

**MINUTES OF THE CITY OF PORT NECHES
ZONING BOARD OF ADJUSTMENT & APPEALS
JULY 13, 2015**

The City of Port Neches Zoning Board of Adjustment and Appeals met on Monday, July 13, 2015 at 6:00 p.m. in the City Hall Council Room, 1005 Merriman, Port Neches, Texas. Notice of the meeting was given in accordance with Section 551.041 of the Texas Governmental Code, with the following members in attendance:

Chairman Corey Belanger
Vice Chairman Boyd Parks
Sam Loyacano
Gary Stretcher
Charles Bales
Donald Ware, Alternate (did not participate)

Also present:

Andre' Wimer, City Manager
Taylor Shelton, P.E., Public Works Director
Larry Reynolds, Assistant Public Works Director/ Building Official
Cari Reynolds, Public Works Secretary

Absent:

Trent Cobb, Alternate
Chris Swanson, Alternate
James Ware, Alternate

Chairman Belanger called the meeting to order at 6:00 p.m.

APPROVAL OF MINUTES FROM MEETING HELD ON JUNE 8, 2015

Board Member Stretcher made a motion to approve the minutes of the regular meeting held on June 8, 2015, seconded by Board Member Loyacano. **MOTION PASSED BY UNANIMOUS VOTE.**

CHRIS PEVETO, 3155 JAMESTOWN CIRCLE

Chris Peveto, 3155 Jamestown Circle, requested a fifteen foot (15') variance, ten foot (10') encroachment, to the twenty five foot (25') front yard building setback requirement for a new construction home.

Chris Peveto, 3179 Williamsburg, was present to answer any questions.

Chairman Belanger asked Mr. Larry Reynolds to give the details of the request.

Mr. Reynolds stated that the property is an irregular shaped lot with 1/3 of the lot composed of pipeline easements.

Chairman Belanger asked if the property was for sale.

Mr. Peveto stated the sale of the property is contingent on the variance being granted.

There were seventeen (17) notices mailed to property owners surrounding two hundred feet (200') of 3155 Jamestown Circle. In the letters, there are attachments where the property owners could approve or protest this request. There were two (2) returned in approval: Joseph Kunkell, 3159 Jamestown Circle and Callan Brown, 3154 Ronshire Lane and none in opposition to the request.

Chairman Belanger asked for anyone who wanted to speak for or against the request. No one was present to speak.

Chairman Belanger asked if there were any questions or comments. There were none.

Board Member Loyacano made a motion to approve the request of Chris Peveto, 3155 Jamestown Circle, for a fifteen foot (15') variance, ten foot (10') encroachment, to the twenty five foot (25') front yard building setback requirement for a new construction home, seconded by Board Member Bales.

MOTION PASSED BY UNANIMOUS VOTE.

KEVIN AND DANA MCCABE, 696 MEADOWGREEN DRIVE

Kevin and Dana McCabe, 696 Meadowgreen Drive, requested a seven foot (7') variance, eighteen foot (18') encroachment, to the twenty five foot (25') front yard building setback requirement for a wooden carport.

Mr. Kevin McCabe was present to answer any questions.

Chairman Belanger asked Mr. Larry Reynolds to give the details of the request.

Mr. Reynolds stated that Mr. McCabe wants to build a wooden carport on the front of the property.

Mr. McCabe stated the carport would tie into the existing roof and look similar to another carport around the corner on Merriman Street and will remain open. He wants to cover the vehicles to protect them.

Board Member Stretcher asked if there were any other carports on Meadowgreen.

Mr. Reynolds stated that this would be the first in the neighborhood.

There were nineteen (19) notices mailed to property owners surrounding two hundred feet (200') of 696 Meadowgreen Drive. In the letters, there are attachments where the property owners could approve or protest this request. There were two (2) returned in approval: Gerald & Carolyn Delino, 3144 Sandalwood Drive and Bettye Peltier, 694 Meadowgreen Drive and one (1) returned in opposition to the request: Shirley McAfee, 698 Meadowgreen Drive.

Chairman Belanger asked for citizens within 200 feet of the variance request who are in favor or opposed to speak.

Shirley McAfee, 698 Meadowgreen Drive, stated that she is against the variance request. When she purchased her home, she was told that deed restrictions prohibited any carports from being built. The property owners already have accessory buildings encroaching into utility easements, sidewalks in right of ways, and a large hedge that causes visibility problems. Her concern is that if it is built it will cause more visibility issues and will look out of place since it will be the only one in the neighborhood. If it is granted then others might want to do the same. She also feels that this will lower the property value of my property.

Board Member Loyacano asked if there were deed restrictions prohibiting the carport.

Mr. Shelton stated the City does not enforce deed restrictions.

Board Member Loyacano asked Mr. Reynolds how many feet from the house to the curb.

Mr. Reynolds stated approximately thirty feet (30') including the right of way.

There was discussion regarding the distances from the carport to the street and from the house to the street, eave height of the house and carport and visibility issues.

Chairman Belanger asked for anyone else who wanted to speak for or against the request. No one was present to speak.

Chairman Belanger asked if there were any questions or comments. There were none.

Vice Chairman Parks made a motion to approve the request of Kevin and Dana McCabe, 696 Meadowgreen Drive, for a seven foot (7') variance, eighteen foot (18') encroachment, to the twenty five foot (25') front yard building setback requirement for a wooden carport with the stipulation that it remain open and proper gutters and drainage are put in place, seconded by Board Member Bales. Vote was as follows: one (1) approved: Vice Chairman Parks; three (3) against: Board Member Stretcher, Board Member Loyacano and Board Member Bales. **MOTION DID NOT PASS**

DEBRA PEECHER, 2605 SABA LANE

Debra Peecher, 2605 Saba Lane, requested a five foot (5') variance, twenty foot (20') encroachment, to the twenty five foot (25') front yard building setback requirement for a metal carport.

Debra Peecher, 4540 Wilson, Groves, Texas was present to answer any questions.

Chairman Belanger asked Mr. Larry Reynolds to give the details of the request.

Mr. Reynolds stated that there are several other carports in the area that have been granted variances.

Chairman Belanger stated that most of the houses in that area have one car or no garage.

Chairman Belanger asked if the carport would be tied into the house.

Ms. Peecher stated that she did not intend for it to tie into the house but sit under the eaves.

There were twenty (20) notices mailed to property owners surrounding two hundred feet (200') of 2605 Saba Lane. In the letters, there are attachments where the property owners could approve or protest this request. There were three (3) returned in approval: Gary and Marie West, 2509 Saba Lane, John Croshaw, 2610 Saba Lane and Iris Dubois, 2513 Saba Lane and none in opposition to the request.

Chairman Belanger asked for anyone who wanted to speak for or against the request. No one was present to speak.

Chairman Belanger asked if there were any questions or comments. There were none.

Board Member Stretcher made a motion to approve the request of Debra Peecher, 2605 Saba Lane, for a five foot (5') variance, twenty foot (20') encroachment, to the twenty five foot (25') front yard building setback requirement for a metal carport with the stipulation that it remain open, seconded by Board Member Bales. **MOTION PASSED BY UNANIMOUS VOTE.**

ESTHER MACHA, 1222 PORT NECHES AVENUE

Ester Macha, 1222 Port Neches Avenue, requested for a tattoo and piercing business to be located in the Business- Downtown (B-D) zoning district.

Yvette Green, 1302 Katie Street, representative for Ester Macha, was present to answer questions.

Chairman Belanger asked Mr. Larry Reynolds to give the details of the request.

Mr. Reynolds stated that a tattoo business is not listed in the permitted use of the zoning matrix. When that occurs, he looks at the Standard Industrial Classification (SIC) manual. In the (SIC) a tattoo parlor is listed under a personal service, which is the same as a hair salon, nail salon, and body piercing. With that being said, it would be a permitted use in Business –Downtown (B-D) and Business- Medium (B-M).

Vice Chairman Parks asked Mr. Reynolds why the Board of Adjustments is hearing this and not the Planning and Zoning Commission or the City Council.

The City Manager stated that in 2009 the zoning ordinance was amended to address businesses that were not listed in the matrix. Prior to that, the Building Official made the determination. The City looked at several options on how to handle this type of situation. The option that the City incorporated into the zoning ordinance was to have the Building Official do the research and make a presentation to the Board of Adjustments. In the absence of a type of business being in the matrix, that determination is made by this Board. That is the way the ordinance is written. The Board is not just making a decision on this particular business, the Board is making a decision on a zoning

designation. So whatever zoning designation is determined a tattoo studio can go into, that will apply across the city. If the Board determine that it go in Business –Downtown (B-D), then a tattoo studio can go anywhere in that zoning designation. Likewise, if the Board chooses a different zoning designation, it would be the same situation. This is much more far reaching decision than this one request.

Board Member Loyacano asked if there were any tattoo shops in the City.

Mrs. Macha stated that there are several spas that have permanent cosmetics.

Mrs. Green stated that she wants to open a by appointment only, high end, daytime hour's studio with piercing as an option in the future.

Chairman Belanger stated if a motion is made it needs to state what zoning designation the tattoo business needs to be placed.

Chairman Belanger asked for citizens within 200 feet of the request who are in favor to speak.

Esther Macha, 1222 Port Neches Avenue, stated she approached Mrs. Green and asked her if she would lease a space from her for a tattoo shop. The location has a reception area in front with several enclosed rooms in the back, so no one from the street will be able to see anyone getting a tattoo. She does work off appointments and has a large clientele. This will bring more business to the downtown area.

Lyle Tanner, 733 Gulf Avenue, stated he owns the business at 1308 Port Neches Avenue and believes the City needs more variety of business in downtown. From what he's been told, it will be a classy business and will be an asset.

Chairman Belanger asked for anyone who wanted to speak for or against the request.

John Davenport, 431 Kings Row, stated he does not believe a tattoo shop will go well in the Business – Downtown (B-D) district. He believes there are other zones that it will fit in better.

Amy Guidroz, Director of Economic Development Corporation, representing Terry Schwertner and the Board, stated that the investment in Port Neches Avenue has been great over the past few years. There is still a lot of work to do. The EDC's goal is to create a walkable venue, where people can stroll from Llano to the Post Office and even further. There are many senior citizens walking, children on bicycles and a great opportunity for a walkable district. The EDC's concern that an establishment that is branded would possibly hinder the public's desire to stroll. The EDC desires to expand the downtown area with more retail venues. That is what drives our commitment for funding. The City requires the retail sales tax from businesses with normal operating hours. The EDC believes that a more industrial environment would be a safer venue for that type of operation.

Board Member Stretcher asked if when we make this motion, are we supposed to designate which zoning district to put the business in.

There was discussion regarding the designation of the zoning districts, the (SIC) code and the types of businesses in those designated districts.

There were twenty six (26) notices mailed to property owners surrounding two hundred feet (200') of 1222 Port Neches Avenue. In the letters, there are attachments where the property owners could approve or protest this request. There were three (3) returned in approval: Barry Spoonmore, 1305 Port Neches Avenue, Ronald Snook, 1115 Port Neches Avenue and Carol McMillan, 1216 Port Neches Avenue, and two (2) returned in opposition to the request: Port Neches Economic Development Corporation, 1110 Port Neches Avenue and Randy Martin Sr. 1128 Montgomery Street.

Chairman Belanger asked if there were any questions or comments. There were none.

Board Member Loyacano made a motion to place within the zoning matrix, tattoo studios within the Business- Downtown (B-D) designation, seconded by Board Member Bales. Vote as follows: two (2) approved: Vice Chairman Parks and Board Member Loyacano; two (2) against: Board Member Stretcher and Board Member Bales. **MOTION DID NOT PASS.**

The City Manager explained the appeal process.

ADJOURN

There being no further business Board Member Stretcher made a motion to adjourn, seconded by Board Member Loyacano. **MOTION PASSED BY UNANIMOUS VOTE.**

Corey Belanger, Chairman

Cari Reynolds, Public Works Secretary

Meeting Adjourned at 6:49 p.m.