

MINUTES

JULY 23, 2020

**BOARD OF ADJUSTMENT (BOA)
CITY OF MESQUITE, TEXAS**

**City Hall
City Council Chambers
757 North Galloway Avenue
Mesquite, Texas**

REGULAR MEETING

ATTENDANCE: BOARD MEMBERS (REGULAR MEMBERS AND ALTERNATES)

POSITION NO.	REGULAR MEMBER NAME	ATTENDANCE		
Position No. 1	Chairman Thomas Palmer	<input checked="" type="checkbox"/> Present In-Person	<input type="checkbox"/> Present by Telephone/Video	<input type="checkbox"/> Absent
Position No. 2	Mr. Aeneas Ford	<input type="checkbox"/> Present In-Person	<input checked="" type="checkbox"/> Present by Telephone/Video	<input type="checkbox"/> Absent
Position No. 3	Ms. Wana Alwalee	<input type="checkbox"/> Present In-Person	<input checked="" type="checkbox"/> Present by Telephone/Video	<input type="checkbox"/> Absent
Position No. 4	Mr. George Rice	<input checked="" type="checkbox"/> Present In-Person	<input type="checkbox"/> Present by Telephone/Video	<input type="checkbox"/> Absent
Position No. 5	Mr. Jack Akin	<input checked="" type="checkbox"/> Present In-Person	<input type="checkbox"/> Present by Telephone/Video	<input type="checkbox"/> Absent

ALTERNATE NO.	ALTERNATE NAME	ATTENDANCE		
Alternate No. 1	Benny Gordon	<input checked="" type="checkbox"/> Present In-Person	<input type="checkbox"/> Present by Telephone/Video	<input type="checkbox"/> * Absent (* Attendance Required: <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes)
Alternate No. 2	Vacant	<input type="checkbox"/> Present In-Person	<input type="checkbox"/> Present by Telephone/Video	<input type="checkbox"/> * Absent (* Attendance Required: <input type="checkbox"/> No <input type="checkbox"/> Yes)

ATTENDANCE NOTES:

- In accordance with Governor Abbott’s suspension of various provisions of the Texas Open Meetings Act issued pursuant to his State Disaster Authority, related to the Coronavirus (COVID-19) pandemic, and the guidance issued on the suspension by the Texas Attorney General’s Office this regular board meeting was conducted both in-person and by telephone conferencing to support adequate social distancing.
- Board members and City Staff in attendance (in-person) were present in the City Council Chambers, wore facial coverings over their face and mouth, and practiced social distancing of remaining at least 6-feet apart.
- At the beginning of the meeting, Alternate Benny Gordon was seated in the place of Board member Wana Alwalee. Later, during the meeting, Board member Wana Alwalee arrived and took her seat replacing Alternate Benny Gordon for the remainder of the meeting.

ATTENDANCE: STAFF

Johnna Matthews	Principal Planner	<input checked="" type="checkbox"/> Present In-Person	<input type="checkbox"/> Present by Telephone/Video
Lesley Frohberg	Planner	<input checked="" type="checkbox"/> Present In-Person	<input type="checkbox"/> Present by Telephone/Video
John Chapman	Planner	<input checked="" type="checkbox"/> Present In-Person	<input type="checkbox"/> Present by Telephone/Video
Devanee Winn	Senior Administrative Secretary	<input type="checkbox"/> Present In-Person	<input checked="" type="checkbox"/> Present by Telephone/Video
Karen Strand	Senior Assistant City Attorney	<input type="checkbox"/> Present In-Person	<input checked="" type="checkbox"/> Present by Telephone/Video
Garrett Langford	Manager of Planning & Zoning	<input checked="" type="checkbox"/> Present In-Person	<input type="checkbox"/> Present by Telephone/Video
Jeff Armstrong	Director of Planning & Development Services	<input type="checkbox"/> Present In-Person	<input type="checkbox"/> Present by Telephone/Video

I. BOARD BUSINESS**1. ROLL CALL**

Principal Planner Johnna Matthews took Roll Call and declared a quorum was present.

2. INSTRUCTIONS

Principal Planner Johnna Matthews gave verbal instructions on how to participate in the meeting by telephone conference.

3. BOARD PROCEDURES

Chairman Palmer made a public announcement regarding the Board's procedures.

4. PUBLIC COMMENTS

Chairman Palmer asked if anyone would like to speak on an item not scheduled for a public hearing. Comments were open to those in the audience in the Council Chambers, those on the conference call as well as to Board of Adjustment members. There were no public comments.

CONSENT AGENDA**5. APPROVAL OF MINUTES**

Consider approval of the minutes of June 25, 2020, meeting.

ACTION:

Motion by Board Member Akin to APPROVE the June 25, 2020 minutes with a correction; seconded by Board Member Rice; motion carried 5-0 & minutes are approved with correction.

PUBLIC HEARINGS- UNCONTESTED CASES**6. BOA0620-0194 – SPECIAL EXCEPTIONS**

Conduct a public hearing to consider an application submitted by Ricky Wood for Special Exceptions (1) to allow a front carport including approximately 400 square feet, and (2) to allow the front carport to be constructed with a flat roof, located at 704 Kevin Circle (*BOA0620-0194, Lesley Frohberg, Planner*).

7. BOA0620-0196 – SPECIAL EXCEPTION

Conduct a public hearing to consider an application submitted by Marisol Molina, for a Special Exception to allow an approximately 400 square foot front carport, located at 4351 Birch Drive (*BOA0620-0196, John Chapman, Planner*).

8. BOA0620-0197 – SPECIAL EXCEPTION

Conduct a public hearing to consider an application submitted by Esmeralda Estrada, for a Special Exception to allow an oversized accessory structure (storage building and attached carport) in the rear yard including approximately 1,000

square feet; and 18 feet, 10 inches in height, located at 1119 Villa Siete (*BOA0620-0197, Johnna Matthews, Principal Planner*).

NOTE THIS CASE WAS MOVED TO THE CONTESTED AGENDA

9. BOA0620-0198 – SPECIAL EXCEPTIONS

Conduct a public hearing to consider an application submitted by Brenda McCord, for Special Exceptions (1) to allow a front carport including approximately 400 square feet, and (2) to allow the front carport to be constructed with a flat roof, located at 3501 Flamingo Way (*BOA0620-0198, Lesley Frohberg, Planner*).

10. BOA0620-0199 – SPECIAL EXCEPTION

Conduct a public hearing to consider an application submitted by Nabiha “Bea” Saeed (Symonds Flags & Poles, Inc.), for a Special Exception to allow two oversized steel flagpoles 150-feet in height, located at 16230 Interstate Highway 635 (*BOA0620-0199, Lesley Frohberg, Planner*).

PUBLIC HEARING:

Chairman Palmer opened the public hearing for the uncontested cases on Agenda Items 6, 7, 9, and 10.

SPEAKERS:

There were no speakers in-person or by telephone.

PUBLIC HEARING CLOSED:

Chairman Palmer closed the public hearing.

ACTION:

Motion by Board Member Rice to APPROVE Agenda Items 6, 7, 9, and 10; seconded by Board Member Akin; motion carried 5-0 & applications are approved as presented with Staff recommendations.

NOTE:

Alternate Benny Gordon was seated in the place of Board member Wana Alwalee.

PUBLIC HEARINGS –CONTESTED CASES**8. BOA0620-0197 – SPECIAL EXCEPTION**

[NOTE: This item was moved *from* the Uncontested Cases section of the Agenda.]
Conduct a public hearing to consider an application submitted by Esmeralda Estrada, for a Special Exception to allow an oversized accessory structure (storage building and attached carport) in the rear yard including approximately 1,000 square feet; and 18 feet, 10 inches in height, located at 1119 Villa Siete (*BOA0620-0197, Johnna Matthews, Principal Planner*).

PRESENTATION:

Principal Planner Johnna Matthews briefed the Board.

APPLICANT:

Applicant Esmeralda Estrada came up to speak. Ms. Estrada explained to the Board the reason for the structure is so they can park their work trucks.

PUBLIC HEARING OPENED:

Chairman Palmer opened the public hearing.

SPEAKERS:

Mr. Brad Henley came up to speak in-person. Mr. Henley thinks that the Applicant should have to stay within the City Ordinances as everyone else does.

There were no other speakers in-person or by telephone.

PUBLIC HEARING CLOSED:

Chairman Palmer closed the public hearing.

ACTION (SPECIAL EXCEPTION):

Motion by Board Member Rice to APPROVE the request for Special Exception; seconded by Board Member Akin; votes cast 6-0.

INQUIRY FROM ATTORNEY:

Senior Assistant City Attorney Karen Strand inquired with the Chair about having six (6) votes. Board Member Alwalee stated that she had joined the meeting earlier by telephone.

Attorney Strand stated the Board members would need to be seated (or re-seated) as the Chair directed (in the absence of any Board rule to the contrary). Attorney Strand stated the vote would also need to be re-cast once the Board members were seated (or re-seated).

NOTE:

Board Member Wana Alwalee was virtually seated and in-attendance by telephone replacing seated Alternate Benny Gordon.

FINAL ACTION (SPECIAL EXCEPTION):

Motion by Board Member Rice to APPROVE; seconded by Board Member Akin; motion carried 4-1 with Board Member Ford dissenting & application is approved as presented with Staff recommendations.

11. BOA0620-0200 – SPECIAL EXCEPTION & VARIANCE

Conduct a public hearing to consider an application submitted by Kyle Bennett (Bennett Construction), for (1) a Special Exception to allow an oversized accessory structure (carport) in the rear yard including approximately 600 square feet, and (2) a Variance to allow the oversized accessory structure to encroach 4 feet into the 20-foot rear yard setback, located at 1707 Mayfair Drive (BOA0620-0200, Johnna Matthews, Principal Planner).

PRESENTATION:

Principal Planner Johnna Matthews briefed the Board.

APPLICANT:

The Applicant was not present to speak.

PUBLIC HEARING:

Chairman Palmer opened the public hearing. There were no speakers in-person or by telephone. Chairman Palmer closed the public hearing.

DISCUSSION:

Board Member Akin expressed that he is not going to support this case. Board Member Akin does not like the fact that the Applicant built the structure without permits. Chairman Palmer stated he has no problem with the Special Exception; however, he noted that the Variance “must” meet the criteria as stated in the Ordinance. Chairman Palmer also had a concern that the Applicant built the structure with no permits. Board Member Rice wanted to know the age of the structure. Principal Planner Matthews answered she does not know when it was constructed, as a permit was not issued. Board Member Ford wanted to know if the Applicant is planning on enclosing the structure. Principal Planner Matthews said no, they do not plan to enclose the structure.

ACTION (SPECIAL EXCEPTION):

Motion by Board Member Akin to DENY the requested Special Exception; seconded by Board Member Ford; motion failed 2-3 with Board Members Palmer, Ford, and Alwalee dissenting & application is neither approved nor denied.

RULE:

Pursuant to Mesquite Zoning Ordinance Sec. 5-208 (A)(2)(b) when a motion to deny fails, another motion must be made to dispose of the case.

FINAL ACTION (SPECIAL EXCEPTION):

Motion by Board Member Alwalee to APPROVE the requested Special Exception; seconded by Board Member Rice; motion carried 4-1 with Board Member Akin dissenting & application is approved as presented with Staff recommendations.

ACTION (VARIANCE):

Motion by Board Member Akin to DENY the requested Variance; seconded by Board Member Alwalee; motion carried 5-0 & application is denied.

12. BOA0620-0202 – SPECIAL EXCEPTIONS & VARIANCE

Conduct a public hearing to consider an application submitted by Stephen Howard for Special Exceptions (1) to allow a front carport including approximately 368 square feet, (2) to allow the front carport to be constructed with a flat roof, and (3) a Variance to allow the front carport to encroach 2 feet into the side yard setback, located at 2024 Del Oak Drive (BOA0620-0202, John Chapman, Planner).

PRESENTATION:

Planner John Chapman briefed the Board.

APPLICANT:

Applicant Stephen Howard came up to speak. Mr. Howard stated that he had submitted three pages of requests for permits and everything was stamped approved. Mr. Howard wanted the Board to know if he thought he was building something he was not supposed to do; he would not have spent the money or put time into the structure. Mr. Howard told the Board he has spent a lot of money building the structure. Mr. Howard stated that he does not know the City of Mesquite's Zoning Ordinances. Mr. Howard stated that it would be an extreme financial hardship to have to come into compliance with current requirements.

Planner Chapman handed a petition from the Applicant to the Board Members showing Mr. Howard's neighbors are okay with the structure.

PUBLIC HEARING:

Chairman Palmer opened the public hearing. There were no speakers in-person or by telephone. Chairman Palmer closed the public hearing.

DISCUSSION:

There was a discussion between Board Members, Staff, and Legal about carport standards and designs.

ACTION (SPECIAL EXCEPTION AND VARIANCE):

Motion by Board Member Rice to APPROVE the structure "AS IS"; seconded by Board Member Ford; motion failed 2-3 with Board Members Palmer, Alwalee, and Akin dissenting & application is DEEMED DENIED.

RULE:

Pursuant to Mesquite Zoning Ordinance Sec. 5-208 (A)(1)(b)(1) when a motion to approve fails the request/application is deemed denied.

INQUIRY:

Chairman Palmer asked Senior Assistant City Attorney Karen Strand what the next step would be. Attorney Strand stated the Board could make a MOTION TO RECONSIDER. A Board member on the "prevailing side" would have to be the one to make the MOTION TO RECONSIDER. If the MOTION TO RECONSIDER carried, the Board could then take up the matter again.

ACTION – MOTION TO RECONSIDER:

Motion by Board Member Alwalee to reconsider the matter; seconded by Board Member Akin; motion carried 5-0 & the Special Exception and Variance application(s) for BOA0620-0202 will be reconsidered by the Board.

INQUIRY:

Chairman Palmer asked Attorney Strand if the Chair could make a motion. Attorney Strand stated, yes, the Chair could make a motion.

FINAL ACTION (SPECIAL EXCEPTION):

Motion by Chairman Palmer to APPROVE the request for Special Exception with Staff's recommendations (1) to allow an approximately 368 square foot front carport; and (2) the front carport to be constructed with a flat roof; seconded by Board Member Alwalee; motion carried 5-0 & application is approved as presented with Staff recommendations.

ACTION (VARIANCE):

Motion by Board Member Rice to DENY the requested Variance; seconded by Board Member Akin; motion carried 5-0 & application is denied.

TRAINING FOR BOARD MEMBERS AND ALTERNATES

13. **Resume mandatory annual training for regular board members and alternates of the Board of Adjustment in accordance with Mesquite Zoning Ordinance, Sec. 5-402.N. Topics for today's training session will include a discussion on various cases heard by the Board including, but not limited to Special Exceptions and Variances.**

PRESENTATION(S):

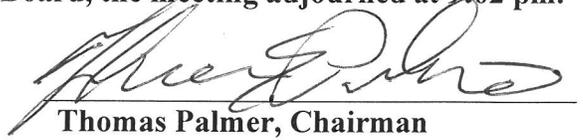
Planner Lesley Frohberg and Planner John Chapman gave a training presentation on Special Exceptions. Principal Planner Johnna Matthews gave a training presentation on Variances.

PUBLIC COMMENTS

14. **Any individual desiring to address the Board of Adjustment regarding the TRAINING FOR BOARD MEMBERS AND ALTERNATES or ANY OTHER MATTER not listed on the Agenda shall be allowed to speak for a length of time not to exceed three (3) minutes on a first-come, first-served basis. Citizens addressing the Board of Adjustment through a translator will be allowed six (6) minutes.**

No public comments.

There being no further business for the Board, the meeting adjourned at 9:02 pm.



Thomas Palmer, Chairman

The Board considered all testimony, including the Staff report, applicant's presentation, public hearing, and discussions in the decision for each case.