

**Village of Wimberley**  
City Hall, 12111 Ranch Road 12, Wimberley, Texas  
**Minutes of Board of Adjustment Meeting**  
Monday, August 27, 2007 at 6:30 p.m.

The meeting was called to order at 6:30 p.m. by Acting Chair Jason Aldridge. Board Members present were Steve Gartside (Alternate), Ron Freeman, and Barry Tyler.

Board Members absent were Chuck Bursiel and Bill Cline.

Staff present was Robert Ronson, City Attorney Cindy Crosby, and Cara McPartland.

### **Consent Agenda**

Approval of minutes of the March 26, 2007 meeting of the Board of Adjustment.

Robert Ronson recommended that findings of fact for each case stated in the March 26, 2007 meeting need to be included in the minutes. Board Member Freeman moved to amend minutes as noted. Board Member Tyler seconded. Motion carried on a vote of 4-0. Hearing no other changes, Board Member Tyler moved to approve minutes as amended. Board Member Freeman seconded. Motion carried on a vote of 4-0.

### **1. Election of Board Officers**

Acting Chair Aldridge requested postponement of this item until after Agenda Item No. 2 (Public Hearing and Possible Action). City Attorney Crosby concurred.

This item was discussed (*after* Item No. 2) among staff/Board, addressing voting procedures/requirements for alternate members, and the advisability of electing officers in the absence of other members. Discussion among Board, staff, and City Attorney Crosby concluded that it would be acceptable to vote on election of officers with the present quorum. Board Member Gartside nominated Acting Chair Aldridge as Chairman and Ron Freeman as Vice Chair. Board Member Tyler seconded. Motion carried on a vote of 4-0.

### **2. Public Hearing and Possible Action**

Public hearing and consider possible action on Case No. BA-07-007, a request for a variance to the Village of Wimberley Zoning Code, Section 155.037 (D)(3)(a) regarding the dominant street setback for property located at 401 Cypress Creek Lane, Wimberley, Texas (John Blais, Applicant).

Robert Ronson reviewed the variance requesting to allow placement of septic system drain fields within the forty (40) foot setback required on the dominant street. He explained that this variance is for a residential building that has been properly noticed and

published, with staff receiving no responses. He summarized for the Board that the applicant has applied for and received a building permit for construction of a single family residence and subsequently requested this variance in order to preserve a tree. Mr. Ronson noted that the applicant wishes to install a conventional septic system that would encroach approximately twenty (20) feet into the setback area. He concluded that after reviewing the application, staff cannot recommend approval due to the possibility of other options such as redesign/relocation of the septic system/house and absence of an undue hardship definable by ordinance.

At this time, Board Member Freeman moved to accept jurisdiction over Case No. BA-07-007, and Board Member Gartside seconded. Motion to accept jurisdiction carried on a vote of 4-0.

Subsequent discussion among Board members, Mr. Ronson, and City Attorney Crosby addressed issues such as lack of criteria present meeting the ordinance's requirements of undue hardship on the applicant, whose self-imposed decision utilized a design that requires a variance, as opposed to redesigning the septic system/house to fit the property.

Acting Chair Aldridge opened the public hearing and called for speakers in favor of the application.

The applicant, John Blais, stated that the primary reason for this variance request is due to a rock ledge that inhibits drilling in the required setback area. He explained that the encroachment would be totally underground with no visible impact. He stated that all of his neighbors within two hundred (200) feet of his property all have homes and conventional septic systems ranging from two (2) to thirty (30) years old. Mr. Blais said that having a conventional septic system, rather than an aerobic system, would be more cost-effective.

No one spoke in opposition of the application. Acting Chair Aldridge closed the public hearing.

Board members discussed with staff and applicant issues such as:

- permitting procedures with the City and Hays County
- the applicant's stated reason (saving a tree) on written application vs. verbal reasoning at meeting (location of rock ledge/septic system costs)
- redesign options including relocation of house/tree removal
- exploration of alternative septic systems and relative costs
- engineering report needed from applicant to document presence of rock ledge inhibiting excavation
- financial considerations not relevant criteria for meeting "undue hardship" requirement in ordinance

Discussion included the Board's possible acceptance and continuance of an amended application to include documentation regarding the location of the rock ledge relative to placement of a conventional septic system within the setback area. Mr. Ronson

confirmed that the only hardship referred to in the original application was removal of a tree, without any mention of the presence of a rock ledge on the property.

Board Member Gartside commented on adherence to Village of Wimberley Ordinance No. 2001-010, Section 10, requiring that the Board of Adjustment makes specific, written findings that include:

- That there are special circumstances of conditions affecting the property involved such that the strict application of the provisions of this Ordinance would (a) deprive the applicant of the reasonable use of the property; and (b) create an unnecessary hardship in the development of the property; and
- That such circumstances of conditions are (a) not self-imposed; (b) not based solely on economic gain or loss; and (c) do not generally affect most properties in the vicinity of the property

Ensuing discussion among Mr. Gartside, Board members, and staff concluded that in the interest of fairness and due process, Mr. Blais should be given every opportunity to make his application as complete as possible, as well as exploring any other viable alternatives. After addressing various voting options and requirements during discussion, Board Member Freeman moved to continue this item until the Board's next regularly scheduled meeting (September 24, 2007) to allow the applicant adequate time to re-submit his application with proper supporting documentation. Board Member Tyler seconded. Motion carried on a vote of 4-0.

### **3. Announcements and Future Agenda Items.**

No announcements or future agenda items were heard.

### **Adjournment**

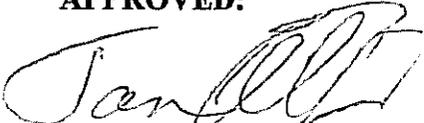
Acting Chair Aldridge called for a motion to adjourn. Board Member Tyler moved to adjourn. Board Member Freeman seconded. Motion carried on a vote of 4-0.

### **Adjourn at 7:45 p.m.**

Recorded by Cara McPartland *Cara McPartland*

These minutes approved on the 24th day of September, 2007.

**APPROVED:**

  
Jason Aldridge, Acting Chair