



CITY OF ROLLINGWOOD BOARD OF ADJUSTMENT MEETING MINUTES

Monday, September 13, 2021

Notice is hereby given that the Board of Adjustment of the City of Rollingwood, Texas held a regular meeting, open to the public, in the Municipal Building at 403 Nixon Drive in Rollingwood, Texas on September 13, 2021 at 6:00 PM, where the following items were discussed:

CALL BOARD OF ADJUSTMENT MEETING TO ORDER

1. Roll Call

Chair Chris Braden called the meeting to order at 6:08 p.m.

Present Members: Chair Chris Braden, Brad O'Donnell, Keith Martinson, Brook Brown and Jim Beneke.

Also Present: City Administrator Amber Lewis, Development Services Director Carrie Caylor, City Attorney Charles Zech.

PUBLIC COMMENTS

There were no public comments.

CONSENT AGENDA

All Consent Agenda items listed are considered to be routine by the Board of Adjustment and may be enacted by one (1) motion. There will be no separate discussion of Consent Agenda items unless a Board Member has requested that the item be discussed, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the Regular Agenda.

2. Discussion and possible action on the minutes from the June 22, 2021 Board of Adjustment meeting

Brad O'Donnell motioned to approve the minutes from the June 22, 2021 Board of Adjustment meeting. Keith Martinson seconded the motion. The motion passed 5-0.

3. Discussion and possible action on the minutes from the August 17, 2021 Board of Adjustment meeting

Keith Martinson motioned to approve the minutes from the August 17, 2021 Board of Adjustment meeting. Brad O'Donnell seconded the motion. The motion passed 5-0.

REGULAR AGENDA

4. Public hearing, discussion and possible action on a variance from the City's Code of Ordinances, Section 107-35, no tennis court shall be constructed or maintained in the area between the rear setback line and the rear lot line for the Western Hills Athletic Club at 4801 Rollingwood Drive

Chair Chris Braden opened the public hearing at 6:11 p.m.

The following individuals spoke during the public hearing:

- City Attorney Charles Zech reminded the Board of Adjustment that this is the official record for this variance even though it has been heard before.
- The Board discussed whether people needed to be sworn in and City Attorney Charles Zech stated that it was not a requirement of the law.
- Marie Timmerman, 501 Vale and WHAC Board Member, discussed the importance of this project and amenity for the community. She also discussed the limited issues being considered tonight.
- Dan McMahon, 6 Pleasant Cove, spoke in opposition to this project and variance.
- Mary McMahon, 6 Pleasant Cove, spoke in opposition to this project and variance.
- Tolley Bernard, 306 Inwood Road, spoke in support of this project and variance.
- Marnie Fitzgerald, 442 Ridgewood Road, spoke in support of this project and variance.
- Zach Elkins, 16 N. Peak Road, spoke in support of this project and variance.
- Brad Walters, 2702 Rollingwood Drive, spoke in support of this project and variance.
- Catherine Scott, 303 Farley Trail, spoke in support of this project and variance.
- Duncan Ashworth, Hatley Drive, asked questions about the hardship, impervious cover, and the cutting down of trees on the plan.
- Kevin Schell, 300 Pleasant Drive, discussed the drainage issues related to this project.

Chair Chris Braden closed the public hearing at 6:56 p.m.

Marie Timmerman responded to questions from the Board regarding the state of the tennis courts, peak hours, the volleyball courts, and impervious cover.

The Board of Adjustment took a short break.

City Attorney Charles Zech discussed the variances before the Board and explained the rules that are governing what the Board should be considering and the findings that the Board must make tonight. He discussed with the Board the process that the Board is undertaking this evening and that the permitting process is a separate process from the variance process.

Brook Brown discussed her concerns with the stormwater runoff from this project and discussed the area in reference to the Infrastructure Improvement Plan.

Development Services Director Carrie Caylor gave the history on this project and discussed the process from here if any/all of the variances are approved. She also responded to concerns from the Board regarding TCEQ approval of the plans, and impervious cover.

The Board of Adjustment and City Attorney Charles Zech further discussed this request and permitting process.

Brook Brown further discussed her concerns with this request and why she does not think the Board can grant this variance. She also discussed that the Board could condition their decision on the plans meeting all other requirements.

The Board and Development Services Director Carrie Caylor further discussed this request and the process and requirements for issuing a certification of occupancy.

Jim Beneke motioned to accept the applicant's request as presented on all three points.

City Attorney Charles Zech stated that each item needed to be dealt with independently.

Brad O'Donnell asked that any motion to approve this would include that abutting property owners have to give written consent as well as if there are any changes to the approved plan.

City Attorney Charles Zech suggested that the Board adjourn into executive session for consultation with the attorney.

The Board of Adjustment adjourned into executive session under section 551.071 of the Texas Local Government code, consultation with attorney at 8:20 p.m.

The Board of Adjustment reconvened into open session at 8:30 p.m.

Jim Beneke amended his motion to state that the applicant be granted a variance for item number 4 on the agenda. Keith Martinson seconded the motion.

Chair Chris Braden called for a roll-call vote:

- **Chris Braden – Yes**
- **Brook Brown – No**, discussing the criteria in section 107-492 that she does not find to be met.

Jim Beneke clarified that in his motion he felt that the criteria in the City's Code of Ordinances allowing them to grant the variance was met.

- **Keith Martinson – Yes**
- **Jim Beneke – Yes**
- **Brad O'Donnell – Yes**

The motion passed 4-1.

5. Public hearing, discussion and possible action on a variance from the City's Code of Ordinances, Section 107-242 regarding the requirement of the 30 foot greenbelt zone for each lot in a park district which abuts a lot in a residential district for at the Western Hills Athletic Club at 4801 Rollingwood Drive:

Chair Chris Braden opened the public hearing at 8:38 p.m.

The following individuals spoke during the public hearing:

- Mary McMahon spoke in opposition to granting this variance and discussed how her property would be directly affected by this project.

Chair Chris Braden closed the public hearing at 8:39 p.m.

The Board discussed this request and the scope of the Board of Adjustment's job.

Mary McMahon further discussed her concerns with the request and the discussions of the Board.

David Cazares with MWM design group, the consultant engineers for the project, responded to questions from the Board regarding drainage, impervious cover, and TCEQ review of the plans.

Brad O'Donnell discussed the three different variance requests being discussed in this meeting.

Brad O'Donnell motioned to approve a variance under item 5. Keith Martinson seconded the motion.

Chair Chris Braden called for a roll-call vote:

- **Chris Braden – Yes**
- **Brook Brown – No**, discussing that she cannot find that the required findings to support this variance have been met.
- **Keith Martinson – Yes**
- **Jim Beneke – Yes**
- **Brad O'Donnell – Yes**

The motion passed 4-1.

6. Public hearing, discussion and possible action on a variance from the City's Code of Ordinances, Section 107-422, a nonconforming structure may not be altered to increase the extent of the nonconformity for at the Western Hills Athletic Club at 4801 Rollingwood Drive

Chair Chris Braden opened the public hearing at 9:03 p.m.

The following individuals spoke during the public hearing:

- Dan McMahon spoke in opposition to this variance request and discussed that adding two tennis courts does not give an additional community benefit.
- Sara Hutson, 2805 Rockway, spoke in opposition to this request, discussing that WHAC members were not told about this project. She also discussed the process for approval of plans and that she thought the Chris Braden should have disclosed that his wife was on the WHAC Board.
- Duncan Ashworth asked what the hardship is in this case.
- Marie Timmerman discussed that a variance would still be required if they were just going to redo the existing courts. She also discussed that this is a unique property.

Chair Chris Braden closed the public hearing at 9:15 p.m.

Chair Chris Braden addressed the accusation of a conflict of interest, confirming that his wife is on the WHAC Board and explaining why he does not feel that there is a conflict.

Brad O'Donnell discussed Chris Braden's participation on the Board. He also discussed his concerns with finding a hardship with this request, stating that he is ready to make a motion to deny the request.

City Attorney Charles Zech explained that, procedurally, as opposed to a motion to deny, a motion to approve that is voted down is preferred.

Keith Martinson motioned to approve the variance for item 6. Brad O'Donnell seconded the motion.

Chair Chris Braden called for a roll-call vote:

- **Chris Braden – Yes**
- **Brook Brown – No**, stating that she cannot make the findings required by the ordinance to find that this meets a variance standard.
- **Keith Martinson – Yes**
- **Jim Beneke – Yes**
- **Brad O'Donnell – No**

The motion WAS NOT APPROVED with a 3-2 vote because an affirmative vote of four members is required.

7. Discussion and possible action to adopt a set of rules for the Board of Adjustment


City Administrator Amber Lewis stated that it has been requested to revisit the rest of these items at a special meeting.

8. Discussion and possible action on the application forms
9. Discussion and possible action on a decision document for variances

ADJOURNMENT OF MEETING

The meeting was adjourned at 9:35 p.m.

Minutes Adopted on the 4th day of November, 2021.



Chris Braden, Chair

ATTEST:



Ashley Wayman, City Secretary