

**REGULAR MEETING OF THE BOARD OF ADJUSTMENTS
HICKORY CREEK TOWN HALL
1075 RONALD REAGAN, HICKORY CREEK, TEXAS
TUESDAY, MARCH 16, 2021**

MINUTES

In response to the coronavirus pandemic, effective March 16, 2020, Texas Governor Abbott suspended certain Open Meeting rules to allow meetings of government bodies that are accessible to the public to decrease large groups of people from assembling. The suspension temporarily removes the requirement that government officials and members of the public be physically present at a meeting location.

Call to Order

Meeting called to order at 7:36 p.m. by Chairman Crawford

Roll Call

PRESENT

Chairman Larry Crawford
Vice-Chairman Joey Hernandez
Member David Jones
Member Jan Bowman
Member Brian Engle
Alternate 2 Dennis Day

ABSENT

Alternate 1 Alex Valderrey

ALSO PRESENT

Trey Sargent, Town Attorney
Ian Theodore, Council Liaison
John Smith, Town Administrator
Chris Chaudoir, Administrative Assistant

Pledge of Allegiance to the U.S. And Texas Flags

Pledge of Allegiance to the U.S and Texas Flags led by Chairman Crawford

Invocation

Invocation given by Councilman Theodore

Public Comment

No Public Comment

Consent Agenda

1. December 15, 2020 Meeting Minutes

Motion to accept the minutes made by Member Jones, Seconded by Vice-Chairman Hernandez.

Voting Yea: Chairman Crawford, Vice-Chairman Hernandez, Member Jones, Member Bowman, Member Engle. Motion passed unanimously.

Regular Agenda

2. Conduct a public hearing regarding a request from BBBG Properties LLC for a variance of Chapter 14, Exhibit A, Article IX SF-3 Residential District, Section 2 (g) Accessory Building and Section 3 (2) and (3) Side and Rear Yard setback and consider and act on the same. The property is located at 203 Oak Tree Lane and is legally described as Harbor Grove Estates, block A, lot 7.

Public Hearing opened at 7:42 p.m.

Emily Belf and Ben Gerhauser, BBBG Properties LLC, stated they were looking for a variance for the shop in the rear from the setback requirements.

William Faraoni, 205 Oak Tree, said the previous owner had moved the large shed building to the side of the property onto the Faraoni property per his survey. It was used to store furniture. Mr. Faraoni stated the previous owner promised him several times it would be removed. Mr. Faraoni also assisted the owner with a remodel of the property which was done without permits. When the property was listed for sale, he again told the previous owner to remove the shed and warned him not to list it as a living space. When the property sold, he met with the new owners and was told the house would be a weekend getaway and not used as an Airbnb. The house is listed as an Airbnb and the renters create a great deal of noise and traffic in the neighborhood. They leave dogs unattended to bark and he has also seen drug activity.

Catherine Faraoni, 205 Oak Tree, stated they have lived in the neighborhood for 10 years and love it, but it is being ruined by the activity next door. Her husband did help Scott McBride, the previous owner, with the property and they were told the shed would be moved. Runoff from the top of the shed runs onto their property.

Daniel Moses, 215 Oak Tree, stated the Airbnb does use the shed as an extra bedroom. He said he had gone on the Airbnb website and made a reservation for 10 people. The house is a fire hazard and creates tons of traffic every night.

Richard Fengler, 513 Harbor, said he saw 2 main issues. Number 1 was the shed being over the property line and the second was the possibility of civil litigation if

the variance was allowed. He felt there was plenty of room for equipment on the property without having various sheds and the electricity and lighting was a problem. He recommends denial of the application.

Emily Belf said nothing was being done to disturb the neighbors. There is a 6-person limit on the rental. The property was purchased furnished and as is and was never an issue with the neighbors. The survey shows the large shed to be on their property. That space is not being used as a living space and does not have plumbing.

Ben Gerhauser stated that the issues only seemed to be found after they purchased the property. The 3 other sheds in the back yard are all metal, they are not a fire hazard and are the same type most people have. The property is the same as it was when it was purchased. The only problem seems to be it is used as an Airbnb and causes traffic.

Vice-Chairman Hernandez asked about the amount of equipment stored in the multiple sheds and about the lighting and electric in the main shed.

Emily Belf stated they have never denied the property was used as an Airbnb. They are careful to screen the renters and there is a 6-person minimum. The property is in the same condition as when it was purchased. The shed is not advertised as a bedroom but is an asset to the property, adding value and the neighbor knew it was listed that way.

Trey Sargent, town attorney, reminded the commission that the applicant only had the burden of proving that there was a special circumstance or condition on the property that was not applicable to other properties in the zoning district making it necessary for a variance to be approved. Not economic concerns but a condition making it impossible to comply with the ordinance.

Chairman Crawford stated he had researched the Denton Central Appraisal website and found that the only 2 taxed structures on the property were the main structure and the deck. He pointed out that, according to the county's taxable property documentation, the other outbuildings should be taxable but no taxes have been paid on them.

Councilman Theodore asked about easements and setback on the property. Ms. Chaudoir responded it was zoned as SF-3 and had 6-foot rear and side setbacks for the sheds. Member Engle confirmed that measurement was from the property line.

Ms. Belf stated the survey provided showed the shed was on or near the property line not over it. Mr. Gerhauser added that removing the shed would incur significant expense. Ms. Belf said she had provided Ms. Chaudoir with a list of other properties in the neighborhood that also had buildings that were close to or on the property

line. Mr. Sargent reminded the Commission that they were considering unique characteristics on the property under discussion that necessitated the variance.

Member Jones stated it seemed to him that it was a case of conflicting surveys and whose was correct. He also asked for clarification on the 6-person minimum occupancy of the rental. Ms. Belf stated she may have misspoken, and it was a maximum of 6 people. She and Mr. Gerhauser reiterated that they were trying to maintain what they had purchased.

Pam Barnes, 201 Oak Tree, stated her view that the codes were there for a reason and this property should not be exempt from them. Due diligence should have been done prior to purchase to ensure the property was in compliance. She said the property was a fire hazard and that she had witnessed Mr. Faraoni measure from his house to the shed per his survey and the shed was on his property.

Ms. Belf stated the issues were not brought to their attention until after the property was purchased. Mr. Faraoni stated the shed was over by 7 inches and the situation was going to give him a stroke.

Public Hearing closed at 8:30 p.m.

Discussion was held regarding the area zoning. Ms. Chaudoir explained the neighborhood was platted in the 1950s and the current zoning ordinance went into effect in 1988. Anything built after the ordinance had to meet the criteria but, if it was in place prior to that time, there was nothing that could be done with it.

Councilman Theodore stated his opinion that discussions needed to happen between the current owners, previous owners, and the neighbor.

Member Bowman asked if it was possible for them to step back and access the situation before making a decision. Mr. Sargent said they would need to make their decision.

Motion to deny approval of the variance made by Member Jones, Seconded by Vice-Chairman Hernandez. Mr. Sargent reminded the Commission members that a Yea vote would be a vote to deny the variance.

Voting Yea: Chairman Crawford, Vice-Chairman Hernandez, Member Jones, Member Bowman, Member Engle. Motion passed unanimously.

Adjournment

Motion to adjourn made by Vice-Chairman Hernandez, Seconded by Member Engle.

Voting Yea: Chairman Crawford, Vice-Chairman Hernandez, Member Jones, Member Bowman, Member Engle. Motion passed unanimously.

TOWN OF HICKORY CREEK BOARD OF ADJUSTMENTS

March 16, 2021

Page 5

Meeting adjourned at 8:36 p.m.

Approved:

Attest:

Larry Crawford, Chairman
Position 2
Board of Adjustments

Chris Chaudoir,
Administrative Assistant
Board of Adjustments