

BOARD OF ZONING APPEALS MINUTES  
APRIL 9, 1985

889 Daggett

Chairman called the meeting to order at 4:35 P.M.

Present: Richard McBroom, Howard Overhulse, Robert Downey, and Richard Luzny.

Absent: Lynn Yackee.

Also present: Richard G. Hayman, Secretary; Arthur Germann, Donald Crampton and his wife.

Mr. Hayman stated the Board would not be getting the minutes for approval any more because the City does not have the money for tapes, so the minutes are being typed verbatim.

Mr. Hayman then read the Public Hearing Notice 2-85, a request by Norma and Donald Crampton for a variance to the front yard setback requirements.

The Chairman then asked Mr. Hayman to state the Cities position on the request.

Mr. Hayman said that Mr. Crampton came in over Thanksgiving while Mr. Hayman was in the Hospital and recieved a permit to enclose his garage which was on the front of the house, and make it part of the living room and dining room. After he completed this remodel, he came back while Mr. Hayman was there and ask to get a permit to erect a garage in the front of the remodeled garage. Mr. Hayman told him that he could not do that because the garage would be in the setback and the code did not permit anything to be built in the setback except by variance from the Board of Zoning Appeals.

Mr. Hayman then went in the hospital in February and while he was off, the City Manager and Engineer issued a permit to Mr. Crampton to build a building 11 feet out from the front of the house. When Mr. Hayman returned to work, he asked how they came to allow him to build 11 feet out from the front. In the zoning code there are two sections on how to figure front setback requirements. One is the average of the existing dwellings on the street when 25% of the street is occupied. The other says that within in established subdivisions, the District regulations established within the code shall set the setback of a dwelling. This District is a B Residential District and would require a 25 foot setback. Because all the lots are developed, the setback is established by the average of those existing dwellings. The average on this street is 33.96 feet. The Engineer took 25 feet. 25 feet allowed him to come out 11 feet from the front of the house. If you took the 33.96, that would mean he could only come out 2 foot 4 inches. Either way the garage would not be large enough to put a car in. He is requesting a variance of 9 feet added on to the 11 feet. This would put the front of the garage 16 feet from the street right of way. The existing structures are an average of 33.96 feet back.

Mr. McBroom asked if all the property owners were notified.

Mr. Hayman said everyone within 200 feet of the property. Mr. Hayman then read the two letters that were recieved in opposition of the request. It was also stated that the Mayor had recieved complaints.

Mr. Hayman said that Mr. Crampton has plenty of room in the rear yard to



to erect a garage and he had discussed this with Mr. Crampton. Mr. Crampton also wants to put a pool in the rear yard. There is enough room along the side of the house to put a drive even though there is a sewer easement along that side. Drives can be placed over easements but not structures.

Mr. Crampton said that Paul Beuher had told him he could put a garage up in the front of the house. He felt it would be difficult to put the drive down the side of the house with the sewer line there.

More discussion followed that was not pertinent to the subject.

Mr. McBroom said that without mitigating circumstances the Board has never granted variances where there were complaints against the request.

The Board then reviewed the drawing of the average setback.

Mr. Overhulse said there were two others on that street that were turned down.

Mr. Downey said he did not understand why they were opposed to the rear yard. He looked at it this afternoon.

Mr. Luzny asked when the permit was issued for the 11 feet.

Mr. Hayman said while he was off in February and after the garage was remodeled.

Mr. Luzny said that it appears to him that if a representative of the City said that he could build then Mr. Crampton has a legitimate complaint and there should not have been a permit issued for 11 feet.

Mr. Overhulse said that a few months ago it was put in the minutes that no City Official could issue a permit for something that needed a variance.

Mr. Hayman said that you have a standard in the zoning code and one person interprets it one way and another person interprets it another way. When he's not here the City Engineer does the interpretations and he went by the subdivision setback regulations, which would have been ok in an undeveloped subdivision.

Mr. Luzny asked if Mr. Crampton came in and asked for the 11 foot.

Mr. Crampton said the city came out and measured and said I could come out that far or go for a variance to come out farther.

Mr. Downey made a motion to deny the request.

Mr. Overhulse seconded the motion.

Mr. Crampton asked if he can still build 11 foot out?  
Answer was yes

Some discussion followed between Mr. Luzny and Mr. McBroom about amending the motion to allow him to come out to 17 foot 6 inches. Mr. Downey would not amend his motion.

Upon voice vote, Mr. Downey, Mr. Overhulse and Mr. McBroom voted to reject the request for variance. Mr. Luzny voted against the motion. Motion carried.

