johnson asked for further public comment. None was received.

Public Hearing closed.

Board members discussed the case in the context of the conditions required for granting a Variance as specified in Section 10 of Zoning Ordinance No. 2001-010 as given below:

1. That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of the Zoning Ordinance would deprive the applicant of the reasonable use of his/her land;
2. That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;
3. That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property within the area;
4. That the granting of the variance will not have the effect of preventing the orderly use of other land within the area in accordance with the provisions of the Zoning Ordinance;
5. That the land involved is otherwise in compliance with other applicable Village regulations;
6. Literal enforcement of the Zoning Ordinance will create an unnecessary hardship or practical difficulty in the development of the affected property;
7. The situation causing the hardship or difficulty is neither self-imposed nor generally affecting all or most properties in the same zoning district;
8. The relief sought will not injure the permitted use of adjacent conforming property;
9. The granting of a variance will be in harmony with the spirit and purpose of these regulations; and
10. The granting of a variance is based on the specific facts related to this application and does not render the applicable Zoning Ordinance provisions meaningless.

Board member Bill Cline moved to deny the variance based on his "No" answer to the first condition. Board member Steve Gartside seconded the motion. City Attorney Patty Akers advised that it would be better to have Board members' votes on all items if the Board denies the request.

Mr. Cline withdrew his motion, and Mr. Gartside withdrew his second of the motion.

Mr. Cline moved to deny the variance based on his answer "No" to questions 1, 2, 3, 4, 6, 7, and 9. Mr. Gartside seconded the motion and offered an amendment to withdraw the negative answer to question no. 3. Mr. Cline did not accept the amendment. Mr. Cline withdrew his motion and Mr. Gartside withdrew his second. Mr. Cline moved to deny the variance based on a "No" answer to the first question. Mr. Gartside seconded the motion. Board chair Johnson polled Board members on their answers to each of the first nine questions.

Votes on each of the first nine questions were:

1 - 0 Yes, 5 No	5 - 5 Yes, 0 No.	9 - 0 Yes, 5 No
2 - 0 Yes, 5 No.	6 - 1 Yes, 4 No.	
3 - 2 Yes, 3 No.	7 - 0 Yes, 5 No.	
4 - 1 Yes, 4 No.	8 - 3 Yes, 2 No.	

Mr. Cline amended his motion to deny the variance based on "No" answers to questions 1, 2, 4, 6, 7, and 9 by all members of the Board. Mr. Gartside accepted the amendment.

Chair Johnson called a roll call vote on the motion as amended.
Steve Gartside - Yes; Susan Thurber - Yes; Bill Cline - Yes;
Barbara Vansant - Yes; Sue Johnson - Yes.

Motion approved 5 Ayes to 0 Nays.

Chair Johnson reopened a Public Hearing on the second request in the variance application concerning an exit driveway in the setback. Mr. Nix explained the reason for his request and Board members discussed it with him and Mr. Harrison. No comments received from the public.

Chair Johnson closed the Public Hearing. Mr. Gartside moved to grant the variance on the basis that the driveway is an entry driveway and the answers to all nine criteria are Yes. Mr. Cline seconded the motion. Board members discussed the question of how a variance on this issue could be effected, with City Attorney Patty Akers and City Administrator Steve Harrison. Mr. Gartside withdrew his motion and Mr. Cline concurred.

Mr. Cline moved to table consideration of the second issue pending a revision of his plans by Mr. Nix. Mr. Gartside seconded. Motion approved 5 Ayes to 0 Nays.

Mr. Nix said he no longer seeks a variance to build a well house over an existing water well, and withdrew the request for consideration of the third issue.

Board of Adjustment adjourned at 8:20 p.m.

Respectfully submitted by Dell Hood.

*Bill Cline met with (1/14)
Steve Hartsia (1/14)*

**WORK SHEET FOR
ORDER GRANTING/DENYING ZONING VARIANCE**

File No. BA-03-009

Date: June 26, 2003

Applicant: Nix Bodden and Anna Beth Zimpelman

Address: 2112 Flite Acres Road, Wimberley, Texas 78676

See agenda (attached)

Conditions Required for a Variance (Wimberley Zoning Ordinance No. 2001-010, Section 10) No variance shall be granted without first giving public notice and conducting a public hearing on the variance request in accordance with Section 10.8, and unless the Board of Adjustment makes specific, written findings of fact as follows:

*Steve
part
Bill*

	YES	NO
1. That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of the Zoning Ordinance would deprive the applicant of the reasonable use of his/her land; and <i>17000 is an entry driveway</i>	<i>1</i>	<i>5</i>
2. That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant; and	<i>-</i>	<i>5</i>
3. That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property within the area; and	<i>2</i>	<i>3</i>
4. That the granting of the variance will not have the effect of preventing the orderly use of other land within the area in accordance with the provisions of the Zoning Ordinance; and	<i>1</i>	<i>4</i>
5. That the land involved is otherwise in compliance with other applicable Village regulations; and	<i>5</i>	<i>0</i>
6. Literal enforcement of the Zoning Ordinance will create an unnecessary hardship or practical difficulty in the development of the affected property;	<i>1</i>	<i>4</i>
7. The situation causing the hardship or difficulty is neither self-imposed nor generally affecting all or most properties in the same zoning district; and		<i>5</i>
8. The relief sought will not injure the permitted use of adjacent conforming property; and	<i>3</i>	<i>2</i>
9. The granting of a variance will be in harmony with the spirit and purpose of these regulations; and	<i>-</i>	<i>5</i>

*#1
Mailed denial due to "No" on
1, 2, 4, 6, 7, 9 by Bill Cline,
ended by Steve Hartsia.
Unanimous decision*

10. The granting of a variance is based on the specific facts related to this application and does not render the applicable Zoning Ordinance provisions meaningless.

Special Circumstances:

Additional Findings:

1. The nature of the proposed use of the land is consistent with neighboring properties and existing uses of land in the vicinity; and
2. The proposed structures are residential in nature and are not expected to generate more than negligible traffic and noise once constructed, thus the variance will have little or no impact upon traffic conditions and upon the public health, safety, convenience and welfare of the community; and
3. The variance is not granted based solely upon economic gain or loss; and
4. The variance does not permit any person the privilege of developing a parcel of land not permitted by this Ordinance to other parcels of land in the particular zoning district; and
5. The meeting at which this variance was approved was open to the public and public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code, and Chapter 211 of the Texas Local Government Code.

Conditions for Variance Approval:

Terms of Variance:

The specific terms of the variance shall be as follows:

~~VARIANCE REQUEST DENIED~~
~~PASSED AND APPROVED~~ this 26 day of June 2003 by the Board
of Adjustment of the Village of Wimberley, Texas, by a vote of:

AYE(S): 5 NO(S): -0- ABSTENTION(S): _____

**VILLAGE OF THE WIMBERLEY
Board of Adjustment**

By: Sue Johnson
Sue Johnson, Chair

ATTEST:

Adelle Turpen, City Secretary

Stephen J. Harrison, City Administrator

APPROVED AS TO FORM:

Patty Akers, City Attorney

Present - Stene Garteide
Susan Thurber
Bill Cline
Barbara Vansant
Sue Johnson