

**STATE OF TEXAS
COUNTY OF HARRIS
CITY OF EL LAGO**

**AGENDA
BOARD OF ADJUSTMENT
HEARING MAY 4, 2020 at 7:30 PM.**

NOTICE IS HEREBY GIVEN THAT ON MAY 4, 2020, THE BOARD OF ADJUSTMENT WILL HOLD A HEARING BY TELECONFERENCE BEGINNING AT 7:30 P.M.

This meeting will be closed to in person attendance by the public. Due to the COVID 19 pandemic and CDC's recommendation regarding social distancing measures, the public will not be allowed to be physically present at this meeting, but the meeting will be available to members of the public via telephonic audio. Public Comments may be submitted. Citizens may join the WebEx Meeting by calling (844) 992-4726, Alternate number is (408) 418-9388, and entering the Access Code 961 474 290. Any person interested in speaking on any item on the agenda must submit his/her comment via email to the City Secretary at citysec@ellago-tx.gov. The request must include the name and address of the person commenting. Citizen comments will be read aloud by the City Secretary during the meeting. Comments must be received before 1:00 p.m., Monday May 4, 2020.

- 1. BOARD OF ADJUSTMENT MEETING CALL TO ORDER**
- 2. DECLARATION OF A QUORUM**
- 3. CITIZEN COMMENTS**
- 4. CONSENT AGENDA**

3.1. Consider/Approve minutes from Board of Adjustment meeting on December 4, 2019.

- 5. ADJOURNMENT**

CERTIFICATE

I certify that this agenda has been posted at least 72 hours before the scheduled meeting and will remain posted until the meeting has ended.

Rachel Lewis, City Secretary



CITY OF EL LAGO

MINUTES OF THE DECEMBER 4, 2019 BOARD OF ADJUSTMENT MEETING 411 TALLOWOOD DRIVE, EL LAGO, TEXAS 77586

- 1. Call to Order** Acting City Secretary Rachel Lewis called the meeting to order at 6:02 PM.

Declaration of a Quorum

Present: Scott Greenlee
Ruben Aguirre
Charles Sager
Vicky Kuehnel
Ken Paschall

Absent: Keith Klemowitz

- 2. Nominate and Approve Temporary Chair and Vice Chair for the Board of Adjustment**

Scott Greenlee stated that he would be willing to serve as Temporary Chair. Vicki Kuehnel made a motion for Scott Greenlee to serve as Temporary Chair and Ruben Aguirre seconded. All voted in favor so motion passed. Charles Sager stated he is willing to serve as Vice Chair. Scott Greenlee made a motion for Charles Sager to serve as Temporary Vice Chair and Ken Paschall seconded the motion. The vote was unanimous.

- 3. New Business**

- 3.1. Consider request by Charles Sager for a variance to Ordinance 441, codified as section 5.04(2A) El Lago Zoning Ordinance, to permit the widening of his driveway at 1618 Fair Oaks Drive, El Lago, Tx – City Attorney, Val Perkins stated that Charles Sager has elected to recuse himself from this decision since he is a party in this matter. Charles Sager was sworn in as a witness by Chairman Greenlee.*

City Attorney Perkins explained the matter pending before the Board. Mr. Sager filed a permit to construct a driveway that was denied based upon Ordinance 441 Section 5.04(2A). He is now seeking a variance in order to construct this driveway. Mr. Perkins read the Standards for Variance into the record and they are follows:

A variance can be authorized where strict enforcement of the Zoning Ordinance would cause the property owner unnecessary hardship and so the spirit of the Ordinance will be observed and substantial justice done.

A Variance is NOT authorized merely to accommodate the highest and best use of a property but when the Zoning Ordinance does not permit any reasonable use of the property.

Where the “hardship” is financial only, a variance is not permitted.

Mr. Sager read his testimony regarding his request for a variance. The written testimony is attached. Mr. Sager then referred the Board to a binder of evidence that he prepared. The binder of information is attached marked as pages 1-65. Pictures noted in testimony are marked as images 1-59.

Board Member Paschall asked Mr. Sager when the driveways for 402 Willow Vista and 1320 Woodland were permitted. Mr. Sager stated he did not know when the driveway at Willow Vista was permitted but the Woodland address was permitted sometime in 2015. Mr. Paschall then asked how many of the 54 driveways referenced by Mr. Sager were permitted prior to Ordinance 441 being enacted by the Planning and Zoning Committee. Mr. Sager stated that they were all permitted prior to the ordinance being enacted and many were never permitted. Mr. Paschall stated that he looked at 20 of the 54 addresses listed and 14 of those appeared to fit within the standards of the current ordinance. He then asked Mr. Sager if he had

anything other than vehicles in his driveway. Mr. Sager replied that he had a boat in his drive much like many other neighbors.

Chairman Greenlee asked about the original configuration of the driveway and asked if it was true that it was originally built so that expansion cannot take place to the outer area of the drive toward the property line. Mr. Sager stated that this was correct.

Kris Kuehnel was sworn in as a witness. He commented that residents are entitled to enjoyment of their properties unless they cause a hardship to others or safety concerns. He said that his real concern is with the ordinance that was enacted by the Planning and Zoning Commission which was put in place after the original request by Mr. Sager. He further stated that this ordinance creates a hardship for many residents who have the same configuration for driveways.

Paul Murray was sworn in as a witness. He stated that the Board isn't here to determine what Mr. Sager may have in his driveway.

Aaron Wilde was sworn in as a witness. He questioned why the ordinance was put into place by the Planning and Zoning Commission in the first place. He stated if it is due to aesthetics then Mr. Sager's plan actually improves the aesthetics and use of his property. Chairman Greenlee agreed. Board Member Aguirre stated that the reason was due to safety concerns such as a vehicle running into the home from the driveway area.

Chairman Greenlee then called for discussion. Board Member Paschall pointed out that there is an ordinance on the books today, so in keeping with the current ordinance, Mr. Sager's plan is in violation of the current ordinance. He questioned that if the Board allows it today, then how far would it go with other residents filing future requests. Mr. Sager responded there are properties with driveways of up to 45 feet in width and that he suggested to the Planning and Zoning Commission that a maximum width be adopted however this was not done.

Board Member Vicki Kuehnel stated that if this opens things up for other residents to file variances then that is good. She said that homes are older and it is a hardship for families with teenagers and not allowing them to construct larger driveways will deter younger families from moving into the City. She further stated that her daughter's car was towed due to not having enough space to park in their current driveway and it is a hardship.

Joey Samuelson was sworn in as a witness. He stated that he lives at 402 Willow Vista, one of the homes referenced by Mr. Sager in his testimony, and his driveway was permitted in 2002. After Hurricane Ike the residents were instructed to repair their driveways and he then questioned why Mr. Sager shouldn't be allowed to improve his now. He also said that it is true that younger families would be attracted to our neighborhoods if driveways could be altered in the same way referenced by Mr. Sager.

Chairman Greenlee pointed out that the ordinance says what it says, but with the current case law there are grounds for Mr. Sager to appeal this decision and would ultimately cost the City more for legal expenses.

There was no further discussion. Chairman Greenlee called for a motion to approve the variance. Vicky Kuehnel made a motion to approved the variance and Ruben Aguirre seconded. The vote was unanimous to approve the variance.

City Attorney Perkins recommended that Mr. Sager wait 10 days to hire a contractor because people have a 10 day period to appeal this decision to a state district court.

4. Adjournment – There being no further business, Chairman Greenlee adjourned the meeting at 6:55 P.M.

Scott Greenlee
Temporary Chair

ATTEST:

Rachel Lewis
City Secretary

DRAFT