

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 3, 2011

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

ABSENT: Alternate Jarvis Morgan

ALSO PRESENT: Alternate (non-voting member), Edra Brashear

STAFF PRESENT: Erin Jones, Planning Manager; Ashley McCoy, Development Services Technician

1. Call to Order.

Chairman Jerry Galloway called the meeting to order at 7:00 pm.

2. Consider approval of the minutes of the Regular Meeting of The Board of Adjustment from November 22, 2010.

Member Charles Lee made a motion to approve the minutes of the Regular Meeting of The Board of Adjustment from November 22, 2010. Member Raymond Moyer seconded the motion. Motion carried with a 4-0-1 vote. Member Michael Lucas abstained since he was not present at the November 22, 2010 meeting.

3. Conduct a public hearing and take appropriate action on a request for two variances from Chapter 77, Section 505 of the *Rowlett Development Code* in order to allow for a residential development without alley access and to allow a residential driveway off a type B+ thoroughfare (Rowlett Road). The subject property is located at 1406 Rowlett Road, being a portion of Tract 11 in the Rebecca Bateman survey, abstract number 90, page 665, Dallas County, Rowlett, Texas.

Erin Jones, Planning Manager, came forward to present the case. Ms. Jones began by providing a brief background of the case including the property location and site photographs. Mrs. Jones stated that the property is approximately five acres off of Rowlett Road and considered the Thornhill Estate. She also stated that the four homes currently in the estate were built around the 1970s to 1980s and that the estate has been maintained as a private homestead since that time. Mrs. Jones acknowledged that it is a gated community in the sense that there is a gate around the community but that it is not a private street development per current code standards. She clarified that at this time the applicant is only requesting to build one lot and that none of the properties in the estate have been platted because they were built prior to platting requirements. The applicant has not gone through the platting process yet because the variance request before the Board will affect his decision to move forward with his plans or not. Mrs. Jones showed several photos of the area and the layout of the property in question. She stated that the property is currently zoned Single Family-10, and that the estate can continue as is, including the asphalt drive leading into the estate, up to the time that redevelopment occurs. Mrs. Jones stated that the applicant requesting to plat the lot and develop on it would trigger the requirement to bring at least a portion of the area up to current code standards. She stated that in Chapter 77 of the *Rowlett Development Code* requires that all single family residences be connected to alley access and does not allow front entry access unless alley is not available. In addition, the code does not allow direct residential access from a type A

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through B thoroughfare and Rowlett Road is a type B+ thoroughfare prohibiting a residential driveway. Mrs. Jones confirmed that the applicant was requesting variances from two code requirements and reminded the Board that variances are not determined based on financial hardships but instead should be based on an unique attribute of the property itself and that it is within the purview of the Board to grant a variance for a non-conforming driveway, however it is not within the purview of the Board to grant a variance on materials and the applicant is aware that if he moves forward he will have to construct to current code standards as it pertains to concrete. She stated that even though alley access is technically available through Thornhill Way, the estate is surrounded by a six foot chain link fence and has been maintained as a private estate for over thirty years. Mrs. Jones stated that it is not possible to obtain alley access without removing a portion of the fence and opening the alley up to public use. She said that for those unique reasons staff would support an alley variance. The City Engineer affirmed that not having an alley does not necessarily create any safety concerns. Mrs. Jones continued with the second variance request. She stated that it was a little more complicated in that the existing driveway is a twelve foot asphalt drive that does not meet current code standards. The *Rowlett Development Code* requires that non-conforming driveways be removed or brought up to code under certain qualifying events; platting this lot and building a home would be one of those qualifying events. Mrs. Jones states that based on minimum lot size, there could potentially be another four or five homes built to be in addition to the four existing and from staff's perspective Thornhill Estates should be viewed as a subdivision. She confirmed that requiring a residential street, even initially, would lay the ground work for organized development. Mrs. Jones states that one option discussed with the applicant was to put in a residential street only to the end of the first lot and require expansion at a later time when future development occurs. That option did not meet the applicant's needs so he is requesting the variance. Mrs. Jones showed the board a diagram showing the differences between a residential driveway and those of a residential street.

Chairman Jerry Galloway asked Ms. Jones what the zoning of Thornhill Estates was and she replied SF-10. He also asked what could be built on that property assuming that other requirements were met. Mrs. Jones replied that assuming all other requirements were met, they would have to plat the land and then they would be able to build as many SF-10 homes as would fit on the lot with a minimum of 10,000 square feet per lot and staff estimates four to five homes could be built once setbacks and other requirements were considered.

Chairman Jerry Galloway opened the public hearing and swore in anyone wishing to speak.

Mr. David Ackerman, 1320 Rowlett Road, Rowlett, Texas, 75088, came forward to speak. Mr. Ackerman stated that he was the owner of the property and that his plan was to build a house for a family member. He stated that he has worked with the Fire Marshall to ensure safety and has received approval that the current turn around would be adequate. Mr. Ackerman told the Board that the expense to put in a residential street would be too great for just one house. He said that he would be willing to meet concrete standards for a residential driveway up to the end of the first lot and then if the remaining lots were developed at a later date, he would then extend it as a street. Member Michael Lucas asked Mr. Ackerman if he had given any thought to a street stubbed at the end of the lot and to the safety of entering and exiting Rowlett Road. Mr. Ackerman responded that he had thought about it but constructing a street even just stubbed out at the end of the lot would

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cost quite a bit of money. Member Lucas voiced concerns about doing something less than the formal street requirement and then future development requiring him to redo it. Mr. Ackerman stated that he planned to build it in such a way that it could be added on to at a later date. Chairman Galloway asked to see the diagrams again. Member Lucas points out that there is a significant difference between a driveway connection to Rowlett Road and that of a street that would need to be redone at time of development. Member Raymond Moyer inquired about utility hookups. Mr. Ackerman responded that there are utilities available running through the alley beside the property and that it has been confirmed that these utilities can handle the extra house and possibly the extra five homes if necessary. There is some discussion among all Board Members whether a street would still be required if the driveway were to be connected to the alley. Mrs. Jones states that she believed the street would still be required with the platting.

City Engineer Dennis Abraham came forward to clarify the differences between a driveway right of way and a street right of way and to explain how the city utilities would be routed with each scenario.

Chairman Galloway requested Mr. Ackerman to come forward to answer a few more questions. He asked Mr. Ackerman to clarify how far he wants to build the driveway into the property. Mr. Ackerman stated he planned to go to the limits of the first lot only. Chairman Galloway pointed out that if the variance for not requiring alley access were granted, then the existing fence behind the alley could remain.

Mrs. Stephanie Inge, 3710 Thornhill Way, Rowlett, TX 75088, came forward to state her concerns about the double standards she sees with her taxes being higher than the Thornhill Estates' lake front properties due to the fact that Dallas Central Appraisal District has it defined as rural. She stated that she believes that if Mr. Ackerman wants to build a home on this property and use the utilities provided that he should be subject to all requirements set forth by the City. Mrs. Inge voiced concern about property values declining with the loss of the lake view.

Mr. Felix Salas, 3702 Thornhill Way, Rowlett, TX 75088, came forward to state his concerns about the potential number of lots and the size of each lot. He stated that he had been told that the property would remain undeveloped. Mr. Salas stated that the utilities are stretched currently and that the increase in houses using them could cause strain.

Chairman Galloway questioned the size and type of home that could be built on the lot. Mrs. Jones stated that the minimum dwelling size would be 2,100 square feet and there are no plans to change the zoning at this time.

Mr. Bill Pettus, 3706 Thornhill Way, Rowlett, TX 75088, came forward and gave a brief history of the property. He stated that the property has gone downhill in the past several years but that he has noticed Mr. Ackerman trying to maintain and update the property and its structures in recent years. Mr. Pettus stated concerns about flooding and drainage issues in the area and hoped that through development, these issues could be addressed.

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Mrs. Kathryn Jay, 35 Victoria, Rowlett, TX 75088, came forward as an officer & board member for the Toler Bay II Neighborhood Association with concerns that her neighborhood values would be affected by the zoning of Thornhill Estate. However, she stated that she realizes now that zoning issues are not under the purview of the Board of Adjustment.

Mrs. Helen Hogue, 3502 Thornhill Way, Rowlett, TX 75088, came forward to inquire if the property is zoned rural. Mrs. Jones stated that it is zoned Single Family-10 and DCAD sometimes shows a different designation for their purposes. Mrs. Hogue stated that she believed the property should meet the same requirements as all other homes in the area. She stated that with only one Thornhill family member still living on the land and multiple owners, it should not be considered a private estate and should be brought up to current code standards. Chairman Galloway asked Mrs. Hogue if she would be agreeable with taking down the fence to allow alley access. She answered that she is the first house on Thornhill Way and the alley runs right beside her house, and she has no problem with allowing Mr. Ackerman to use the alley access.

Board Member Raymond Moyer asked Mr. Pettus if he ever considered talking with Mr. Ackerman to address the drainage issues on the property. Mr. Pettus replied that he is of the understanding that the City of Rowlett Public Works Department is working to improve the area.

Member Raymond Moyer asked the City Engineer, Dennis Abraham, to clarify the difference between the proposed driveway and a residential street. Mr. Abraham stated that for a driveway six inches of concrete would be allowed, where as a residential street requires eight inches of concrete and the street would have a right of way associated with it that must be dedicated.

With no other speakers Chairman Jerry Galloway closed the public hearing.

The Board then collectively discussed the issue at hand. Member Moyer stated that if a street were to be put in, he sees no reason not to connect to it given the hassle of accessing the alley. There was discussion about the City Engineer's requirements for putting in utilities. Chairman Galloway asked Mr. Abraham about workable options. Mr. Abraham voiced concerns about utility improvements for future lots and owners. He hypothesized that if standards are not met by the current development, then when the next lot is developed, it will have to be torn up and redone. Chairman Galloway asked Mrs. Jones to comment on this point. She stated from staff's perspective, the Thornhill Estate should be viewed as a subdivision and development today will affect how the property as a whole will develop in the future.

With no other discussion, Chairman Galloway reminded the Board that there are two variances in question and asked for motions.

Member Charles Lee makes a motion to approve the variance to allow non-alley access. Member Michael Lucas seconds the motion. The motion carried with a 5-0 vote.

Member Raymond Moyer makes a motion to require Mr. Ackerman to put in a residential street to the end of the first lot but grant a variance on putting in any additional utilities until such a time that further properties develop. Member Charles Lee seconds the motion. Motion failed with a 3-2 vote.

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Vice-chair Juan Vasquez made a motion to deny the variance. Member Michael Lucas seconded the motion. Motion carried with a 5-0 vote.

4. Continue discussion tabled from the November 22, 2010 meeting and elect Chair and Vice-Chair positions.

Member Michael Lucas made a motion to elect Juan Vasquez to Vice-chair. Motion seconded by Raymond Moyer. Motion carried with a 5-0 vote.

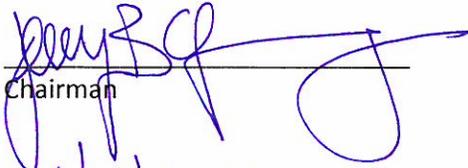
Member Raymond Moyer made a motion to elect Jerry Galloway to Chair. Motion seconded by Charles Lee. Motion carried with a 5-0 vote.

5. Convene into Executive Session: The Board of Adjustment shall convene into Executive Session pursuant to the Texas Government Code, Section 551.71 (legal consultation) and consult with the City Attorney regarding pending litigation; Kevin Mitchell

Chairman Galloway convened the Board into Executive Session at 7:58 p.m. The Board of Adjustments reconvened out of Executive Session at 8:44 p.m.

6. Adjournment.

Chairman Galloway adjourned the meeting at 8:45 pm.



Chairman
4/4/2011

Date



Secretary