

BOARD OF ADJUSTMENT REGULAR MEETING

JULY 31, 2019

The Board of Adjustment met in regular session in the 2ND Floor Conference Room, City Hall, 222 N. Tennessee Street, McKinney, Texas, on Wednesday, July 31, 2019 at 5:31 p.m.

Board members Present: Betty Petkovsek, Chair, Louise Holubar, Vice Chair, Brian White, David Riche, Larry Macy, Eric Roberts, Randall Wilder

Absent: None

City Staff members Present: Rick Herzberger, Chief Building Official and Terra Bierschwale, Permit Technician Supervisor

Chair Betty Petkovsek called the meeting to order after determining a quorum was present.

19-0592 Minutes of the Board of Adjustment Meeting of June 26, 2019. Board members unanimously approved the motion by Board member Larry Macy, seconded by Board member David Riche, to Approved and Referred 19-0592 Minutes of the Board of Adjustment Meeting of June 26, 2019

19-0593 Conduct a Public Hearing to Consider/Discuss/Act on the Request by owner Danny Thomas for the consideration of a variance to the zoning ordinance front yard setback requirement of 25' to allow a front setback of 20' for the extension of an attached front covered porch, located at 606 North Church Street, Lot 675A and 675C of McKinney Outlots (CMC), McKinney, Texas. Chief Building Official, Rick Herzberger stated that he will start providing a report for each application when presenting to the Board. To research and exhaust all avenues within the code and zoning ordinance requirements to permit the applicant's project prior to going to the Board. Chief Building Official proceeded to read a summary of

request. Item Summary - The applicant/owner desires to extend and slightly enlarge the non-conforming front porch to remain at 20' setback from the front property line. The non-conformity exists due to the zoning ordinance change to a 25' front yard requirement after the porch and house was constructed. The historic preservation officer supports this variance request. Existing Conditions - This is a conforming lot yet the front setback is non-conforming. Building Official Statement - The request has been field validated and I agree that the Board has the implied authority to consider the variance due to the applicant request. Attached is the report on the research conducted by the Building Official to determine if the porch extension could be permitted under the zoning ordinance. The location is one block outside of the MTC, which would have allowed permit. Danny Thomas, 606 North Church Street, McKinney, Texas 75069 Owner stated his designer, Mark McReynolds, 2704 Elmwood Ct, McKinney, Texas, 75071 will speak on his behalf. Mr. McReynolds stated the existing porch they will be extending sits within 5' (feet) in the 25' (feet) front building line. The existing porch looks like it was part of the existing house. The owners would like to keep the same time period as the other houses in the historic district area. Received 3 notification letters. Lucy and Renato Regaldo, 520 N Wood Street, McKinney, Texas 75069, Thomas O Brumett, 612 N Church Street, McKinney, Texas 75069, and James Joor, 611 N Church Street, McKinney, Texas 75069. All notification letters received were approved. Board members unanimously approved the motion by Board member Larry Macy, seconded by Board member Brian White, to Close the public hearing 19-0593 Conduct a Public Hearing to Consider/Discuss/Act on the Request by owner Danny Thomas for the consideration of a variance to the zoning ordinance front yard setback requirement of 25' to allow a front setback of 20' for the extension of an attached front covered porch, located at 606 North Church Street, Lot 675A and 675C of McKinney

Outlots (CMC), McKinney, Texas. Member Larry Macy stated he would approve this variance because it is a non-conforming lot to begin with and that the porch is existing and they just want to extend the side. Member Riche asked if the Historic Preservation Specialist, Guy Giersch reviewed this case. Mr. Herzberger stated yes. Board members unanimously approved the motion by Vice Chair Louise Holubar, seconded by Board member David Riche, to Approved 19-0593 Conduct a Public Hearing to Consider/Discuss/Act on the Request by owner Danny Thomas for the consideration of a variance to the zoning ordinance front yard setback requirement of 25' to allow a front setback of 20' for the extension of an attached front covered porch, located at 606 North Church Street, Lot 675A and 675C of McKinney Outlots (CMC), McKinney, Texas.

- 19-0594** Conduct a Public Hearing to Consider/Discuss/Act on the Request by owner Tessa Tyler for the consideration of a variance to the zoning ordinance accessory dwelling allowed maximum size requirement of 600 square feet to allow an accessory dwelling of 1146 square feet, located at 1204 West Josephine Street, Blk. A, Lot 1 of the T.M. Tyler Tract Addition, McKinney, Texas. Chief Building Official proceeded to read the item summary of the request. Item Summary - The applicant/owner desires to increase the total size of the permitted 600 square feet size of the accessory dwelling to 1146 square feet – please see her letter. Existing Conditions - The existing survey shows the location of the main house and the accessory dwelling under construction. Building Official Statement - Mr. Herzberger wanted to point out the accessory dwelling front now faces what used to be the street alley/public way which was acquired by the applicant. Mr. Herzberger then referenced Sec. 146-165.

Board of Adjustment, (3) Powers and duties of the board, d. Variances, 2. Authorize upon appeal. The request has been field validated and I agree that the Board has the implied authority to consider the variance and appeal due to the applicants request to consider unusual and practical difficulties or particular hardship or any other condition determined by the Board. Mr. Herzberger also read Sec.146-133 – Accessory buildings and uses (6) Accessory buildings; e. and (7) Accessory dwellings of the Zoning Ordinance. Mr. Herzberger stated Ms. Tyler submitted a request to amend her existing permit to move the interior stairs going up to the attic above the garage to the exterior. Mr. Herzberger also stated it was very important for the Board look at what the applicant provided and what she interpreted as your authority. Tessa Tyler, 1204 W Josephine Street, McKinney, Texas 75069. Ms. Tyler stated the reason for her request is to have her parents live in the garage and the attic would be for a care giver for her parents. Received 2 notification letters. 1 approved by Vicky McAdams, 1008 W Josephine Street and 1 protest based on size by Karen Davis – Harrison, 13522 Summer Villa Lane, Houston, Texas 77044 (1012 Erwin Avenue, McKinney, Texas 75069). Board members unanimously approved the motion by Board member David Riche, seconded by Board member Louise Holubar, to close the public hearing 19-0594 Conduct a Public Hearing to Consider/Discuss/Act on the Request by owner Tessa Tyler for the consideration of a variance to the zoning ordinance accessory dwelling allowed maximum size requirement of 600 square feet to allow an accessory dwelling of 1146 square feet, located at 1204 West Josephine Street, Blk. A, Lot 1 of the T.M. Tyler Tract Addition, McKinney, Texas. Member White asked Mr. Herzberger how different is this house from everything else on this street based on the comments from the homeowner who lives in Houston. Mr. Herzberger stated it is a unique situation in that you normally see the accessory dwellings behind a large home in this case, Ms. Tyler's is a smaller

home. Member Riche asked Mr. Herzberger if the caregiver is not family and living on the 2nd floor. Mr. Herzberger stated there is nothing in the definition that actually would give that type of interpretation for accessory dwellings. Member Riche stated he doesn't see a hardship based on what the Boards authority and a convenience for the family. Board members unanimously approved the motion by Board member Brian White, seconded by Vice Chair Louise Holubar, to Approved Reopening the Public Hearing 19-0594 Conduct a Public Hearing to Consider/Discuss/Act on the Request by owner Tessa Tyler for the consideration of a variance to the zoning ordinance accessory dwelling allowed maximum size requirement of 600 square feet to allow an accessory dwelling of 1146 square feet, located at 1204 West Josephine Street, Blk. A, Lot 1 of the T.M. Tyler Tract Addition, McKinney, Texas. Mr. Robert Hemphins, 304 E McDermott Drive, Allen, Texas 75002 stated Member Macy mentioned earlier that the footprint is not changing the request is for living space and not storage space. Board members unanimously approved the motion by Board member Brian White, seconded by Board member David Riche, to Close the public hearing 19-0594 Conduct a Public Hearing to Consider/Discuss/Act on the Request by owner Tessa Tyler for the consideration of a variance to the zoning ordinance accessory dwelling allowed maximum size requirement of 600 square feet to allow an accessory dwelling of 1146 square feet, located at 1204 West Josephine Street, Blk. A, Lot 1 of the T.M. Tyler Tract Addition, McKinney, Texas. Chair Petkovsek stated not being able to use the attic space as a dwelling space would be considered a hardship. Member Macy stated it would be different if the applicant was requesting to add to the garage however the structure is existing. Board members approved the motion by Vice Chair Louise Holubar, seconded by Board member Larry Macy, to Approved 19-0594 Conduct a Public Hearing to Consider/Discuss/Act on the Request by owner Tessa Tyler for the

consideration of a variance to the zoning ordinance accessory dwelling allowed maximum size requirement of 600 square feet to allow an accessory dwelling of 1146 square feet, located at 1204 West Josephine Street, Blk. A, Lot 1 of the T.M. Tyler Tract Addition, McKinney, Texas. with a vote of 4 - 1 - 0, Member David Riche voting no.

Board members unanimously approved the motion by Board member David Riche, seconded by Board member Louise Holubar, to Adjourn the meeting at 6:25 p.m.

LOUISE HOLUBAR
Vice - Chair