

The Board of Adjustment of the City of Seabrook met on Wednesday, September 18, 2013 at City Hall, 1700 First Street, Seabrook, Texas in regular session to consider the following agenda items.

THOSE PRESENT WERE:

SUE ELLEN LANGGARD	CHAIRMAN
GAIL POSTON	VICE CHAIRMAN
EDELMIRO MUNIZ	MEMBER
JOHN DOLAN	MEMBER
MARGARET HUNT (Absent)	MEMBER
RICHARD NGUYEN	ALTERNATE MEMBER
ROBERT DUNCAN	ALTERNATE MEMBER
STEVE WEATHERED	CITY ATTORNEY
SEAN LANDIS	DIRECTOR OF PLANNING AND COMMUNITY DEVELOPMENT
ALESIA HAMMOCK	SECRETARY

Chairman Langgard called the meeting to order at 7:00 p.m. and stated there was a quorum present and the voting members are: Gail Poston, Ed Muniz, John Dolan, Richard Nguyen, and Sue Langgard.

1.0 PUBLIC COMMENTS AND ANNOUNCEMENTS

2.0 SPECIFIC PUBLIC HEARING

2.1 Request for a variance to Appendix A, Comprehensive Zoning, Sec. 1.10 Definitions: Yard (A) Front: Applicant is requesting that the properties be permitted to front the unimproved Menard Avenue Right-of-Way as originally platted and intended.

Sean Landis stated that the applicant requests a variance to Appendix A, Comprehensive Zoning, Sec. 1.10 Definitions: Yard (A) Front. Applicant is requesting that the properties be permitted to front the unimproved Menard Avenue Right-of-Way as originally platted and intended. He stated that Section 1.10 of the Zoning Ordinance requires that the front yard be determined by the portion of the property which fronts the street. Lots 1, 2, & 3 of Block 21 located in the Morristown Subdivision, were originally platted with Menard Avenue as the front. Due to subsidence and a lack of land management, Menard Avenue is under water. Lots 1, 2 & 3 of Block 21 are not accessible from Menard Avenue and are only accessible from Ballentine Lane.

Mr. Landis stated that as a result, the street frontage of Ballentine Lane is now required to be considered when establishing the front yard of the lots in question. The dimension for each lot is 50' x 125' with the 125' section paralleling Ballentine Lane. If the owner is required to build compliant with the requirements of Section 1.10 Definitions: Yard (A) Front. The building footprint for each lot would be limited to a dimension of 10' x 115'. He stated that the literal interpretation of the "Yard" definition and regulations would deprive the applicant from his right to build a single family home on each of the lots as authorized under "3.03.03 Density: One dwelling unit per lot". Mr. Landis stated that lots 1, 2 & 3 were originally platted backing up to lots 10, 11 & 12 which "Front" off of Todville Road. Had Todville Road been the street to subside, then those lots would face the same setback issue that the applicant is facing. The applicant simply seeks to have the right to build on the lots owned as those land owners who adjoin the lots adjacent to Todville Road.

51 Varchia Morgan, Gale Street, after being sworn in, testified that she was concerned with the water
52 overflow on to their property. She stated that she was also concerned about the setbacks.

53
54 Linda Reyna, Gale Street, after being sworn in, testified that she was concerned about drainage on
55 to her property. Ms. Reyna stated that she was concerned about the wetlands. She asked where
56 would be the access to the two inside lots and if they were going to fill in Menard.

57
58 Chris Hensley, Todville, after being sworn in, testified that he is against the driveway running
59 along the back of the property.

60
61 Lizbeth David, Todville, after being sworn in, testified that she was against the variance request
62 for the previously stated reasons.

63
64 Daniel Pias, Houston, after being sworn in, testified that the three lots are the same size as the lots
65 that butt up to them facing Todville. Mr. Pias stated that one of the arguments is that they should
66 not be able to build three houses there, but they are allowed throughout that area. He stated that
67 he thought the problem was that no one wanted to lose their water view from the back of their
68 homes.

69
70 Mr. Pias stated that lots 1, 2, & 3 were originally platted with Menard Ave. as the "front". Due to
71 subsidence Menard Ave. is under water and lots 1, 2 & 3 are only accessible from Ballentine
72 Lane. Lots 2 & 3 are now land locked behind lot 1. He stated that he has the exact same size lots
73 as most of the neighbors; he just has an access problem. He stated that other lots in the area have
74 the same problem.

75
76 Mr. Pias stated that he had no control over the loss of Menard Ave as the "front" street access.
77 He stated that he is only asking for the same rights as his neighbors; the right to build on his land
78 and granting the variance will have no ill effect on any of the adjoining land owners in regards to
79 egress and ingress. He stated that literal enforcement of the ordinance provisions would render
80 two of the three lots as unbuildable as they now sit and forcing him to re plat the 3 lots into 2 lots
81 would also be a financial hardship.

82
83 Mr. Pias stated that neighbors suggest that one home be allowed on all three lots. He stated that
84 the land valuation for a single home would be 200% more than his adjoining neighbors and if he
85 built 2 homes the land valuation would be 150% more than his adjoining neighbors. He would
86 not be able to sell these homes. He stated how is that not a hardship for him.

87
88 Chairman Langgard closed the Public Comments at 7:34

89
90 At 7:35 p.m., Chairman Langgard announced that the Board of Adjustments would now
91 hold a **closed executive meeting** pursuant to the provisions of the Open Meetings Act,
92 Chapter 551, Government Code, and Vernon's Texas Codes Annotated, in accordance
93 with the authority contained in one or more of the following sections: Section 551.071,
94 Consultation with Attorney to discuss legal issues with the City Attorney.

95
96 **OPEN MEETING**

97 At 7:44 p.m., Chairman Langgard reconvened the meeting in open session and Steve
98 Weathered announced that Item 2.1 had been discussed in Executive Session but no
99 action was taken.

2.0 NEW BUSINESS

2.1 Discussion, consideration and possible action concerning the request for a variance to Appendix A, Comprehensive Zoning, Sec. 1.10 Definitions: Yard (A) Front: Applicant is requesting that the properties be permitted to front the unimproved Menard Avenue Right-of-Way as originally platted and intended.

Chairman Langgard stated that they would vote on the questions.

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

Applicant's Answer: Lots 1, 2, & 3 of Block 21 located in the Morristown Subdivision, were originally platted with Menard Ave. as the "front". Due to "subsidence" and land management Menard Ave. is under water and lots 1, 2 & 3 of Block 21 are not accessible from Menard Ave and are now only accessible from Ballentine LN. or (6th St). Lots 2 & 3 are now land locked behind lot 1.

We find accordingly.

Ayes: Poston, Muniz, Dolan, Nguyen, and Langgard

Nays:

Abstained:

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

Applicant's Answer: Literal interpretation of the "yard" definition and regulations would deprive the applicant from his right to build a single family home on each of the lots as authorized under 3.03.02 Density of one dwelling unit per lot. Designating the side yard as the "front" and the original "front" and "back" yards now as the side yards with Ballentine LN. as the "street side" and the "front" of lots 1, 2 & 3 would require a build back line of 25ft from the front and 15ft from the back leaving only 10' x 115' of buildable footage on the platted 50' x 125' lots. Lots 1, 2 & 3 were originally platted backing up to lots 10, 11 & 12 which "front" off of Todville Rd. Had Todville Rd been the one to sink due subsidence then those lots would face the same buildable issue that applicant is now facing. Applicant simply seeks to have the right to build on his lots as those land owners who adjoin the lots in consideration.

We find accordingly.

Ayes: Poston, Muniz, Dolan, Nguyen, and Langgard

Nays:

Abstained:

C. That the special conditions and circumstances do not result from the actions of the applicant.

Applicant's Answer: Applicant had no control over the loss of Menard Ave as the "front" street access.

We find accordingly.

Ayes: Poston, Muniz, Dolan, Nguyen, and Langgard

Nays:

Abstained:

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

Applicant's Answer:

Granting the "definition" variance will not in any way confer any special privilege upon the applicant. In fact not granting the variance would deprive the applicant of his rights to build on his lots in the same manner as the other land owners in the subdivision who have not lost their originally designated "front" street access. Granting the variance will have no ill effect on any of the adjoining land owners in regards to egress and ingress. The applicant will simply be afforded the same rights and consideration currently enjoyed by those land owners who "front" off of Todville with the exact same lot size and dimensions as the applicant's.

We find accordingly.

Ayes: Poston, Muniz, Dolan, Nguyen, and Langgard

Nays:

Abstained:

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

Applicant's Answer: Literal enforcement of the ordinance provisions would render two of the three lots as unbuildable as they now sit. Forcing the applicant to re plat the 3 lots into 2 lots would also be a financial hardship to applicant.

We find accordingly, for the reasons expressed herein:

Ayes: Poston, Muniz, Dolan, Nguyen, and Langgard

Nays:

Abstained:

VARIANCE GRANTED

3.0 APPROVAL OF MINUTES

4.1 Consideration and possible action concerning the minutes from the July 24, 2013 Specific Public Hearing.

Motion was made by John Dolan and seconded by Gail Poston.

To approve the minutes from the July 24, 2013 Specific Public Hearing as written.

201 **MOTION CARRIES BY UNANIMOUS CONSENT.**

202
203 **4.2 Consideration and possible action concerning the minutes from the July 29, 2013 meeting.**

204
205 **Motion was made by John Dolan and seconded by Gail Poston.**

206
207 *To approve the minutes from the July 29, 2013 meeting as written.*

208
209 John Dolan stated that lines 95 and 96 both reference Duncan as voting "Aye" and "Nay".

210
211 Records show that Duncan voted "Aye".

212
213 **Motion was made by John Dolan and seconded by Gail Poston.**

214
215 *To approve the minutes from the July 29, 2013 meeting with correction.*

216
217 **MOTION CARRIES BY UNANIMOUS CONSENT.**

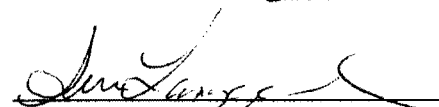
218
219 **Motion was made by Gail Poston and seconded by John Dolan.**

220
221 *To adjourn the Board of Adjustments meeting.*

222
223 **MOTION CARRIES BY UNANIMOUS CONSENT.**

224
225 Meeting adjourned at 7:52 p.m.

226
227 **APPROVED THIS** 8th **DAY OF** October, 2014

228
229
230 
231 Sue Langgard, Chairman


Alesia Hammock, Secretary