

**BOARD OF ADJUSTMENT REGULAR MEETING  
SEPTEMBER 19, 2018**

The Board of Adjustment met in regular session in the 2<sup>nd</sup> Floor Conference Room, City Hall, 222 N. Tennessee Street, McKinney, Texas, on September 19, 2018 at 5:30 p. m.

Board members Present: Vice Chairman, Randall Wilder, Members Betty Petkovsek, Brian White, Louise Holubar and Anthony Salas. Absent: Chairman, Scott Jacoby and Brad Taylor.

City Staff members Present: Rick Herzberger, Chief Building Official and Dee Boardman, Administrative Assistant

**18-681** Minutes of the Board of Adjustment Meeting of July 25, 2018. Board members unanimously approved the motion by Board member Anthony Salas, seconded by Board member Louise Holubar, to Approve the 18-681 Minutes of the Board of Adjustment Meeting of July 25, 2018.

**18-682** Conduct a Public Hearing to Consider/Discuss/Act on the Request by Mary Jane Frank for a Side Yard Variance to the Zoning Ordinance for Property Located at 111 Truett, Lot 1R of the Roy Raper Addition, McKinney, Texas. Chief Building Official, Rick Herzberger provided his statement on behalf of the City. The request has been field validated and I agree that the Board has the implied authority to consider this variance based on the location of the existing structure and conditions presented by the applicant. The Board will need to determine if the proposed variance request is not contrary to the public interest and general welfare of the adjacent property. Andy Frank, 111 Truett Street, McKinney Texas stated he is requesting for a 10" variance from the required 5' setback on the north side of the property for a one story, 600 square foot addition. The original house was setback 4'2" from the property line and would like to keep the addition in line with the original house on the north side. Having to maintain the 5' setback would

interrupt the flow and transition from old to new and would negatively affect the value of the property. Member Salas asked if this request would pass all the Fire Code requirements. Mr. Herzberger stated yes. Member Pekovsek asked the Board to recuse herself because her property backs up on the other side of creek of the property at 111 Truett Street. Mr. Herzberger clarified with City Attorney that it would be advisable to not vote on this case because member Petkovsek received a notice. He also stated it only takes four members to approve a variance but still need five members for a quorum. Two letters received and both showed approved with no comments. Board members unanimously approved the motion by Board member Brian White, seconded by Board member Anthony Salas, to Close the public hearing 18-682. Board members unanimously approved the motion by Board member Anthony Salas, seconded by Board member Brian White, to Approve a Side Yard Variance to the Zoning Ordinance for Property Located at 111 Truett, Lot 1R of the Roy Raper Addition, McKinney, Texas.

- 18-683** Conduct a Public Hearing to Consider/Discuss/Act on the Request by Margaret Hawkins for the Consideration of Three (3) Variances to the Zoning Ordinance for Property Located at 214 Miller Street (formally 1211 N. Gough Street), Lot 016C, Block 4 of the WJS Russell 3rd Addition (CMC), McKinney, Texas. Chief Building Official, Rick Herzberger provided his statement on behalf of the City. The request has been field validated and I agree that the Board has the implied authority to consider these 3 variances, based on the undersized lot and conditions presented by the applicant. The Board will need to determine if the proposed variance request is not contrary to the public interest and general welfare of the adjacent property. The applicant has submitted a block of houses comparison of setbacks. Mr. Herzberger asks each

member to look closely at each attachment for this agenda and more importantly, when looking at each case, to make sure each application meets the conditions under the Boards authority. The Boards authority is granted by State law. Ms. Hawkins is requesting for the following variances - 5' setback on the front right side yard (Gough Street) from 25', 12' setback from 25' from front yard and 5' setback from 25' on the rear yard. She meets the 5' setback on the left side yard. Margie Hawkins, 2917 Gayle Drive, Garland, Texas 75044. Ms. Hawkins stated she made a huge financial mistake in purchasing a piece of property which she can't build on without a variance request. With the current guidelines she is able to build a house that will only be 240 square feet. Mr. Herzberger stated Ms. Hawkins has a non-conforming lot. The lot in question is 60' deep, the ordinance requires 100' so the lot facing Miller Street is a non-conforming from the depth which qualifies for consideration. The lot width meets the minimum of 50'. The lot was re-addressed for the front yard to face Miller Street. There was no option to build if the front faced Gough Street. Member Petkovsek stated one of her concerns is the difference of 13' between from the front setback in relation to neighboring houses on Miller Street that are setback at 25'. I have a problem of the house being so close to the street especially with it being a corner lot. Mr. Herzberger clarified the ordinance states the setback of 25' is from the property line and not the curb/street. The drive access requires you to have at least 20' of off street from the street and not the property line per the ordinance. . Member Salas asked about the traffic on Gough Street, it looks like an alley. Ms. Hawkins stated it is a small street and there are no curbs. Mr. Herzberger stated there is a visibility triangle clip required by Traffic. She barely met the 12' to meet the visibility clip. Member Salas asks about the greenspace that is going up to the curb off the property line, will it create a risk that gets reduced over time if they put side walk in. Mr. Herzberger stated the 25' from the

side on Gough Street is the reason not only for the visibility but to have the required landscape when building a new house. Member Petkovsek asks how far apart is the house at 210 Miller Street from the lot. Ms. Hawkins says 9' from their property line. Member Salas asks what the unusual hardship is. Ms. Hawkins says primarily it is more so a financial hardship. She would lose all the money invested in the property thus far and won't be able to build without the variance approval. Mr. Herzberger stated the Zoning Ordinance doesn't mention a minimum size requirement of a residential single family home. McKinney is a heavily deed restriction City. Code wise, she has to meet certain square footages of rooms. Member Petkovsek stated she is very concerned about being on the corner and being so close. The house will be sitting so close to the corner on two regular streets. Mr. Herzberger stated the Board does not have the authority to dictate to the applicant what to build. The Board only hears what is presented to them and not make recommendations. No letters were received for this item. Board members unanimously approved the motion by Board member Betty Petkovsek, seconded by Board member Louise Holubar, to Close the public hearing 18-683. Board members unanimously approved the motion by Board member Betty Petkovsek, seconded by Board member Brian White, to Approve with Amendments of Three (3) Variances to the Zoning Ordinance for Property Located at 214 Miller Street (formally 1211 N. Gough Street), Lot 016C, Block 4 of the WJS Russell 3rd Addition (CMC), McKinney, Texas

The Board approved two of three variance requests. The approved variances were, 5' variance request from side at corner setback and 5' variance request from rear yard setback. The denied variance was 12' variance request from front yard setback.

**18-684** Conduct a Public Hearing to Consider/Discuss/Act on the Request by Michael Sean Smith to Consider a 275 Square Foot Variance from the Zoning Ordinance Requirement of a Maximum 200 Square Foot for a Proposed 475 Square Foot Accessory Building for the Property Located at 904 Doral Circle, Pinehurst Addition Phase 1A (CMC), Block F, Lot 9, McKinney, Texas. Chief Building Official, Rick Herzberger provided his statement on behalf of the City. The request has been validated and the Board has the authority to consider this variance request. Due to the condition of this being a conforming lot, the Board will need to consider the applicants request in light of the second condition of variances, as described above - 'authorize upon appeal'. The maximum size of an accessory building per the zoning ordinance that can be built on any lot shall not exceed 200 square feet. There is a difference between an accessory building and an accessory dwelling. Because of the larger lot and what is the minimum in that district, they should be afforded a consideration of this request. They also meet all the setback requirements for the accessory building. Michael Smith, 904 Doral Circle stated his existing garage does not provide room for storage and would like a larger accessory building. He will build it on the left side of the existing pool to match the façade of the main house. You will not be able to see the accessory building from the street unless you drive up to the driveway. Member Salas asked to explain what the unusual hardship or what the great difficulty is as far as the building is concerned. Mr. Smith says there is a space hardship which would be to not expose his property to the elements and he is not able to build a dwelling nor a garage because of certain restrictions. Mr. Herzberger asks the Board to not look at the financial hardship nor the intent but look to see if there is something on that lot that is demonstrable or an unusual hardship. You can look at the conditions of the lot or the topographic and compare that to the size

they want. Two letters were received and both were in protest. Board members unanimously approved the motion by Board member Betty Petkovsek, seconded by Board member Brian White, to Close the public hearing 18-684. Board members unanimously approved the motion by Board member Anthony Salas, seconded by Board member Betty Petkovsek, to Deny the request by Michael Sean Smith to Consider a 275 Square Foot Variance from the Zoning Ordinance Requirement of a Maximum 200 Square Foot for a Proposed 475 Square Foot Accessory Building for the Property Located at 904 Doral Circle, Pinehurst Addition Phase 1A (CMC), Block F, Lot 9, McKinney, Texas

**18-685** Conduct a Public Hearing to Consider/Discuss/Act on the Request by Thomas A. Bird for the Consideration of a 7 Foot Rear Yard Accessory Building Variance to the Zoning Ordinance for Property Located at 1405 W. Virginia Street, Waddill Addition (CMC), Block 3 Lot 1E, McKinney, Texas. Chief Building Official, Rick Herzberger read his statement on behalf of the City. The request has been field validated and I agree that the Board has the implied authority to consider this rear yard variance based on the applicant intent to install 2 covered parking spaces as required by the zoning ordinance and is not contrary to the public interest and general welfare of the adjacent property. The applicant would like to remove the one parking space covered carport and replace with a two parking space covered carport with a 3' rear yard setback to property line from the zoning ordinance requirement of 10' to property line. Thomas Bird, 1405 W Virginia Street. There are several large trees on the property and very recently several large branches had fallen and missed one of our vehicles. We currently have one vehicle covered and one exposed. Member Salas stated that the request would meet the requirements because of the tree being on the property, it created an

unusual hardship. Received two letters, both approved. Board members unanimously approved the motion by Board member Brian White, seconded by Board member Louise Holubar, to Close the public hearing 18-685. Board members unanimously approved the motion by Board member Anthony Salas, seconded by Board member Betty Petkovsek, to Approve a 7 Foot Rear Yard Accessory Building Variance to the Zoning Ordinance for Property Located at 1405 W. Virginia Street, Waddill Addition (CMC), Block 3 Lot 1E, McKinney, Texas

Board members unanimously approved the motion by Board member Brian White, seconded by Board member Louise Holubar, to adjourn the meeting at 7:00 p.m.

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Randall Wilder  
Vice Chairman