

VILLAGE OF WIMBERLEY  
BOARD OF ADJUSTMENT MEETING MINUTES  
October 23, 2003

The meeting was called to order at 5:35 by Vice-Chair Bob Flocke.

Members present: Bill Cline, Bob Flocke, Susan Thurber, Barbara Vansant (alternate activated by Mayor Pro Tem John Graddy)

Discussion regarding proposed changes to the Planning & Zoning Ordinance. Bob Flocke reported on discussions by Chair Sue Johnson and Bob Flocke with the P&Z Commission on Monday, October 20. The Board of Adjustment proposed changes (attached) were presented preparatory to the P&Z Commission presenting the changes to the City Council for action. City Attorney suggested that it was inappropriate for BA to present proposed ordinance changes to the Council because of the BA's judicial status. P&Z, as a legislative body, is the more appropriate avenue to the Council.

P&Z accepted the changes, but insisted that some language be inserted in the definition of "unnecessary hardship" to indicate that unnecessary hardship cannot be self imposed. P&Z also insisted that language requiring that "the property involved is otherwise in compliance with other applicable village regulations." Vice-Chair Flocke incorporated P&Z required changes in revised document (attached).

The sense of the BA members present was that the BA should not be responsible for ensuring that all city ordinances are enforced. The BA can only reasonably rule on matters that are before it and presented with regard to the variance requested. The decisions of the BA should stand on their own without regard to other ordinances and regulations, and that language required by the P&Z is contrary to the charge given to the BA by the ordinance and the Local Government Code.

It was agreed that the group present was not representative enough of the entire BA and that the Chair should be urged to call a special meeting (regularly scheduled November meeting would fall on Thanksgiving) at the earliest time possible consistent with the availability of all of the BA members and with public notice requirements.

Meeting was adjourned at 6:15 p.m.

Respectfully submitted,

Bob Flocke  
Vice-Chair  
October 25, 2003

**Attachment 1: Proposed Change As Presented to P&Z on 10/20/2003**

Recommended change to the Wimberley P&Z Ordinance

**P&Z 10.6, C (Conditions Required for Variance)**

No variance shall be granted without first having given public notice and having held a public hearing on the variance request in accordance with Section 10.8 of this Ordinance and unless the BA makes specific, written findings as follows:

1. That the granting of the variance is not contrary to the public interest and will not adversely affect the public health, safety or welfare; and
2. That the variance will not substantially or permanently injure the appropriate use of adjacent or nearby conforming property in the same district; and
3. That the variance will not alter the essential character of the subject property or of the district in which it is located; and
4. That the granting of the variance is in harmony with and will not substantially weaken the general purposes of this ordinance or the regulations herein established for the specific district; and
5. The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not self imposed and are not merely financial, and are not due to or the result of conditions generally affecting all or most properties in the zoning district in which the property is located.

Such findings of the BA, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the BA meeting at which such variance is granted.

***(Delete D. Findings of Undue Hardship)***

**Attachment 2: Proposed Change Including P&Z-Directed Language**

Recommended change to the Wimberley P&Z Ordinance

**P&Z 10.6, C (Conditions Required for Variance)**

No variance shall be granted without first having given public notice and having held a public hearing on the variance request in accordance with Section 10.8 of this Ordinance and unless the BA makes specific, written findings as follows:

6. That the granting of the variance is not contrary to the public interest and will not adversely affect the public health, safety or welfare; and
7. That the variance will not alter the essential character of the subject property or of the district in which it is located and will not substantially or permanently injure the appropriate use of adjacent or nearby conforming property in the same district; and
8. That the granting of the variance is in harmony with and will not substantially weaken the general purposes of this ordinance or the regulations herein established for the specific district; and
9. The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not self imposed and are not merely financial, and are not due to or the result of conditions generally affecting all or most properties in the zoning district in which the property is located; and
10. That literal enforcement of the ordinance will create an unnecessary hardship or practical difficulty in the development of the affected property; and
11. That, based upon a report by the City Administrator when the variance is granted, the property involved is otherwise in compliance with other applicable Village regulations.

Such findings of the BA, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the BA meeting at which such variance is granted.

**(Delete D. Findings of Undue Hardship)**