

MINUTES

BOARD OF ADJUSTMENTS

Tuesday, October 18, 1988

10:00 a.m.

Members present: Ben Turbeville, Don Hawkins, Robert Boone, David Wright.

Members absent: James Canaday and Jerry Dietz.

Staff present: Gene Cravens, Pat Payne and Gilbert Villa.

Visitors: List attached.

The meeting was called to order at 10:00 a.m by Chairman Don Hawkins.

The **second item of business** on the agenda was presentation and approval of the Minutes from the July 19, 1988, Board of Adjustment and Appeals meeting. Robert Boone made a motion to accept the minutes as presented with a second by Ben Turbeville. Motion carried by the following votes: Ayes: Boone, Turbeville, Hawkins, and Wright. Nays: None. Absent: Dietz and Canaday.

The **third item** of business on the agenda was the Public Hearing and Consideration on a request by Lucky Watson for a special exception to the rear yard set back requirements on his property at 1701 Old Denton Road for dog pens and runs. Mr. Hawkins asked Mr. Cravens if he had comments to present to the P & Z Commission concerning the request. Mr. Cravens responded by stating that due to the essence of the request and the fact that Mr. Watson has built a roof to the property line over the dog pens, and the fact that it is a hardship case caused by the property owner, he cannot recommend approval of the request.

Mr. Duncan stated the circumstances preceding the variance request. He said since the property is in the extreme south section of the City where development is not paramount, he didn't feel it was a major problem.

At that time Mr. Cravens gave a slide presentation which depicted Mr. Watson's property and also the neighboring properties next to his.

Mr. Cravens explained one matter of criteria for granting a variance is hardship based on the configuration of the land without detrimental effects on the surrounding property owners, which does not relate to Mr. Watson's request. He also stated that even though Mr. Watson's property lies in a portion of the City which is not heavily developed at the present time, no one knows what the long range development in that area might be. At some point, Clements Street may continue to the east, and the granting of this variance could have a major impact on someone else's property. The size and shape of the lot is not different from other parcels in the district that would cause it not to be able to be appropriately developed or enable the applicant to enjoy the same rights as other property owners in the vicinity and zone.

Mr. Hawkins asked Mr. Villa to explain the slab and roof covering for Mr. Watson's dogs. Mr. Villa stated that originally the slab went to the property line, with the roof only covering a portion of it, built by the former property owner. Mr. Villa also stated that Mr. Watson eventually extended the roof all the way to the chain link fence, which is the property line, and it was enclosed. Mr. Watson removed the siding and left the roof as it was. There had been an agreement, of sorts, among Mr. Villa, Mr. Watson and Margaret Russell (neighbor) that the roof could be left as it was, as long as the sides of the structure were removed. Mr. Villa said he considered that arrangement and decided that the roof should be shortened.

Letters were sent to Mr. Watson in June, 1988, and August, 1988, with the latter giving him 30 days to come into compliance with City requirements or face proceedings in Municipal Court. Mr. Watson still did not remove the offending roof structure.

Mr. Hawkins said another problem which he questions is why a building permit was not taken out in the first place for construction of the roof.

Mr. Watson pleaded ignorance in that situation. He said he felt he could make improvements to his property without it and did not inquire.

Mr. Hawkins asked if anyone would care to speak in opposition to the request. Margaret Russell stated she opposed Mr. Watson's structure abutting the property line because she felt it was detrimental to the future development of her property and her property is all she has to leave to her children. She said she feels if the structure is allowed to remain in place it will send a bad message to other citizens, and it should be removed and come into compliance

Mr. Hawkins stated that even though there seemed to have been agreements and discussion as to what Mr. Watson "was allowed to do", it still did not change the fact that the roof was not in compliance with the Zoning Ordinance.

Mr. Hawkins asked Mr. Watson if he had further comments and Mr. Watson stated that he did not understand why the slab is in compliance with the Ordinance and the roof is not. He said that the day he stopped his men from working on the roof was the day Mr. Villa told him to obtain a building permit and comply with the Zoning Ordinance to continue the construction, and after that is when he did complete the roof to the property line, after obtaining his permit.

Mr. Hawkins said it is difficult when the Board deals with an existing structure, but the fact remains that the structure was built without the approval of the Board, regardless of what two neighbors agree upon. Citizens cannot arbitrarily agree, neither can a Building Inspector arbitrarily agree that that will be okay if everyone agrees. If the building permit had been obtained to begin with, the problem possibly could have been prevented, by having the Board to decide the matter before monies were expended on the construction.

After no further discussion, a motion was made by Robert Boone and seconded by Ben Turbeville to **DENY THE REQUEST FOR THE SPECIAL EXCEPTION TO THE REAR YARD SETBACK AT 1701 OLD DENTON ROAD.** Motion carried by the following vote: Ayes: Wright, Hawkins, Boone and Turbeville. Nays: None. Absent: Canaday and Dietz.

After no further business, Mr. Hawkins adjourned the meeting at 10:25 a.m.