

**MINUTES OF THE REGULAR MEETING OF THE BOARD OF ADJUSTMENT
OF THE CITY OF ROWLETT, TEXAS HELD IN THE ROWLETT
MUNICIPAL CENTER, 4000 MAIN STREET, ROWLETT, TEXAS
AT 7:00 P.M., JANUARY 14, 2008**

PRESENT: Chairman Larry Beckham, Vice-Chairman Jerry Galloway, Members Joe Charles, Karl Crawley, Dennis Hernandez, Charles Lee, Keith Powers and Juan Torres

STAFF PRESENT: Chief Building Official Danny Denman and Administrative Assistant Dianne Kolb

Item 1. Call to Order.

Mr. Beckham called the meeting to order at 7:00 p.m.

Mr. Beckham called roll with everyone being present.

Mr. Beckham explained that with four (4) appointed members being present, only one alternate member would be able to vote on the items. Mr. Hernandez was selected to be the alternate voting member; the other alternate members would not vote on the items but participate in their discussions.

Item 2. Consider approving the minutes from the November 12, 2007 Regular Board of Adjustment Meeting.

Mr. Galloway moved to approve the minutes as submitted. The motion was seconded by Mr. Hernandez. The motion passed with a 5-0 vote.

Mr. Beckham swore in those persons wishing to speak either in favor or in opposition during the public hearing.

Item 3. Public hearing to consider and take appropriate action on the application of Nick and Vera Bert, are requesting a variance from Ordinance 9-4-01C, Table No. 2-3, Side yard setback – Interior lots for the SF-S3 Zoning Classification, which requires that the side yard setback for interior lots be ten percent (10%) of the lot width, measured at the front building line or 7-1/2 feet, whichever is greater. The applicants are requesting the variance to allow the encroachment of the main structure into the side yard setback area on the north side of the lot located at 1902 Touch Gold Court, Lot 1, Block C out of the Winner's Circle subdivision. (Case No. – BOA 08-01)

Danny Denman, Chief Building Official for the City of Rowlett, explained that the applicants, Nick and Vera Bert, are requesting a variance to the side yard setback requirement to allow the encroachment of a new residential home. Mr. Denman stated that the zoning for the subdivision requires that the side yard setback be ten percent (10%) of the lot width, measured at the front building line or 7-1/2 feet, whichever is greater. He explained that the required side yard setback along the northern property line is approximately 12.70 feet and the applicant is requesting that it be reduced to 7-1/2 feet. Mr. Denman stated that the subdivision is a gated community with this being the last undeveloped lot in the subdivision. He showed the Board a copy of the final plat for that area, pointing out the irregular shape of the lot, existing drainage easement and lift station located at the southeast corner of the lot.

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Mr. Denman explained that with the proposed 7-1/2 foot setback there would still be approximately 19-1/2 feet between the existing house to the north and the proposed house. He stated that the setbacks between the houses in the subdivision vary from eight (8) feet to sixteen (16) feet and that this request is consistent with other houses within the subdivision.

Mr. Beckham stated that nineteen (19) notices were mailed out to property owners within two hundred (200) feet of the request with three (3) notices returned in favor of the request and one (1) notice returned in opposition to the request.

Mr. Beckham asked for those persons wishing to speak in favor of this request. The following spoke:

Vera Burt, 2939 Leeshire Drive, Dallas, applicant for this request, came forward and explained that they bought the lot not realizing how difficult it would be to build on. She explained that her husband is in a motorized wheelchair and in order for him to get around the house comfortably it has to be constructed to very specific specifications. The back part of the house is the master bedroom and bathroom, which is where they are requesting the house encroach into the setback area. Mrs. Burt explained that they have been working with an architect for some time to get the house to fit on the lot without requesting a variance, but felt it would be more esthetically pleasing having the front of the house be parallel with Touch Gold Court instead of at an off-set angle. She stated that they tried reducing that area of the house, but due to the constraints at the southern area of the lot and the master bedroom and bathroom being at the northern end of the house; felt it would be better to request a variance. She also pointed out that this side of the house will only be one story. Mrs. Burt requested that the Board grant their variance as requested.

Mr. Galloway asked if the northern side of the house would have windows. Mrs. Burt stated that maybe in the bathroom.

Mr. Beckham asked for those persons wishing to speak in opposition to this request. The following spoke:

Stephen H. Bryant, 1906 Touch Gold Court, explained that he is the property owner to the north and he bought that lot for the spacing from adjacent property owners. He explained that when he built his house it was done knowing that the house to the south would be built approximately twenty-two (22) feet from his house. Mr. Bryant also pointed out that there is substantial amount of vegetation along the northern property line that would be lost if the proposed variance is allowed. He requested that the proposed house be moved to the south with no variance granted.

The Board further discussed what vegetation along the northern border may or may not be removed.

Gregg Wurdeman, 1802 Skipaway Drive, president of the Homeowners Association, explained that he was not in favor or in opposition to this request, he just wanted to explain to the Board that the proposed house would have to be approved by the HOA prior to construction and they have the ability to deny the plans. Mrs. Burt explained that they are aware of this requirement.

Mr. Torres asked if an elevation of the proposed house had been submitted. Mr. Denman stated that no elevations were turned in with this application.

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Mr. Denman also pointed out that the City does not enforce Deed Restrictions for Homeowner Associations, the only thing that they would be looking for at the time of permitting would be Building Code compliance and the five (5) foot variance, should it be approved.

Mr. Denman also pointed out that prior to the building permit being issued, a Tree Preservation Plan would have to be approved by the Planning Department should any of the trees to be removed be over eight (8) inches in diameter.

Mr. Beckham closed the public hearing.

Mr. Galloway stated that he was concerned for both property owners, but was not in favor of allowing the encroachment for a house that has not yet been built.

Mr. Hernandez stated that he felt the same Mr. Galloway, although he understood about the aesthetics of the home and neighborhood, he was also concerned with allowing the encroachment.

Mr. Charles stated that he believed the house may be rotated so that it was not encroaching into the side yard setback area.

Mr. Crawley stated the question that needed to be answered was: "is there a hardship"? He pointed out that there is approximately fourteen (14) foot of fall across the lot, a lift station at the southeast corner of the lot, the lot is a corner lot with the two (2) sides along the streets having a twenty-five (25) foot front building setback and is an unusual shaped lot. Mr. Crawley stated that moving the house south out of the side yard setback area, leaving the approximate twenty-two (22) feet between houses, may create other hardships for the applicants.

Mr. Beckham explained that for this request to be approved, four (4) of the five (5) voting members would have to vote in favor of the request.

Mr. Beckham moved to approve the variance request as submitted. The motion was seconded by Mr. Torres. The motion failed with a 2-3 vote, with the following members voting in opposition to the request: Mr. Galloway, Mr. Lee and Mr. Hernandez.

Item 4. Adjournment.

Mr. Beckham adjourned the meeting at 7:36 pm.



Chairman



Secretary