

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

**AGENDA
BOARD OF ADJUSTMENT
HEARING March 18, 2020 at 6:00 PM.**

NOTICE IS HEREBY GIVEN THAT ON MARCH 18, 2020, THE BOARD OF ADJUSTMENT WILL HOLD A HEARING BEGINNING AT 6:00 P.M. IN THE CITY COUNCIL CHAMBERS OF CITY HALL, 411 TALLOWOOD DRIVE, EL LAGO, TEXAS AND WILL CONSIDER THE FOLLOWING AGENDA ITMES.

THIS FACILITY IS WHEELCHAIR ACCESSIBLE AND ACCESSIBLE PARKING SPACES ARE AVAILABLE. REQUESTS FOR OTHER ACCOMMODATIONS OR INTERPRETIVE SERVICES MUST BE MADE 48 HOURS PRIOR TO THIS MEETING. PLEASE CONTACT THE CITY SECRETARY'S OFFICE AT 281-326-1951, EXT. 111 OR FAX 281-326-2134 FOR FURTHER INFORMATION

1. BOARD OF ADJUSTMENT MEETING CALL TO ORDER

2. CITIZEN COMMENTS

3. CONSENT AGENDA

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

4. NEW BUSINESS

4.1. Consider request by Robert Vandervoort for a variance to section 5.04(5) of the El Lago Zoning Ordinance, to permit the construction of a fence in excess of 6 feet 8 inches in height at 306 Pineview Circle, El Lago, Texas.

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

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City of El Lago

411 Tallowood Dr.

El Lago, TX 77586

(281) 326-1951 (281) 326-2134 Fax

VARIANCE REQUEST FORM

All ordinance variance requests must be submitted in writing and considered by the appropriate Commission, Board or Council at a public meeting. Complete the following form in its entirety and submit to the City Secretary at City Hall. You will be notified of the date, time and location when the variance is to be considered.

Ordinance from which the variance is requested:

Fence Height / from 6'8" to 8' cedar capped
board on board fence

Reason(s) for the variance request

Privacy From Neighbors

Name: Robert Vandervaort

Address: 306 Pineview Circle El Lago, Texas 77586

Phone: 832-646-8881 (best number to call)

2/5/20
Date

Robert Vandervaort
Signature

THIS SECTION TO BE COMPLETED BY THE CITY

Date Variance Request was received at City Hall _____

Date to be brought before Council/Board _____ (dd/mm/yy)

Council/Board Action on Variance: Approved Denied

Dates Variance is Valid: From ____/____/____ To ____/____/____

Date of Council Action _____ Permit Number (If Granted): BP-____-____

This variance request, whether approved or denied, is to be retained in the appropriate property address file

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5.04 Zone A-Limited One-Family Residential District regulations.

(1) As shown on the attached Official Zoning Map of the City of El Lago, which is incorporated herewith and made a part of this ordinance by reference, Zone A is hereby designated as a one-family district and each and every lot therein shall be used only as a residential lot for residential purposes. The term "residential purposes" as used herein shall be held and construed to exclude use for hospitals, duplex houses, apartment houses, hotels, tourist courts, garage apartments, roominghouses and all other kinds or types of housing accommodations other than a detached, single-family dwelling house and the appurtenances thereto as hereinafter permitted, and shall be held and construed to exclude business, commercial, trade or professional uses.

(2) Only one residence house which shall be a detached single-family residence house, either of one-story, one-and-one-half story or two-story construction, shall be built or permitted on each lot not to exceed two (2) stories or thirty-five (35) feet in height and such house may have an attached or detached garage for not more than three (3) cars, as well as servant type quarters which may be occupied by an integral part of the family occupying the main residence on the building site or by servants employed on the premises.

(2A) Any person desiring to cut any curb or otherwise construct any driveway for the purpose of ingress and egress to and from the property to be served shall make application for a permit to the building official. The application shall be in writing and shall be accompanied by a plat or map of the property upon which the driveway is to be located. If approved by the building official, the city secretary shall charge a minimum fee of forty dollars (\$40.00) for the issuance of the permit. The fee shall cover the expenses of the issuance of the permit. No permit shall be issued to authorize the construction of a driveway or improved flat surface within the building setback lines described and contained in subsection (11) of this section unless the driveway extends from the curb (i) into the garage located on the property or, if there is no garage there located, to the back building line of the residence house on the property, or (ii) back to the curb if the curb cuts are separated by a distance of at least thirty-five (35) feet. In addition, a permit shall be issued to authorize said construction if a part of the permitted driveway or improved flat surface commences at the curb and extends to a garage, fence or into the back yard of the property to the back building line of the residence house on the property. Notwithstanding the provisions of this subsection, no permit shall be issued to authorize the construction of a driveway in excess of thirty-five (35) feet wide in front of the front building line of the residence house on the property, or which, when added to all other improved surfaces or structures (excepting sidewalks), takes up more than thirty-five (35) percent of the total area located between the curb and the building line of the residence house on the property to be served by the driveway. For a residence house located on a corner lot, this percentage of improved surface prohibition does not apply to a driveway sought to be permitted from the side street of the lot on which the residence house is located.

A rendering of "allowed" and "not allowed" examples of driveway construction is adopted as a part of this zoning ordinance [section 5.04\(2A\)](#) and shall be included in the ordinance at the conclusion of such subsection.

(3) The exterior finish or construction of all single-family residence houses shall be at least fifty-one (51) percent brick, brick veneer, stone or other masonry construction, stucco, excluding concrete, plain monolithic concrete, concrete block or tile, siding or siding type material, or similar looking products, and in computing such percentage, roof area shall be excluded, but attached garages, porches or other structures constituting part of the building proper shall be included.

(4) In addition to the main single-family residence house, outbuildings for the use and enjoyment of the property may also be built on any lot used for single-family residence purposes, but not more than two (2) outbuildings in addition to a garage may be built or placed on any such lot, and no outbuilding of any type on any such lot shall be used for or occupied as living quarters, except by domestic servants engaged on the premises or an integral part of the family.

(5) No building, fence, wall or other structure shall be placed or built on any lot nearer to the front lot line or nearer to the side street line than the building setback line as herein provided except (a) a picket fence as defined herein located on the side setback of a corner lot, or (b) a security fence as defined herein located on the side setback of a corner lot or located on a lot exceeding one-half (1/2) acre in total size. If the front wall of a single-family residence on a lot is set back behind the front building setback line on each lot, the fences on such lots, shall not be extended, placed or built past the front wall of such residence on the side of the residence to which the fence is adjacent. No fence shall

exceed six (6) feet eight (8) inches in height except the columns of a security fence, which may be a maximum of eight (8) feet in height. Fences facing streets shall be erected so that the finish side of the fence faces the street. No fence or similar structure erected shall contain any substance such as broken glass, barbed wire, spikes, nails, or similar materials designed to inflict pain or injure any person or animal. Fences carrying electrical current shall not be allowed. No radio or television aerial wires or antenna shall be maintained on any portion of any lot of the front wall of the main residence on said lot.

(6) No structure of any type (fences and garden walls excepted) shall be placed or built on any lot nearer than five (5) feet to any interior side lot line, except that detached garages may be located within three (3) feet of any inside lot line if situated at the rear of the main residence building. The term "detached garage" shall mean a separate building having no common wall with the main residence building. No detached garage dwelling shall be placed or built on any lot nearer than five (5) feet to any lot line.

(7) Lots or fractions of lots may be combined in the manner herein below stated so as to create a single building site. The whole area resulting from any such combination shall be treated as a single lot, as if originally platted as such on said map or plat of the addition in which the house is built, and in such case the said lot lines between the lots or fractions of lots combined shall not be deemed to be side lot lines for building setback purposes; such combinations being permissible only as follows:

(a) Any whole lot may be combined with any number of adjoining or contiguous whole lots.

(b) Any whole lot or building site created by a combination of whole lots as above permitted, may be combined with a fraction of either or both of the lots adjoining the same.

(c) The right to erect or place a single-family residential dwelling upon a building site consisting of less than an entire lot as shown upon the subdivision plat shall be limited to those instances in which the tract constituting such buildings site (consisting of either a part of a single lot as shown on said subdivision plat or portions of two (2) adjacent lots as shown on said plat) has a frontage width at the minimum building setback line of at least seventy (70) feet and a square footage area of at least seven thousand (7,000) square feet.

(8) No structure of a temporary character, trailer, trailer house, mobile home, manufactured home, basement, tent, shed, barn or garage shall be used on any lot at any time as a residence or living quarters for more than seventy-two (72) hours consecutively, but servants engaged on the premises may occupy servant quarters built upon or onto any garage or other outbuilding. All detached garages and outbuildings built on any lot used for single-family residence purposes must be situated behind or to the rear of the main residence building on said lot, and every detached garage and outbuilding built on any such lot (except greenhouses) must correspond in exterior architectural design and style with the main residence building on said lot.

(9) All houses, buildings and other structures on lots in this zone must be kept and maintained in good repair, must function as originally intended and must be painted when necessary to preserve the attractiveness thereof.

(10) Any temporary building or structure moved onto a lot incident to construction shall be promptly removed upon completion of the construction work. No building material of any kind or character shall be placed or stored on any lot until the owner is ready to commence improvements and then such material shall be placed within the property lines of the lot or building site upon which the improvements are to be erected, and shall not be placed on the street or between the pavement and the property line. No stumps, trees, underbrush or any refuse of any kind or scrap material from improvements being erected on any lot or building site shall be placed on any streets or easements or any other lots or building sites. All such material, if not disposed of immediately, shall be immediately removed from the property and disposed of upon completion of said improvements.

(11) No buildings shall be located nearer to the front lot line or nearer to the side street than the building setback lines shown and established on the recorded plat of the subdivision in which the lot or tract is located. In any event, no residence shall be located on any residential building lot nearer than twenty-five (25) feet to the front line nor nearer than ten (10) feet to any side street line nor nearer than ten (10) feet for a single-story building or twenty (20) feet for a two-story building from rear lot lines, nor nearer than five (5) feet from any side line.

(12) The use of easements for installation and maintenance of utility and drainage facilities are hereby expressly permitted.