

CITY OF WEST LAKE HILLS, TEXAS
MINUTES OF A ZONING & PLANNING COMMISSION (ZAPCO) REGULAR MEETING
Wednesday, January 17th, 2024 at 6:30 PM

1. Call to Order. Chairman Robert Meisel.

With a quorum present, Chairman Meisel called the meeting to order at 6:31 p.m.

ZAPCO Members Present

**Chairman Robert Meisel
Vice Chairman Jim Pledger
Julia Webber
Patrick Stewart
Laurie Maccini**

City Staff Present

**Dir. of Building & Development Jennifer Bills
Development Coordinator Joel Sherrouse**

2. Citizen Communications The Commission welcomes public comments at this point on any issue. If the issue is listed on the agenda, the speaker may choose to comment during the Public Comment period or when the specific agenda item is taken up by the Commission later in the meeting. The Commission cannot respond to or discuss matters not listed on the agenda. The Commission may provide factual information, refer the item to a staff member, or request the item be added to a future meeting agenda. Speakers shall limit their comments to five (5) minutes each.

Vice-Chairman Pledger opened the meeting for public comments. Hearing none, the public comment section was closed.

3. Consent Agenda The following items are considered to be self-explanatory by the Commission and will be enacted with one motion. There will be no separate discussion of these item/s unless a Commission Member or citizen so requests.

- a. Minutes from the November 15th, 2023 regular Zoning and Planning Commission Meeting

Motion for Approval made by Vice-Chair Pledger with a Second by Commissioner Webber.

Motion for Approval carried unanimously by a vote of 4 ayes to 0 nays.

4. Public Hearing 205 West Spring: Discuss and make a recommendation on a variance to encroach up to 8.25 feet into the required 15-foot side setback for the addition to an existing one-story non-conforming residential structure. (Section 22.03.275 and 22.03.281 of the West Lake Hills Code).

Applicant: William McAshan, Property Owner

Staff Briefing

Director Bills gives the staff briefing.

- **Commissioner Webber:** Would retaining wall in concept plans require a variance since it is in the setback?

- **Director Bills:** Additional variance for wall would not be required unless the wall were greater than 18 inches.

- **Chairman Meisel:** Would future pool require variance?

- **Director Bills:** Planned future pool does not encroach on any setbacks.

- **Commissioner Maccini:** The proposed future structures looks like they may impact the ½ critical-root-zone of the protected tree. Has staff considered this in its analysis?

- **Director Bills:** The ½ and ¼ critical root zones of trees have different restrictions, and possible encroachment of the critical root zones would be addressed in the permitting phase of the project.

Staff Recommendation: Approval.

Public Comments:

William McAshan – Property Owner

- Since lot is only 80 feet wide, with a minimum lot width of 150 in the Code of Ordinances, any expansion to the house would require some level of variance. While the house could be demolished and replaced, the setbacks for the lot would require the new house to be placed in the center of the lot, which would require a variance for the removal of the tree.

- The two trees to the rear of the lot are showing signs of Oak Wilt, and an arborist is being brought in to examine the potential to keep the trees.

- Both neighbors are supportive of the project – especially since they are not planning to expand vertically.

Hearing no other comments, the public comment section was closed.

Discussion/Recommendation

Commissioner Webber expresses that this is the exact kind of situation variances are intended for.

Commissioner Stewart appreciates that the remodel is limited to 1 floor.

**COMMISSIONER MACCINI MOVES TO RECOMMEND APPROVAL.
COMMISSIONER WEBBER SECONDS.**

MOTION CARRIES WITH A VOTE OF 4-0

The variance will be forwarded to the Board of Adjustment on February 14th, 2024.

5. Public Hearing: 3421 Bee Cave Road: Discuss and make recommendations on the following variances from the West Lake Hills Code:

- Section 22.03.249(b)(2) Driveway, parking and loading area setback, 30 foot minimum
- Section 22.03.281(b): Schedule of regulations – Minimum side setback distance of 25 feet
- Section 22.03.304(a)(4) Tree and vegetation Removal - 4 trees 14 inches and greater (T246 T221, T868, T095);
- Section 22.03.241: Schedule of minimum number of (parking) spaces – 50 spaces required
- Section 22.03.281 IX Exceeding the Impervious Cover maximum for O – Office zoning of 38% with incentive bonuses
- Section 22.03.251 (d) Screening, trees and landscaping – 25-foot buffer along Bee Cave and 25% of the lot remaining in its natural state.

Applicant: Ramon Aguirre, Director of Operations for Clear Terra Group

Staff Briefing

Director Bills introduced the project and broadly describes the variances before describing each in detail.

- **Commissioner Webber:** What was the previously-approved, expired variance?
 - **Director Bills:** Previous variance included setbacks, tree removal, impervious cover over maximum and detention pond at front of site (listed in staff report).
- **Commissioner Webber:** Is the fire department able to pull up on either side of the proposed building from neighboring properties?
 - **Director Bills:** There are parking spaces located along the curb of the drive aisles on either side of the property. A permanent easement would have to be granted.

Variance 1: Driveway Setbacks

- Staff recommends DENIAL of the variance request
- **Chairman Meisel:** Why can't the turnaround be moved so that it is not causing a driveway encroachment on the setbacks?
 - **Director Bills:** The site plan is still conceptual, and moving it may be possible.
- **Commissioner Webber:** What about the 100-foot driveway spacing requirements?
 - **Director Bills:** Driveways along Bee Cave are approved by the Texas Department of Transportation, not the City of West Lake Hills.
- **Commissioner Webber:** Has the applicant explored shared driveways?

- **Director Bills:** Unknown

Variance 2: Side Setbacks

- Staff recommends DENIAL of the variance request
- **Commissioner Webber:** How is this different from the side setback variance we just recommended for approval?
 - **Director Bills:** Previous variance was for expansion of an existing non-conforming structure - this variance includes demolition and an entirely new development.

Variance 3: Tree Removal

- Staff recommends DENIAL of the variance request

Variance 4: Parking Requirements

- Staff recommends CONDITIONAL APPROVAL of the variance request.
- **Commissioner Pledger:** What is the condition?
 - **Director Bills:** The shared parking agreement.
- **Commissioner Webber:** What happens if Good Shepherd sells, and the new owner doesn't honor the agreement.
 - **Director Bills:** The agreement would need to be written in a manner that it transfers with ownership.
- **Commissioner Pledger:** Agreement as written allows for Good Shepard to withdraw at any time as it is. Shouldn't parking be part of the SUP, and not a variance?
 - **Director Bills:** Parking requirements are determined by use.
- **Commissioner Maccini:** Is parking part of the Transportation Impact Assessment
 - **Director Bills:** No. TIA has to do with traffic during peak hours, and will be handled during Site Plan phase.

Variance 5: Impervious Cover

- Staff recommends DENIAL of the variance request

Variance 6: 25-foot buffer

- Staff recommends DENIAL of the variance request
- **Commissioner Webber:** Do they designate the play area on the preliminary site plan?
 - **Director Bills:** Yes

Process Discussion:

- Director Bills explains the sequence of project approval including wastewater studies and site development and that applicant is seeking variances early in the process instead of spending time and resources on detailed engineering and design work for a project the city may not approve.

- **Commissioner Webber:** Does proposed plan meet building height restrictions

- **Director Bills:** Yes

- **Commissioner Webber:** Can building go subgrade to reduce footprint?

- **Director Bills:** Possibly. Safety and evacuation would need to be considered.

Public Hearing:**Ramon Aguirre:**

- Previously-approved office development is no longer feasible in current market conditions; the relocation of the preschool seems to be a more appropriate use.

David Polkinghorn:

- Impervious cover and setback characteristics consistent with nearby properties.
 - Granting variances would be in keeping with nearby properties.
- Property is 330ft deep, but only 100-foot wide.
 - Only 35% of lot buildable under setback restrictions.
- Loop drives are essential for preschools.
- Proposed site design is narrowest possible for proposed use.
- Fire turnaround hammerhead could shift out of setback if one more parking space were removed.
- Proposal includes preserving a 32-foot rear buffer as a natural space.
- A great deal of the Impervious Cover on site is from the required fire lane.
- The plan is to restore 25-foot buffer to natural state.

Hearing no other comments, the public comment section was closed.

Discussion/Recommendation

- **Commissioner Pledger:** Why aren't you using your access easement?

- **Ramon Aguirre:** We believe the easement has been released.

- **Commissioner Pledger:** The release isn't showing up in the records. Have a real estate attorney investigate the deed.

- **Commissioner Webber:** What would easement allow?

- **Commissioner Pledger:** driveway access from property next door.

- **Commissioner Pledger:**
 - Thank you for the application and all you do for the community
 - This is a program that exceeds the natural capacity of the lot
 - Not entirely opposed to Side setbacks
- **Commissioner Pledger:** Can there be creative applications to get more building height?
 - **Director Bills:** Only 2 habitable floors are allowed
 - **Commissioner Webber:** Can there be a rooftop play space?
 - **Director Bills:** Yes
- **Commissioner Pledger:** Project needs more creative architectural solutions instead of so many variances.
- **Commissioner Stewart:** Are all variances being considered together or as individual items?
 - **Director Bills:** Individual items
- **Chairman Meisel:**
 - All the variances are design driven
 - It would be difficult to fit this much project in a lot twice the size
 - When you look at a lot for a purpose, you must consider what the lot allows
 - Too much of the project is conceptual, and commission can't grant a conceptual variance
 - Best recommendation to council would be "no" to everything
- **Commissioner Webber:**
 - Variances have clearly been granted in the past that may have been factored in when deciding to develop the land.
 - This is the kind of business we want in West Lake Hills
 - Would appreciate the opportunity to go through variances one at a time
- **Chairman Meisel:** Business already exists in WLH and is very successful.
 - **Ramon Aguirre:** Business is spread across 4 buildings, which is very challenging.
- **Commissioner Maccini:**
 - Already big trees that have been cut down for building that was never built
 - Approving tree variance when this development may not occur would allow trees to be removed now
 - Many existing lots pre-date ordinances in place today
 - These are large variances to grant conceptually - especially Impervious Cover
 - Even with 2 children per family, there would be 97 families doing 2 trips per day
 - Agreement with church isn't firm
- **Commissioner Stewart:** Too many loose ends on plan to go forward.
- **Commissioner Pledger:**
 - Agree with everyone that we want pre-school to be part of community

- This is too much for this lot
- All variances should be denied
- **Commissioner Maccini:** Now in favor of grouping variances because plans are too conceptual to grant any variances
- **Ramon Aguirre:**
 - Don't understand issues with conceptual plans
 - The Site Plan is a later phase of the project.
- **Commissioner Maccini:**
 - the proposed variances are for a specific use
 - Knowing that the building is going to be specific to a daycare facility, more information is warranted for the health and safety of small children
 - The existing preliminary site plan is not specific enough for that use
- **Chairman Meisel:**
 - Applicant can request a postponement
 - City has very clear, accessible guidelines that should be respected
 - **Commissioner Webber:** Zoning and Planning is there to revisit rules
- **Commissioner Pledger:**
 - Variances are permanent, and we don't know what this project is or will be
 - Premature to grant a permanent variance
- **Commissioner Maccini:**
 - We don't grant variances on spec homes in the preliminary phase
- **Commissioner Pledger:** 20% IC variance is huge

Commissioner Pledger moves to recommend denial of all 6 variances due to a lack of information.

- **Commissioner Webber Seconds.**

MOTION CARRIES WITH A VOTE OF 4-0

Variances 1, 2, 4, 5, and 6 will be forwarded to the Board of Adjustment on February 14th, 2024.

Variance 3 will be forwarded to City Council on February 14th, 2024

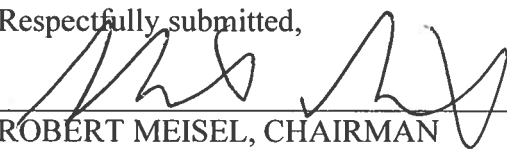
6. Update from staff on items forwarded to BOA and City Council from the previous meeting.

- **Commissioner Pledger:** Please include this as an item in the staff report going forward.

7. Adjournment: Chairman Robert Meisel

Meeting adjourned at 7:51pm

Respectfully submitted,



ROBERT MEISEL, CHAIRMAN

ATTEST:



Development Coordinator Joel Sherrouse

These minutes were approved on February 21st, 2024.