

The Board of Adjustment of the City of Seabrook met on Thursday, August 3, 2017 at City Hall, 1700 First Street, Seabrook, Texas in regular session to consider the following agenda items.

THOSE PRESENT WERE:

SUE ELLEN LANGGARD (Excused Absence)	CHAIRMAN
EDELMIRO MUNIZ (Excused Absence)	MEMBER
MICHELE GLASER	MEMBER
MARGARET HUNT (Excused Absence)	MEMBER
ROB HEFNER	MEMBER
RICHARD NGUYEN	ALTERNATE MEMBER
JARED KELLY	ALTERNATE MEMBER
STEVE WEATHERED	CITY ATTORNEY
SEAN LANDIS	DIRECTOR OF PLANNING AND COMMUNITY DEVELOPMENT
ALESIA HAMMOCK	SECRETARY

Michele Glaser called the meeting to order at 7:00 p.m.

1.0 Board to select Acting Chair due to absence of Chairman and Vice Chairman.

Motion by Jared Kelly and seconded by rob Hefner

To nominate Michele Glaser as Acting Chair.

MOTION CARRIES BY UNANIMOUS CONSENT.

2.0 PUBLIC COMMENTS AND ANNOUNCEMENTS - None

3.0 SPECIFIC PUBLIC HEARING

3.1 An appeal to the Board of Adjustments to grant permission for the enlargement of an existing nonconforming single-family residential structure within the MMU (Marine Mixed Use) Zoning District.

Nick Kondejewski, Seabrook Building Official, stated that the applicant met with city staff requesting to construct an addition to an existing residential single-family structure. During the review by the city it was found that the structure is located within a MMU, Marine Oriented Mixed Use Zoning District. Residential uses/structures are not permissible within an MMU District creating a grandfathered nonconforming use.

Benjamin Mellade, 17300 Saturn Lane, after being sworn in, stated he was hired by the owners of the property to provide design documents to expand on their existing residence. He stated that there are two issues that are associated with this project. The first being that it is located within the 100 year floodplain and the second is that it is

located in the MMU zoning district and is a grandfathered nonconforming use. Mr. Mellade stated that the finished floor elevation is at 10.70 feet according to the recent Elevation Certificate, but according to the new FEMA Flood Maps it needs to be at 17 ft. base flood elevation. He stated that they would only be increasing the footprint of the residence by 17%.

Michele Glaser asked if the changes would meet the flood ordinance.

Sean Landis stated that yes it would meet the flood ordinance.

Patrick Tamborello, 1809 Larrabee, after being sworn in, stated that he had issues that he would like to go over. If the first floor is built out to the edge of the existing concrete slab it will eliminate 7.9% of his view from his patio to the lake.

Tim Williams, 1805 Larrabee, after being sworn in, stated he is the owner of the property. He stated that they have worked very hard to not expand the footprint of the residence.

3.2 Request for a variance to Chapter 80 "Subdivisions", Article II "Plats", Section 80-55 "Dedication and certification language", for Lots 1, 2, 3, 4, and 5, Block 1 of Harbortown Estates Subdivision, Harris County, Texas; specifically for relief to the required unobstructed aerial easement five feet wide from a plane 20 feet above the ground upward located adjacent to each side of all utility easements.

Sean Landis gave a brief report. He stated that early in 2014 Bayway Homes Inc, purchased lots 1 thru 5 in the Harbortown Subdivision with the intent of constructing single family homes. The property prior to the purchase had been an apartment complex. The apartment complex was demolished many years prior to the purchase and in 2004 had been replatted into 5 residential lots. The city's subdivision ordinance at that time did not require there be dedicated for utilities an unobstructed aerial easement five feet wide from a plane 20 feet above the ground upward located adjacent to each side of all utility easements. Neither the 2004 plat nor the title commitment reflected the 5'x 20' aerial easement.

He stated that in May of 2014, Bayway Homes requested approval of a short-form plat to change the existing 16 foot utility easement, drainage easement and side building line to a 10 foot utility easement, drainage easement and side building line. During this action a note was added to the new plat requiring an an unobstructed aerial easement five feet wide from a plane 20 feet above the ground upward located adjacent to each side of all utility easements.

Mr. Landis also stated that in April 2014, a replat of Harbortown Estates was signed and filed of record in Harris County. Bayway Homes then commenced with building permits and the construction of five residential houses, all which are encroaching into the noted aerial easement. In June of 2017, the encroachments were identified when 1300 Menard Street was set for closing. The surveyor while preparing the final survey of the property

found the note requiring the unobstructed aerial easement five feet wide from a plane 20 feet above the ground upward located adjacent to each side of all utility easements. The easement was never noted on any of the five property surveys submitted prior to this date during the building permit process.

Mr. Landis stated that it is City Staff's recommendation that the Seabrook Board of Adjustments grants a variance to Chapter 80 "Subdivisions", Article II "Plats", Section 80-55 "Dedication and certification language", for lots 1, 2, 3, 4, and 5, Block 1 of Harbortown Estates Subdivision, Harris County, Texas; specifically for relief to the required unobstructed aerial easement 5 feet wide from a plane 20 feet above the ground upward located adjacent to each side of all utility easements. The special conditions and circumstances did not result from the actions of the applicant. The houses have all been constructed and the aerial easements provided for on the plat are not required for the placement of any current or future utilities.

Charles Anders, Bayway Homes, after being sworn in, stated the aerial easements affects four out of the five houses. He stated that if any of the home owners try to refinance or sale their homes the mortgage company will find the easement.

Acting Chairman Glaser closed the Specific Public Hearing portion of the meeting at 7:33

4.0 NEW BUSINESS

4.1 Consider and take all appropriate action on the appeal to the Board of Adjustments to grant permission for the enlargement of an existing nonconforming single-family residential structure within the MMU (Marine Mixed Use) Zoning District.

Motion was made by Jared Kelly and seconded by Richard Nguyen

To grant permission for the enlargement of an existing nonconforming single-family residential structure at 1805 Larreebee within the MMU (Marine Mixed Use) Zoning District.

MOTION CARRIES BY UNANIMOUS CONSENT.

4.2 Request for a variance to Chapter 80 "Subdivisions", Article II "Plats", Section 80-55 "Dedication and certification language", for Lots 1, 2, 3, 4, and 5, Block 1 of Harbortown Estates Subdivision, Harris County, Texas; specifically for relief to the required unobstructed aerial easement five feet wide from a plane 20 feet above the ground upward located adjacent to each side of all utility easements.

Acting Chairman Glaser stated that they would vote on the questions.

137 **A. That special conditions and circumstances exist which are peculiar to the**
138 **land, structure or building involved which are not applicable to other lands,**
139 **structures or buildings in the same district.**
140

141 **Applicant's Answer:** In the immediate and most surrounding subdivision properties in
142 the City of Seabrook there are NO side aerial easements. Also, the subdivision of El Mar
143 Village and Lake Mija Village do not have the aerial easement referred to in a plat.
144

145 ***We find accordingly***
146

147 Ayes: Glaser, Hefner, Nguyen, and Kelly

148 Nays: None

149 Abstain: None
150

151 **B. That literal interpretation of the provisions of this ordinance would deprive**
152 **the applicant of rights commonly enjoyed by other property owners in the same**
153 **district under the terms of this ordinance.**
154

155 **Applicant's Answer:** The Cove along Hammer from Todville (west) has NO aerial
156 easement in the side U.E. The intent of the ordinance was to place an aerial easement in
157 the rear of properties for electrical placement, and maintenance, which Harbortown
158 Estates has.
159

160 ***We find accordingly.***
161

162 Ayes: Glaser, Hefner, Nguyen, and Kelly

163 Nays: None

164 Abstain: None
165

166 **C. That the special conditions and circumstances do not result from the actions**
167 **of the applicant.**
168

169 **Applicant's Answer:** The houses were permitted within the parameters of the Seabrook
170 Building Code.
171

172 ***We find accordingly.***
173

174 Ayes: Glaser, Hefner, Nguyen, and Kelly

175 Nays: None

176 Abstain: None
177

178 **D. That granting the variance requested will not confer on the applicant any**
179 **special privilege that is denied by this ordinance to other lands, structures, or**
180 **buildings in the same district.**
181

Applicant's Answer: Most existing subdivision properties located in the City of Seabrook do not have the aerial easement on their platting.

We find accordingly.

Ayes: Glaser, Hefner, Nguyen, and Kelly

Nays: None

Abstain: None

E. That a literal enforcement of the provisions of this ordinance would result in unnecessary hardship.

Applicant's Answer: Being that most properties in the City of Seabrook do not have this aerial easement, 4 homeowners in Harbortown Estates cannot sell or re-fi their homes due to this ordinance.

We find accordingly, for the reasons expressed herein:

Ayes: Glaser, Hefner, Nguyen, and Kelly

Nays: None

Abstain: None

VARIANCE GRANTED

5.0 ROUTINE BUSINESS

5.1 Approve the minutes from the January 26, 2017 meeting.

Motion was made by Richard Nguyen and seconded by Rob Hefner

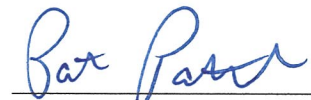
Approve the minutes from the January 26, 2017 meeting.

MOTION CARRIES BY UNANIMOUS CONSENT.

Meeting adjourned at 7:42 p.m.

APPROVED THIS 27TH DAY OF SEPTEMBER, 2018.


Sue Langgard, Chairman


Pat Patel, Administrative Assistant