

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., November 1, 2010

PRESENT: Chairman, Jerry Galloway; Vice-Chairman Juan Vasquez; Members, Michael Lucas, Raymond Moyer, Charles Lee

ALSO PRESENT: Alternate Edra Brashear, Alternate Kennedy Bruce, Alternate Jarvis Morgan

ABSENT: Alternate Andrew Hall

STAFF PRESENT: Erin Jones, Planning Manager; Marc Kurbansade, Planner II; Susie Quinn, City Secretary

1. Call to Order.

Chairman Jerry Galloway called the meeting to order at 7:01 p.m.

2. Consider approval of the minutes of the Regular Meeting of The Board of Adjustment from July 12, 2010.

Member Lucas made a motion to approve the minutes of the Regular Meeting of The Board of Adjustment from July 12, 2010. Member Raymond Moyer seconded the motion. Motion carried with a 5-0 vote.

3. Conduct a public hearing and consider evidence to determine if there was a clear intent not to abandon the non-conforming structure located at 3313 Enterprise Drive. The subject property is further described as Lot 5 of the Rowlett Business Park Addition.

Marc Kurbansade, Planner II, came forward to present the case. Mr. Kurbansade began by providing a brief background including the property location and site photographs. Mr. Kurbansade then provided an explanation regarding the applicability of Section 77-902.F of the Rowlett Development Code and how it pertains to the determination of an intent not to abandon a use. Mr. Kurbansade then provided an occupancy history of the subject site, stating that the last occupied use according to City utility bills was a religious assembly, and this use vacated the property in approximately April 2009. Mr. Kurbansade then stated that the applicant and current property owner purchased the subject property in March 2010. Mr. Kurbansade provided the Board with a summary of the information provided by the applicant to demonstrate an intent not to abandon the structure. Mr. Kurbansade then brought to the Board's attention that the current property owner provided evidence of an intent not to abandon the structure, and that the Board should also consider the lapse of use of the property from April 2009 until present. Mr. Kurbansade concluded his presentation by stating that seven public hearing notices were sent out to properties within 200 feet of the subject site, and that three notices were returned all in favor.

Chairman Jerry Galloway opened the public hearing and swore in anyone wishing to speak. Ms. Myrna Sadler, 1914 Royal Crest, Garland, TX, representative for the applicant/property owner came forward to speak. Ms. Sadler provided a summary of the work that was done on the property in order to ultimately lease the property. Member Michael Lucas asked if she knew how long the prior owner had been out of business. Ms. Sadler stated that she did not know this information. Member Raymond Moyer asked if the property was actively for lease prior to the current property owner

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., November 1, 2010

purchasing the property. Ms. Sadler stated that she saw it was actively "For Sale" for approximately one year. Chairman Galloway asked if Ms. Sadler was aware of the zoning restrictions that would have applied to the site. Ms. Sadler stated that she hired a consultant to look at the property and they did not find anything as it pertains to nonconforming status.

Mr. Ray Kneegs, 10006 Broadmoor Lane, Rowlett, TX, came forward to speak. Mr. Kneegs provided general background regarding the businesses along Enterprise Drive and stated that the prior tenant vacated the property in April 2009. Chairman Galloway asked Mr. Kneegs if he was aware of any "For Lease" signage on the subject site. Mr. Kneegs provided confirmation that he witnessed the presence of a "For Lease" sign on the subject site from approximately May 2009. Chairman Jerry Galloway closed the public hearing.

Member Michael Lucas made a motion to approve the reinstatement of the non-conforming status of the structure as presented. Member Raymond Moyer seconded the motion. Motion carried with a 5-0 vote.

4. **Conduct a public hearing and consider evidence to determine if there was a clear intent not to abandon the non-conforming structure located at 4851 Grisham Drive. The subject property is further described as Block 3, Lot 38 of the Toler Industrial Park 3 Addition.**

Erin Jones, Planning Manager, came forward to present the case. She began by providing a brief background including the property location and site photographs. Ms. Jones then provided an explanation regarding the applicability of Section 77-902.F of the Rowlett Development Code and how it pertains to the determination of an intent not to abandon a use. She went on to state that based upon her research, including active City utility accounts, and Certificate of Occupancy (CO) documentation, it appears that the prior use of the property, which was an office/warehouse, ceased on or about March, 2009. She indicated that while water service ceased in March, 2009 the applicant indicated to staff that the business did not vacate the premise until July, 2009. She stated that the applicant provided documentation of an executed lease with Commercial Development Corporation commencing on October 1, 2009. However, a Certificate of Occupancy was not obtained for the business. She went on to discuss the requirements for a CO outlined in Section 77-809 of the *Rowlett Development Code*. Ms. Jones ended her presentation by stating that based on the City Utility Account, and CO documentation staff has deemed the subject property an abandoned non-conforming structure.

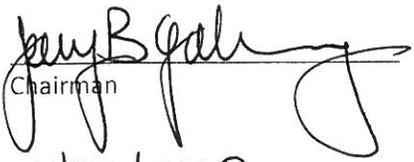
Chairman Galloway opened the public hearing and swore in anyone wishing to speak. Laura Matthews, 3635 Broadway, Suite C, Garland, TX 75043, came forward. She identified herself as the applicant and provided the board with e-mail documentation from November, 2009. She noted that the e-mails were between herself and a realtor discussing marketing the building. She stated that there has been a for lease sign in the ground since the last tenant moved out. Even when she was leasing the space to Commercial Development Corporation she was still actively marketing the building for another user. She said that it is a tough economy and it is difficult to get tenants. She stated that there has never been intent to abandon the building. From the moment the previous tenant was gone they rehabilitated the inside of the building to prepare for a new tenant. With no other speakers Chairman Galloway closed the public hearing. Member Lee made a motion to approve the reinstatement of the non-conforming

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., November 1, 2010

status of the structure as presented. Vice-Chairman Vasquez seconded the motion. Motion carried with a 5-0 vote.

5. Adjournment.

Member Moyer made a motion to adjourn the meeting at 7:46 p.m. Member Vasquez seconded the motion. Motion carried with a 5-0 vote.


Chairman
11/22/2010
Date


Secretary