

**MINUTES
OF THE
MEETING OF THE
BENBROOK ZONING BOARD OF ADJUSTMENT
TUESDAY, APRIL 22, 2008**

The Regular Meeting of the Zoning Board of Adjustment of the City of Benbrook was held on Tuesday, April 22, 2008 at 7:30 p.m. in the Council Chambers at 911 Winscott Road with the following members present:

Bill Collins
Jacquie Messer
Lizabeth Sowell
Mark Washburn
Brandon O'Donald

Also Present: Ed Gallagher, City Planner
Sue Clark, Recording Secretary
David Oliver
Barbara Morgan

I. CALL TO ORDER

Chair Messer called the meeting to order at 7:40 p.m. with Board Alternates Mark Washburn and Brandon O'Donald serving as voting members.

II. CONSIDERATION OF MINUTES

Regular Meeting – December 17, 2007

Motion by Ms. Sowell to approve the minutes of the December 17, 2007 Board meeting as presented. Second by Dr. Collins. The Chair called the question.

Vote on the Motion:

Ayes: Ms. Sowell, Dr. Collins, Mr. Washburn, and Ms. Messer

Noes: None

Abstain: Mr. O'Donald

Motion carried 4 – 0 – 1

III. OATH OF OFFICE

Sue Clark, Notary Public, issued the oath of office to Brandon O'Donald – Alternate C.

IV. REPORTS OF ADJUSTMENT ITEMS

ZBA – 08 – 01 Request for a variance to Section 25 – D; Signs Allowed on Private Property of the Benbrook Zoning Ordinance Number 808, as amended, to authorize a 268 square-foot, 15-foot high, Freestanding Monument Sign on Lot 1, Block 2, Rolling Hills Estates (10180 Rolling Hills Drive – Tabernacle of Praise Church)

The Chair introduced the item and asked for a presentation from the applicant.

David Oliver, 5207 Over Ridge Drive, Arlington, said he is representing Tabernacle of Praise Church in the request of the variance. Mr. Oliver said, in November 2007, the church erected a pylon sign that meets the current codes of an 80-square-foot sign and as far off their property line as it is high. He said the existing sign is 35 feet high, conforming with the Ordinances. However the set back is about 50 feet more than the required set back because of the configuration and traffic patterns of their parking lot.

Mr. Oliver said the existing sign is virtually useless for them because it cannot be seen for a distance by eastbound or westbound traffic. He said they have a huge TxDOT right-of-way in front of the church and TxDOT will not allow a sign in their right-of-way. Mr. Oliver said they went to great lengths to set up tests to see if they can meet the Ordinance and still get a sign that would be meaningful and it is not possible, therefore they are requesting a variance to the Ordinance.

The Chair asked for any comments or questions from the Board. Dr. Collins said that monument signs, according to the Ordinance, are designed to be small signs that simply identify the property. They are required to be no more than 6 feet tall and no more than 80 square feet of surface. Mr. Collins said the sign that the church proposes is more like a pylon sign which there are provisions for in the Ordinance. A pylon sign could be 25 feet from the property line and 25 feet in height.

Discussion continued between the Board and applicant on the types and sizes of signs that would be allowed with the Ordinance requirements and the location and size of the proposed sign. The Chair asked for a report from Staff.

Ed Gallagher said Tabernacle of Praise Church is the ZBA – 08 – 01 applicant for a sign variance for the “CF-PD” zoned church property at 10180 Rolling Hills Drive, being Lot 1, Block 2 of Rolling Hills Estates. The applicant requests a nine-foot height variance to the six-foot height allowed by the Ordinance, to allow a 15-foot high monument sign. The application also includes a 188 square-foot variance to the 80 square-foot sign area maximum to authorize the proposed 268 square-foot sign.

Mr. Gallagher said the applicant notes topographic features in the area, curves in the F.M. 2871 roadway, and the TxDOT right-of-way width as hardships. Part of the application material is a target test showing a conforming 6-foot high sign, eight-foot and ten-foot high sign, and the proposed 15-foot sign height from both northbound and southbound approaches on R.M. 2871. He said the target test submitted with the application indicates merit for the proposed height variance for the 15-foot high sign. However, a 10-foot height may also provide sufficient visibility.

The identification portion of the sign is 80 square feet and conforms with the Ordinance maximum area for a freestanding sign. The application includes an area variance for a large masonry base and sides that tend to frame the 80 square-foot identification portion of the sign but does not appear to add visibility except to support the proposed height.

Mr. Gallagher said the existing pylon sign is proposed to be taken down and reused as a portion of the proposed sign in the variance request. The LED portion of the sign is limited by Ordinance to changing no more often than eight times a day.

The Zoning Ordinance provides for and authorizes the Board to grant a variance when in a specific case, the public convenience and welfare will be substantially served and the appropriate use of the neighboring property will not be substantially injured. The Ordinance provides authority to the Board to grant a variance where literal enforcement of the Ordinance would result in an unnecessary hardship. The Ordinance notes a hardship is intended to include a change in elevation or curve in a roadway which obstructs the visibility of a sign.

Mr. Gallagher said the Ordinance also provides that the Board may attach appropriate conditions and safeguards to any approvals. It is Staff's opinion that any approval of the variance application should include any conditions the Board determines appropriate.

The Zoning Board of Adjustment may authorize a variance from the zoning regulations when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the Board should prescribe only conditions that it deems necessary or desirable to protect the public interest. In making its findings, the Board should take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, and probable effect of such variance upon traffic conditions and upon the public health, safety, convenience, and welfare in the vicinity. No variance should be granted unless the Board finds:

- A. that there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of the Zoning Ordinance would deprive the applicant of reasonable use of his land, including sight visibility conditions; and
- B. that the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant; and,
- C. that the granting of the variance will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area.

Mr. Gallagher said variances may be granted only when in harmony with the general purpose and intent of the Zoning Ordinance so that the public health, safety, and welfare may be secured and substantial justice done. Pecuniary hardship to the owner, standing alone, must not be deemed to constitute undue hardship.

If a variance is granted, the Board should specify the reasons that a hardship is present and why a variance should be granted, so that they can be included in the official minutes. The Board may impose conditions and safeguards upon the issuance of a variance.

Mr. Gallagher said Staff recommends the Zoning Board of Adjustment should determine if circumstances justify the proposed variance request (ZBA – 08 – 01) to authorize the proposed 15-foot high, 268-square-foot area monument sign on Lot 1, Block 2, Rolling Hills Estates, 10180 Rolling Hills Drive.

The Chair asked for any comments or questions from the Board.

Dr. Collins asked if the sign designer was aware of Benbrook's Zoning Regulations. Mr. Oliver said yes, the designer had reviewed the regulations.

The Chair opened the public hearing at 8:10 p.m. and asked if anyone wished to speak for or against the item.

Barbara Morgan, 10200 Fieldcrest Drive, said she is concerned for the citizens on Fieldcrest Drive because their back yards would face the proposed sign. She said the sign looks over the backyards and would be very imposing for the owners.

There being no additional speakers, the Chair closed the public hearing at 8:12 p.m. and asked for a rebuttal from the applicant.

Mr. Oliver said the sign would be 300 feet from the backyards on Fieldcrest Drive but he would respect the decision made by the Board

The Chair asked for any further comments, questions, or a motion from the Board.

Ms. Sowell said she is also concerned about the size of the sign and the effect it would have on the residential neighborhood across FM 2871.

Dr. Collins said that if the variance is not approved, he hoped the applicant would realize it is not that the Board does not want the church to have an effective sign but the proposal is far from what the Ordinance allows. It is roughly three times the amount of square footage allowed and two and a half times the height allowed.

Mr. O'Donald said that if the sign height was reduced to 10 feet, that would reduce the size by approximately 100 square feet and then they would be doubling the square-footage instead of tripling. Mr. O'Donald said if other Board members agreed, he would not have a problem with approving a variance with a reduced height.

Motion by Ms. Sowell to deny the variance request, ZBA – 08 – 01. second by Mr. Washburn. The Chair called the question.

Vote on the motion.

Ayes: Ms. Sowell, Dr. Collins, Mr. Washburn, Mr. O'Donald, and Ms. Messer

Noes: None

Motion carried 5 – 0

V. PRESENTATION BY BOARD MEMBERS

None

VI. PRESENTATION BY CITY STAFF

None

VII. ADJOURNMENT

There being no further business on the Board agenda, Chair Messer declared the regular meeting adjourned at 8:20 p.m.

APPROVED 8-26-08, 2008

/S/ Jacquie Messer
Chair