

City of Galveston



Department of Planning and Community Development

P. O. Box 779 / Galveston, Texas 77553-0779 / Ph (409) 797-3660 / Fax (409) 797-3661

AGENDA
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
4:00 p.m., Wednesday, May 9, 2012
City Council Chambers, 2nd Floor of City Hall
823 Rosenberg, Galveston, Texas

- A. Attendance
- B. Conflict of Interest
- C. Minutes: April 4, 2012
April 11, 2012
- D. New Business and associated Public Hearing:

12Z-15 (5715 Stewart Avenue) Request for a variance from the Galveston Zoning Standards Section 29-65 regarding setback requirements in a One Family One (1F-1) zoning district. Property is legally described as Lot 4, Shore View Section 2, in the City and County of Galveston, Texas.

Applicant: Compass Pointe Homes c/o Mike Hughes

Property Owner: Rudy Flores

12Z-16 (1212 11th Street) Request to appeal the City of Galveston Landmark Commission's decision regarding case 12LC-05. Request for a Certificate of Appropriateness for the demolition of the main structure within the San Jacinto Neighborhood Conservation District. Property is legally described as the South 71.5 feet of Lot 1 (1-2), Block 10, in the City and County of Galveston, Texas.

Applicant: Tegrity Homes

Property Owner: John Williams

12Z-17 (1601 Avenue D/Market) Request for variances from the Galveston Zoning Standards Section 29-65 regarding setback requirements within the Historic (HIST) zoning district. Property is legally described as the North 63.6 feet of Lot 7 (7-0), Block 496, in the City and County of Galveston, Texas.

Applicant and Property Owner: Carol Ash

- E. Adjournment

Prepared By:


Athena Petty, Planning Staff Assistant

Date Prepared:

April 25, 2012

IN ACCORDANCE WITH THE PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT (ADA), PERSONS IN NEED OF A SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHALL, WITHIN THREE (3) DAYS PRIOR TO ANY PROCEEDING, CONTACT THE CITY SECRETARY'S OFFICE, SUITE 201, 823 ROSENBERG, GALVESTON, TEXAS 77550 (409 797-3510).

MEMBERS OF CITY COUNCIL MAY BE ATTENDING AND PARTICIPATING IN THIS **MAY 10, 2012**

POSTED

RD
5/9/12

12Z-15 (5715 Stewart Avenue) Request for a variance from the Galveston Zoning Standards Section 29-65 regarding setback requirements in a One Family One (1F-1) zoning district. Property is legally described as Lot 4 Shore View Section 2, in the City and County of Galveston, Texas.

Applicant: Compass Pointe Homes c/o Mike Hughes

Property Owner: Rudy Flores

Existing Zoning and Land Use:

Zoning	One Family One (1F-1)
Land Use	Residential

Surrounding Zoning and Land Use:

	North	South	East	West
Zoning	One Family One Dwelling District (1F-1)	One-Family One Dwelling District (1F-1)	One-Family One Dwelling District (1F-1)	One-Family One Dwelling District (1F-1)
Land Use	Residential	Residential	Residential	Residential

Property Owner Notification as of May 9, 2012:

Sent	Returned	In Favor	In Opposition	No Comment

Advertisement Date: April 26, 2012

City Department Notifications:

Airport: Pending
 Building Department: Pending
 Fire Chief: Pending
 Fire Marshal: Pending
 Police Department: Pending
 Public Works: Pending

Private Utility Notifications:

A T & T: Pending
 CenterPoint Energy: Pending
 Comcast: Pending
 Texas Gas Service: Pending

ANALYSIS

The applicant is requesting a variance for a new home that was constructed through the CDBG disaster recovery program. The new home was constructed in error and the front stairs now encroach the 20' front setback.

1. Variance regarding setbacks in the One Family One (1F-1) zoning district

Please reference the table below for the required setbacks for single-family residential development in the One Family One (1F-1) zoning district, per Section 29-65. The setbacks for the proposed new construction are also shown below:

Zoning District: One-Family Four (1F-1)

Setback	Front Yard	Side Yard	Rear Yard
Required	20'	3'	10'
Proposed	17'	NA	NA

Variances Requested - the applicant is requesting a variance from the following:

- Front yard setback – from 20' to 17' on the front property line;

Applicant's Justification

"Original survey the property lines were not submitted on plans. This caused front stairs to be installed over property lines".

CONDITIONS FOR A VARIANCE

The Board of Adjustment may grant a variance under this Section only if the variance is not prohibited by Section 14.401.C. in Article 14, Administrative Bodies, and if the Board makes a determination in writing that all of the following are demonstrated:

1. The request for the variance is rooted in special conditions of the applicant's property that do not generally exist on other properties in the same zoning district.
2. Due to said special conditions, the literal enforcement of the strict terms of these Land Development Regulations would impose an unnecessary hardship on the applicant.
3. The variance is not contrary to the public interest, in that:
 - i. It does not allow applicants to impair the application of these regulations for:
 - a. Self-imposed hardships;
 - b. Hardships based solely on financial considerations, convenience or inconvenience; or
 - c. Conditions that are alleged to be "special," but that are actually common to many properties within the same zoning district.
 - ii. The variance will not have a detrimental impact upon:
 - a. The current or future use of adjacent properties for purposes for which they are zoned;
 - b. Public infrastructure or services; and
 - c. Public health, safety, morals and general welfare of the community.
4. The degree of variance allowed from these Land Development Regulations is the least that is necessary to grant relief from the identified unnecessary hardship.
5. The variance shall not be used to circumvent other procedures and standards of these Land Development Regulations that could be used for the same or comparable effect (e.g., if alternative development patterns, alternative development standards, or other flexible measures in these regulations are available that would avoid or mitigate hardship without using a variance, then they must be used).
6. By granting the variance, the spirit of these Land Development Regulations is observed and substantial justice is done.

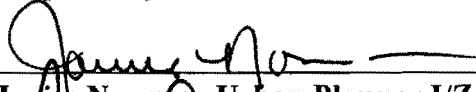
APPEAL FROM DECISION OF BOARD

In accordance with Section 29-112, any person aggrieved by any decision of the Board, or any officer, department or other Board of the City, may appeal the decision or action of the Board by filing a petition for the same in a court of competent jurisdiction, setting forth that such decision is illegal in whole or in part, and specifying the grounds for the alleged illegality. Such petition shall be filed with the Court within ten (10) days from the day the Board renders its decision, and not thereafter. The time period set forth herein shall be deemed jurisdictional.

ATTACHMENTS

- "A" – Zoning Map
- "B" – Aerial Map
- "C" – Original Survey
- "D" – Current Survey

Respectfully Submitted,



Janice Norman, Urban Planner I/Zoning Administrator



Wendy O'Donohoe, Director

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4/30/12

Date

4/30/12

Date

MEMORANDUM

TO: Carolyn Sunseri, Chair and Board Members
Galveston Zoning Board of Adjustment

FROM: Dustin Henry AICP, Urban Planner II, Planning GIS Analyst
Department of Planning and Community Development **DWH**

DATE: April 30, 2012

RE: **12Z-16 (1212 11th Street) Request to appeal the City of Galveston Landmark Commission's decision regarding case 12LC-05.** Request for a Certificate of Appropriateness for the demolition of the main structure within the San Jacinto Neighborhood Conservation District. Property is legally described as the South 71.5 feet of Lot 1 (1-2), Block 10, in the City and County of Galveston, Texas.
Applicant: Tegrity Homes
Property Owner: John Williams

The Landmark Commission, at their regular meeting of March 5, 2012, failed to take action on the above referenced request regarding a Certificate of Appropriateness for the demolition of the main structure within the San Jacinto Neighborhood Conservation District. Per *Roberts Rules of Order*, failure to take action results in a denial of the request (case 12LC-05). Please refer to Attachment "B" for the original staff report and related attachments, as well as Attachment "C" for the action letter sent to the applicant.

Per Section 29-80(h) of the Galveston Zoning Standards, the Landmark Commission is required to base decisions on the following conditions:

(4) Review and decision by Landmark Commission; Appeals

(a) Review Process

- (2) In determining whether to approve or disapprove the application, the commission shall consider applicable design guidelines.*

The *San Jacinto Neighborhood Conservation District Design Standards* are the current set of guidelines the Landmark Commission must use to base its decisions on requests for demolition within the San Jacinto Neighborhood Conservation District. The attached staff report references sections of the *Design Standards* that are applicable to the subject case, as well as any previous cases, which established precedent regarding specific issues. If the proposed work will have an adverse impact, the Landmark Commission must deny the application in accordance with the following portion of Section 29-80(h)(4) of the Zoning Standards for the City of Galveston:

(b) Decision

- (3) The Commission shall deny the application if there is a final decision by the Commission that the proposed work will have an adverse effect on:*

- (a) The external architectural features of the historic landmark;*

- (b) The external architectural features of the properties in the block or in the historic district as a whole; or,*
- (c) The future preservation, maintenance or use of the historic landmark or of the historic district.*

Per Section 29-80, the applicant, if aggrieved by the Commission's decision, may appeal the Commission's decision to the Zoning Board of Adjustment. The applicant submitted a letter to the Historic Preservation Officer within ten (10) days of the Landmark Commission decision stating the intention to appeal. Please note that judicial review of the decision of the Zoning Board of Adjustment shall be in accordance with the Texas Local Government Code.

xc: Wendy O'Donohoe, Director
Department of Planning and Community Development

Attachments

- "A" – Applicant's Justification (1 page)
- "B" – Staff Report for 12LC-05, including attachments (47 pages)
- "C" – Action letter for 12LC-05, dated March 6, 2012
- "D" – Transcribed minutes for the March 5, 2012 Landmark Commission meeting (4 pages)

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12Z-17 (1601 Avenue D/Market) Request for variances from the Galveston Zoning Standards Section 29-65 regarding setback requirements within the Historic (HIST) zoning district. Property is legally described as the North 63.6 feet of Lot 7 (7-0), Block 496 Galveston, in the City and County of Galveston, Texas.

Applicant and Property Owner: Carol Ash

Existing Zoning and Land Use:

Zoning	Historical District (HIST)
Land Use	Residential

Surrounding Zoning and Land Use:

	North	South	East	West
Zoning	One Family-Four, Historical District (1F-4-H)	Historical District (HIST)	Historical District (HIST)	One Family-Four, Historical District (1F-4-H)
Land Use	Residential	Residential	Commercial	Residential

Property Owner Notification as of May 9, 2012:

Sent	Returned	In Favor	In Opposition	No Comment
22				

Advertisement Date: April 26, 2012

City Department Notifications:

Airport: Pending
 Building Department: Pending
 Fire Chief: Pending
 Fire Marshal: Pending
 Police Department: Pending
 Public Works: Pending

Private Utility Notifications:

A. T. & T: Pending
 CenterPoint Energy: Pending
 Comcast: Pending
 Texas Gas Service: Pending

Historical and/or Architectural Significance

According to the 1994 Historic District Survey, the two-story frame Classical Gothic single family dwelling was built in 1890. The structure was in moderate condition at the time of the survey, with none to minor alterations. The property was evaluated as "Contributing" to the historical significance of the district through location, design, setting, materials, workmanship, feeling, and/or association.

ANALYSIS

The applicant is proposing to make exterior alterations to the structure, including new front stairs, new deck and stairs on east elevation, deck and new stair on south elevation, elevator shaft, three level stairs, and HVAC platform on west elevation. The proposed new construction will encroach the required 3-foot side yard setbacks and 10-foot rear yard setback.

Please reference the table below for the required setbacks for single-family residential development in the Historical District (HIST) zoning district, per Section 29-65. The setbacks for the proposed new construction are also shown below:

Zoning District: Historical District (HIST)

Setback	Front Yard	Side Yard	Rear Yard
Required	Average Alignment	3'	10'
Proposed	3'	2'	2'

Variance(s) Requested - the applicant is requesting variances from the following:

- Side yard setbacks – from 3' to 2'
- Rear yard setback – from 10' to 2'

Applicant's Justification

New front stair to match existing, new deck and stair on east side, both deck and new stair seen from south elevation, elevator shaft on west elevation, third level stair on west elevation, HVAC platform on west elevation.

Landmark Commission

The Landmark Commission, at their regularly scheduled meeting on April 16, 2012, unanimously voted to recommend approval of this request (case 12LC-18).

CONDITIONS FOR A VARIANCE

The Board of Adjustment may grant a variance under this Section only if the variance is not prohibited by Section 14.401.C. in Article 14, Administrative Bodies, and if the Board makes a determination in writing that all of the following are demonstrated:

1. The request for the variance is rooted in special conditions of the applicant's property that do not generally exist on other properties in the same zoning district.
2. Due to said special conditions, the literal enforcement of the strict terms of these Land Development Regulations would impose an unnecessary hardship on the applicant.
3. The variance is not contrary to the public interest, in that:
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 - a. Self-imposed hardships;
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 - c. Conditions that are alleged to be "special," but that are actually common to many properties within the same zoning district.
 - ii. The variance will not have a detrimental impact upon:
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6. By granting the variance, the spirit of these Land Development Regulations is observed and substantial justice is done.

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In accordance with Section 29-112, any person aggrieved by any decision of the Board, or any officer, department or other Board of the City, may appeal the decision or action of the Board by filing a petition for the same in a court of competent jurisdiction, setting forth that such decision is illegal in whole or in part, and specifying the grounds for the alleged illegality. Such petition shall be filed with the Court within ten (10) days from the day the Board renders its decision, and not thereafter. The time period set forth herein shall be deemed jurisdictional.

ATTACHMENTS

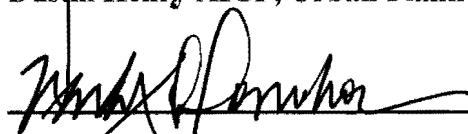
- "A" – Zoning Map
- "B" – Aerial Map
- "C" – Site Plan

Respectfully Submitted,



Dustin Henry AICP, Urban Planner II/Planning GIS Analyst

2012/04/30
Date



Wendy O'Donohoe, Director

4/24/12
Date