

MINUTES OF ZONING AND PLANNING COMMISSION  
PUBLIC HEARINGS AND REGULAR MEETING  
CITY OF WEST LAKE HILLS, TEXAS  
February 21, 2018  
6:30 P.M.

PRESENT: ZAPCO Chairman Robert Meisel, Commissioners Kathy Tullos, Rhett Hoestenbach, Bill Vandersteel, Sarah Swanson and Laurie Maccini

ABSENT: Vice-Chairman Les Gage

1. Call to Order. Chairman Robert Meisel.

**Chairman Meisel calls the meeting to Order at 6:30 p.m.**

2. 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. Approval of the January 17, 2018 Regular Meeting Minutes.
  - b. Request to postpone by applicant. Land Use: Variance request to encroach a side building setback for an addition at 14 Sugar Creek Drive. (Section 22.03.281 of the West Lake Hills Code.) Applicants Scott and Elisabeth Kelly.
  - c. Request to postpone by applicant. Land Use: Proposed Amendment to a Planned Development District Agreement for Trinity Episcopal School at 3901 Bee Cave Road. (Article 38.06 of the West Lake Hills Code.) Applicant David Hartman.

**Chairman Meisel asks if anyone is present to speak on any of these items. None present.**

**COMMISSIONER VANDERSTEEL MOVES TO APPROVE. COMMISSIONER TULLOS SECONDS. UNANIMOUS (5-0) APPROVAL.**

3. Land Use: Variance request to renovate an existing non-conforming cabana and to exceed the allowable impervious cover at 310 Westhaven Drive. (Section 22.03.281 of the West Lake Hills Code.) Applicant Sylvia Arabian.
  - a. Staff Briefing.

**City Planner Grundman: This item came before you and it was postponed to get clarification on a couple of items. They ended up actually shrinking the cabana to about the same dimensions that it is currently. The old proposal had the cabana at 11.5 feet from the property line. This proposal has the cabana at about 13.5 feet from the property line. The impervious cover is still requested at 40.1%.**
  - b. Presentation by applicant.

**Andrew Schwartz is the owner. We came in before and heard that increasing impervious cover over an already existing impervious cover was not going to be the best option. We took your advice and re-did the**

plans and had the cabana sit in the existing footprint. There is some of that in concrete that we are going to putting deck in with a hot tub. There is a big slab of concrete on the side that we are going to remove. We didn't remove it when we moved in. The math is not right there is a net gain of pervious cover. We are losing 38 sq. ft. of impervious cover. You had asked how this building got so out of conformity. This house was on two lots and they had 3 lots when they built it. It was sold off. That is how it got to this spot. We originally took 4,500 down to 3,100 as far as impervious cover goes, 994 sq. ft. that we can document on the survey. There was a whole other deck that wasn't on the survey that we removed or documented. So we're not taking credit for those now. That's it. The hardship is re-doing the cabana roof line is 6'3". I'm 6'6".

- c. Public Hearing: All persons wishing to speak for or against shall be heard.

**Chairman Meisel closes the Public Hearing and reconvenes the meeting.**

- d. Deliberation and action.

**Commissioner Vandersteel:** In the reports, it mentions of the setback encroachment is proposed to be 11'5". That's no change from the previously application. And then I looked at the drawings it says 13'6". I wanted to point that out.

**City Planner Grundman:** My report was wrong.

**Commissioner Swanson:** You also made a change in the sidewalk? Are you going to put gravel there?

**Sylvia:** The whole front portion there is going to be redone.

**Commissioner Vandersteel:** From the front of the house, there on the left was a sidewalk around the side of the house?

**Sylvia:** It's going to be gravel.

**Andrew:** May I see what you're looking at? There originally was sidewalk that went all the way around.

**Chairman Meisel:** To be clear for the record, the plan now as presented has a no net increase in impervious cover. As far as the encroachment by the cabana, that has not increased?

**Andrew:** Not increased.

**Chairman Meisel:** You want to remodel a non-conforming structure with no change in encroachment and impervious cover.

**Commissioner Tullos:** On the staff report, requested impervious cover is 40.4% up from 40.1%.

**City Planner Grundman:** That is an error on my point. It still triggers a variance. They are not changing; they are decreasing.

**Commissioner Swanson:** Over the years, they have done so much to reduce impervious cover.

**Commissioner Maccini:** Do you speak to the neighbors to the rear?

**Sylvia:** I e-mailed them and they don't care and did not care to comment.

**Chairman Meisel:** Since it's not changing. They are bringing it up to meet code.

**COMMISSIONER SWANSON MOVES TO RECOMMEND APPROVAL WITH THE NOTED CORRECTIONS. COMMISSIONER MACCINI SECONDS. UNANIMOUS (5-0) APPROVAL.**

4. Land Use: Variance request for a driveway setback encroachment and the removal of two trees larger than 14 inches in diameter (Tree #34 is a 19-inch Live Oak and Tree #20 is a 16-inch multi-stem Live Oak) for the construction of a new residence at 405 Buena Vista Circle. (Sections 22.03.175 and 22.03.304 of the West Lake Hills Code.) Applicant David Kilpatrick.

- a. Staff Briefing.

**City Planner Grundman:** At the dais you have a letter of support from the neighbor. This did come before you as well. The request for the removal of T-34 which is a 19" Live Oak. There was a second tree the last time that is no longer on the list for removal. They can work around that. The front driveway setback encroachment they are requesting a turnaround to be 11' from the property line which would be a 9' encroachment.

- b. Presentation by applicant.

**David Kilpatrick.** Thanks for hearing us again. We've added some new information to the package you previously reviewed. I'd like to point out that on proposed site plan A-100 the existing site plan A-101 we've added the truck location and the actual canopy of T-34. Previously T-34's canopy was indicated in a boiler plat drafting manner directly centered over the trunk. You'll see a pie shaped hatched area now that indicates the actual canopy as the tree leans downhill. A-102 which is a new exhibit and is the result of our exploring other building pad locations on site. The canopy of T-34 occupies more or less the exact middle of the site, there is a hatch area that indicates the buildable area left or available to build on site after we consider protected trees and the existing pool. We are left with 18% of the lot area. Because it leans downhill as seen on A-304, we are unable to fit a 2-story building under that tree. We are left with the bottom right part of the site as seen on A-102. If we consider that as our new building area and subtract from that a 2-car garage, we are left with less than the existing house and less than the proposed house. If T-34 is removed we would gain additional extra 1,600 sq. ft. of buildable area. We've indicated the total tree caliper on site which is 1,225". With the omission of T-20 from the variance, we are requesting 19" of protected tree on site. Our other item is the driveway variance and we do have it indicated on A-100 an alternative approach and we

reviewed this last. The proposed is a more site sensitive and less disruptive. Moreover we think a 10' tall wall is not good for the neighbor's property. We have obtained a recommendation from the neighbor in support for the driveway. Our goal is to build a new house closer to the center of the site and re-veg the buffer on all four sides of the property.

- c. Public Hearing: All persons wishing to speak for or against shall be heard.

**Chairman Meisel closes the Public Hearing and reconvenes the meeting.**

- d. Deliberation and action.

**Chairman Meisel: Is the neighbor endorsing the driveway variance?**

**David: The street on which exists becomes a private road on the next lot. I understand the hammerhead is a safety concern. I don't know if that has any bearing on your decision.**

**Chairman Meisel: Our ordinance requires movement on the lot. Now you're in the spot, the hammerhead, you're conflicting with the setback. There is your hardship right there. You cannot do both.**

**Commissioner Vandersteel: It has been stated that tree T-20 which is shown as being in the driveway, I've heard that's not being removed. It's shown on the drawing and on the document.**

**City Planner Grundman: The revised drawing does not have a strike-through on T-20.**

**David: It is not indicated to be removed.**

**Commissioner Vandersteel: Got it.**

**Applicant: That is for T-21.**

**Commissioner Vandersteel: Sorry about that.**

**Commissioner Tullos: It's just T-34.**

**Commissioner Vandersteel: In support of your driveway proposal in terms of the turnaround being within the setback, there is a fairly, and I know this doesn't count, but take into consideration that the curb line is a good distance away from the lot line down from the street. Their hammerhead is more than 20' from the curb line.**

**David: I proposed that question to Ashby.**

**Commissioner Vandersteel: Your right-of-way is the property line. The curb is where the curb is. It effects my decision.**

**Chairman Meisel: I think curb is an overestimation. It's paved but not curb and gutter. In just a rough eyeball it seems to me the proposed**

driveway is less impervious cover than a conforming driveway would. When we start looking at setbacks, flatwork doesn't effect a setback. How many flat works can dance on the head of a pin? It's not the driveway itself; it's the hammerhead. Arguably it's flatwork anyhow. As to T-34 again, a rough measurement it is very near the center of that lot. It is one of the rules for granting a variance is a strict enforcement of our rules would destroy the economic value of the property. That's a hardship. T-34 is unfortunately located on that part of the property. I would urge that looks close to a hardship. It will sure diminish the value of the property.

**Commissioner Vandersteel:** There is a lot of mitigating factors. There are two 30' front setbacks which is unusual.

**Chairman Meisel:** I'm satisfied to grant both variances.

**Commissioner Swanson:** The lean on T-34 looks like something that is going to come down.

**Commissioner Maccini:** Thank you so much for the work you did and your attempt to save more trees. I hate to see any tree that beautiful in my estimation come down but I agree you've shown you're working hard to make the lot more a natural state. I hope when you do your replacement trees you attend them and make sure they get the water they need to grow as grand as T-34 someday.

**COMMISSIONER MACCINI MOVES TO RECOMMEND APPROVAL OF BOTH DRIVEWAY SETBACK ENCROACHMENT AND THE REMOVAL OF TREE T-34 AS STATED. COMMISSIONER SWANSON SECONDS. UNANIMOUS (5-0) APPROVAL.**

5. Land Use: Variance request to encroach in three driveway setbacks for the construction of a driveway at 22 Sugar Shack Drive. (Section 22.03.175 of the West Lake Hills Code.) Applicant Linda Sullivan.
  - a. Staff Briefing.

**City Planner Grundman:** You saw this property in January for the easement release. This is actually 4 lots and 2 of them are in the City of Austin and the other in West Lake Hills. This driveway would actually go to the guesthouse which is in City of Austin and there is an existing curb cut there and they are proposing to pave it to lead to their guesthouse. The best drawing to see the whole picture is titled Revised 11-3-11, the highlight of where the driveway is. It gives you an idea of the whole property.

**Chairman Meisel:** Ashby, what is staff's recommendation? Approve. We don't need a variance for the other curb cut?

**City Planner Grundman:** No, because that's in the City of Austin.

**Commissioner Vandersteel:** Can you clarify which is which?

**City Planner Grundman:** If you're looking at the revised drawing, these two lots on the western side, are West Lake Hills and these two lots are Austin.

- b. Presentation by applicant.

**Chris Keyland is the owner.** This driveway has been there since the 60's and has served that guesthouse for decades. The owner prior sold a fragment of the lot .116 acres of Lot 20, below that you see called .046 acres at the bottom. This Lot 20 used to be one big lot that was owned by the previous owner. All these were owned by this guy. He and our neighbor in lot 20 the previous owners sold a portion of Lot 20. This was officially platted with West Lake Hills, and not drawn up with council and restrictions and guidelines, that would have presented the same problems. It resulted in carving up the lot by the driveway. We had this driveway and we want to create a usable driveway that is improved in a way the guesthouse and we don't think it would be in the service of the city or its trees on our lot to move the driveway into a location that wouldn't be on that setback, there is a lot of trees and larger trees. Any alternate route would be plowing down trees and not a way to get in from Ridgewood from the east because the topography is too steep. It just seems to us to be the most sensible thing to use what is already there. We want to improve it in the proper ways. That's all I have to say about it.

**City Planner Grundman:** There are 2 e-mail letters of support in your packets tonight from the neighbors.

- c. Public Hearing: All persons wishing to speak for or against shall be heard.

**Chairman Meisel closes the Public Hearing and reconvenes the meeting.**

- d. Deliberation and action.

**Commissioner Maccini:** I'm familiar with the area. I appreciate what you're doing to keep the trees in place. I know that the Wright's give recommendation of the landscape in keeping things as green as possible. You would never want a road at that point on Ridgewood; it is far too dangerous a corner to put some sort of entrance there. That would be unsafe. I feel fine with it.

**Commissioner Swanson:** I do, too.

**Commissioner Vandersteel:** There is no indication of impervious cover. I'm think we're probably in the limits. We're talking about per lot or combined lots in West Lake Hills; we can't consider what is in the City of Austin.

**City Planner Grundman:** There are calculations on the survey for the lots getting the driveway. Lot 20 is proposed at 12% and the other is proposed at 3%.

**Commissioner Tullos:** It seems silly to make you re-route a driveway.

**Chairman Meisel: We're talking about paving a non-conforming driveway?**

**Chris: It's been non-conforming since the sale of the lot. The driveway pre-dates the sell.**

**Chairman Meisel: The 2-story marked is a storage building?**

**Chris: It's a guesthouse. It's not 2-story.**

**Chairman Meisel: You're going to be enlarging?**

**Chris: We did that in 2011 in the City of Austin.**

**Chairman Meisel: Is this being used for Short Term Rental?**

**Chris: No.**

**Chairman Meisel: If you want to use any portion in West Lake Hills in support of Short Term Rental, if it happened, it would be my position for improvements, you would need to get permits from West Lake Hills because your access is in West Lake Hills. I want that in the record in case it comes up.**

**Commissioner Vandersteel: There is only one curb cut in West Lake Hills; others in City of Austin.**

**Chairman Meisel: We're looking at pre-existing non-conforming.**

**COMMISSIONER TULLOR MOVES TO RECOMMEND APPROVAL. COMMISSIONER VANDERSTEEL SECONDS. UNANIMOUS (5-0) APPROVAL.**

6. Land Use: Variance to remove a tree larger than 14 inches in diameter (Tree #74 – 14 inch Live Oak) for new residential construction at 600 Rocky Ledge Road #2. (Section 22.03.304 of the West Lake Hills Code.) Applicants Mario Segovia and Mark Vornberg.

- a. Staff Briefing.

**City Planner Grundman: This is currently a vacant lot. They are requesting a variance to remove the tree on the site plan. The proposed residence is 7,700 sq. ft. and 21" replacement.**

- b. Presentation by applicant.

**Mario Segovia is with Dick Clark Architects. We are proposing a single family residence on Lot 2 which is 2 acres. We positioned the house on the flattest portion of the lot with the least amount of trees. If you reference A0.1 is the baldest part of the lot. It is the flattest portion of the lot. We are not at the 25% slope. We are at a 30' height limitation. The house is a "U" shape. The portion to the house south is stacked low in order to not exceed the height. Part of our study was to push to the east it would be out of grade and south would take out more trees and out of**

grade. West doesn't allow us to do anything. We've managed to work around and only need only one variance tree. If we add up the trees 14" we have 678.5" the 14" we are asking is 2% of that. There is over 1,700" on the total lot. We are asking for a very small percentage. That's where we are at. We've made great strides in moving our driveway to miss as many trees as possible.

- c. Public Hearing: All persons wishing to speak for or against shall be heard.

**Chairman Meisel closes the Public Hearing and reconvenes the meeting.**

- d. Deliberation and action.

**Chairman Meisel:** You mentioned you moved your driveway which is great, the lawyer in me says you're outside your easement. You're driving over the other guy's land.

**Mario:** The owner of Lot 1 is in an agreement that the owner and the new owner have agreed upon.

**Chairman Meisel:** That's going to be documented out. We cannot grant a building permit for an illegal access.

**Mario:** Both owners are aware of that and are working on that.

**Chairman Meisel:** That's fine. As to the design, the layout that ran afoul of T-74, I'm seeing a lot of space to the northeast that the house could have been further up without having that downhill. Therefore sparing T-74?

**Mario:** But that would require more excavation. There is open space between lot 1 and 2 where there is very little vegetation. We want more distance between houses.

**Chairman Meisel:** You have to stair step down. I'm trying to frame this in hardship. The variance cannot be designed driven. For your presentation at BOA, we need to know the reason you're not moving toward T-84 is because of topo and height limitations?

**Commissioner Tullos:** You've also talked about that you would need to do more excavation on alternative sites. Does our packet include any information that would be necessary? I'm a little concerned. I feel like I'm kind of flying blind on that.

**Mario:** Moving it north uphill, we are trying to save 2 variance trees, T-73 and T-70.

**Commissioner Vandersteel:** It looks like you worked around those?

**Mario:** We have. That connector piece would encroach into those trees.

**Commissioner Tullos:** Assuming this exact layout, the fact that you want this design doesn't mean that a variance is necessarily going to follow? That's not a hardship.

**Mario:** Not so much as to the design, it was very much driven by topography, height, slope and existing variance trees.

**Commissioner Tullos:** I fully understand and applaud your efforts to save trees and work with contour. That's all great stuff. What I'm saying to you is, the fact that I want how every many square feet and I want how many rooms here and there? That's a design issue; that's not a hardship issue.

**Commissioner Swanson:** I was going to say in terms of the slope it would help, or at least to hear a better idea of how the slope changes as you move toward T-84 if you're going to have excavation, etc. I don't feel I have enough information on that?

**Commissioner Hoestenbach:** The lot size? I have a completely different view. This is great. You are blessed with a large number of Oak trees. I don't see much Cedar. When I looked at the design, a detached garage, I can tell that was done in effort to save trees. We are only talking about one tree here. Most of time people are wanting 3 or 4 trees. This is an odd shaped lot. It is a 2-acre lot but you have a pill box you have to put this. The elevations drastically change when you start moving it north. Where you are building is the flat area where is what you want to do. When I'm looking at the city ordinances and what we're considering, preventing someone else's use or enjoyment, I don't see that. A very big house is on Lot 1. Lot 2 knew there would be a similar type house.

**Mario:** The footprint is just under 5,000 sq. ft.

**Commissioner Hoestenbach:** I'm not offended by the size of the home considering the size of the lot. There has been a hardship demonstrated due to the number of trees, the contour, tree preservation, alternative designs, including getting into the property to save trees and to minimize site disturbance. You have met your burden and to deny it would deny your use of the property.

**Mario:** We made an effort to squeeze down the house because of the trees. Going back to Mr. Meisel's comment on coming out of the easement, part of that was, we took it through a big grouping of trees. We came around.

**Commissioner Vandersteel:** Lot 1 should be very happy about that.

**Mario:** I don't know why you didn't receive these pages.

**Commissioner Maccini:** I'm going to talk about it from a standpoint I don't see a hardship. The design of your house is asking for T-74 to go. You need to re-do your design. I also worry about T-70 and T-73. The health of those two trees. What's the height of this building here?

**Mario:** The canopy is very small. These go straight up. They are tall trees.

**Commissioner Maccini:** Are you taking out T-70 because it's in the way? You're going to end up cutting a lot of the smaller trees.

**Mario:** We worked with the structural engineering. Even in the smaller trees we're not cutting much down.

**Commissioner Vandersteel:** I happen to be in the same place, I agree that it is a design driven. On the other hand, you did avoid some. I'm on the fence about all that. They are such a steep hill, the volumes you're moving around. You have to squeeze between those.

**Mario:** The challenges were the balance of height, excavation, and flat portion of the lot so we don't encroach.

**Commissioner Vandersteel:** Do you have a cross section? Maybe the site elevation will tell me what I need.

**Commissioner Tullos:** You've done a lot of admirable work. This lot is a challenge but it is buildable without taking out that tree. There is no question you're destroying this lot over this tree. There is a distinction there for me. If you didn't have room down there you wouldn't have that problem. The tree doesn't go out unless there is an actual hardship.

**Chairman Meisel:** I would also point out that we've given the option, a 100 year old oak tree, I'd rather give you the height than destroy the tree. That's a personal opinion. I'm getting the feeling and they seem to drift that direction.

**Commissioner Tullos:** I would rather see a height variance than a tree variance.

**Mario:** I've always had the impression it was just the opposite.

**Chairman Meisel:** The applicant has made a good argument based on the height.

**COMMISSIONER TULLOS MOVES TO RECOMMEND DENIAL.**

**Commissioner Maccini:** Can we put forth a delay or postpone?

**Chairman Meisel:** Motion is suspended. See what your other options are. If you go all the way to BOA and they turn you down, you can't come back with the identical request for a year.

**City Planner Grundman:** If this moves forward tonight, it will go to council next week.

**Chairman Meisel:** You can also postpone before council.

**Mario:** The client is eager to move forward.

**WITH NO SECOND, THE ORIGINAL MOTION DIES.**

**Commissioner Vandersteel:** I think they've done a pretty good job on the driveway and with the house in most part not taking out a lot of trees.

**COMMISSIONER VANDERSTEEL MOVES TO RECOMMEND APPROVAL DUE TO NOT TAKING OUT A LOT OF TREES AND THE HARDSHIP IS THE TREE AND THE HEIGHT REQUIREMENTS AS A CONFLICT. COMMISSIONER HOESTENBACH SECONDS. (3-2) COMMISSIONERS TULLOS AND MACCINI OPPOSE.**

7. Land Use: Variance to remove three trees larger than 14 inches in diameter (15 inch Cedar Elm, 15 inch multi-trunk Cedar Elm and 15 inch Live Oak) at 5001 Rollingwood Drive. (Section 22.03.304 of the West Lake Hills Code.) Applicant Brad Walters.

- a. Staff Briefing.

**City Planner Grundman: The 3 trees are described. There is currently a house there on this proposal at the moment that will be demolished and a proposal for a new house to be built. The required replacement is 46”.**

**Chairman Meisel: For the record, staff recommendation: Approve.**

- b. Presentation by applicant.

**Brad Walters is the applicant. This is a .35 acre lot and very flat. I would say, you have a fierce reputation for tree variances so we’ve made every effort to figure out a way to design around these trees while still respecting the 30’ setbacks on two sides. It is a corner lot. The 20’ setbacks in the back and it seemed that no matter where we went there were variance trees. If the house footprint is any larger than the existing house we were going to be needing tree variances. We chose the three trees in the building footprint with the idea that we wouldn’t be asking for any other variances. We also had an independent arborist concluded that two Cedar Elms were unhealthy and a safety hazard and approached the city about a no fee permit on those and they were directed to you to consult on those; T-11 and T-30 are the two Cedar Elms. Another element of the hardship two of the trees #30, a multi-trunk Cedar Elm and #29 which is a Live Oak are growing pretty horizontally and so they take up, if you trying to put a 2-story house there they are growing over the top of the existing home, they take up more space of a building area. That adds to the challenge. The last thing is we did talk with the 4 neighbors on each side, Ridgewood and Rollingwood Drive; 3 of the neighbors provided letters in support of our request for the trees. The one neighbor across Rollingwood Drive said they were supportive. I’m happy to answer question.**

**Commissioner Tullos: When you say there are growing horizontally?**

**Brad: You can see that a little bit in the photos. The largest trunk goes over the roof of the house. It doesn’t go straight up.**

**Chairman Meisel: Just to make sure I’m looking at the map right, we’re talking about T-11 in front of the existing residence. T-29 is on the right side up against the back of the existing residence and T-30 which is a little further off the residence.**

**Commissioner Vandersteel:** Which, by the way, is not indicated on the staff report. T-31 is indicated as a 15" Live Oak and on the plan T-31 is a 15" Cedar Elm is not showing the tree to be removed. It is T-30, a 9" and 10" Cedar Elms. I want to say for the record, it is contradictory information.

**City Planner Grundman:** 11, 29 and 30?

**Brad:** Yes.

**Commissioner Vandersteel:** In what is being presented on the drawings which make more sense T-31 is in the setback and nowhere near the house. That would be a rather odd request. T-30 is within the buildable area.

**Brad:** We do have a table in the back.

**Commissioner Vandersteel:** I was looking at the drawing that was provided. I'm assuming that's correct. Sometimes the records get confused.

**Chairman Meisel:** We've got a proposed house footprint. There is not yet a finalized design for the house?

**Brad:** We were hoping not move forward with the full design until we knew if these trees would be allowed to be removed. We understand that we would not be having the approval would be conditioned on no other variances. You know, come back and say well you gave us the tree variances, now can we have an impervious cover. That was my thought.

**City Planner Grundman:** When we talked, you mentioned that this footprint you wouldn't go any larger, if anything, you would go small.

**Brad:** That's correct.

**Commissioner Tullos:** The BBQ is pre-existing?

**Brad:** Yes. And the existing house goes into the side yard setback. With the new house we would be respecting that.

**Chairman Meisel:** I've got a question for Ashby. The notations about 15' setback for single story; 20' for two-story? I don't remember having that.

**City Planner Grundman:** If your lot is under .375 acres and you build a one-story house, you get a 5' additional buildable area on the sides and the rear. But if you go two-stories, it jumps up to 20'.

**Chairman Meisel:** This fronts two streets?

**Commissioner Vandersteel:** The first floor can be 15' away. The second story can be 20'; you could step the building.

**Chairman Meisel:** Like a wedding cake.

**City Planner Grundman:** No, if you go two stories you have to adhere to the stricter setback.

**Commissioner Vandersteel:** Even on the first floor? Wow.

**Commissioner Maccini:** You will be requesting a larger curb cut on Ridgewood from what you've done?

**Brad:** I'm not sure. The preliminary designs we have looked at has a 2-car garage so that would be a 2-car curb cut right now.

**Commissioner Vandersteel:** I will say that the approach that you're taking about early on doing this without fully flushed out plans and construction documents and we don't grant a variance. You say, well, this is a very small lot. To be practical we realize that you can't get anything in here. If you suddenly need to design a house and save one of the trees, you know what that means creates a variance for all three trees, you could come back and say we didn't actually remove one. I don't know what that means but I think it's a sensible thing. This lot is so constricted unless you're going to put a very small building there which nobody can afford to do these days. I think your requests make sense to me. The good side it is a very well treed lot in the setbacks. That's a good thing in terms of shielding it from the street. It's a very public corner.

**Brad:** Yes it is. We're excited about meeting all the replacement trees and more because of the public corner. It will be more of a rural character once we get all those replacement trees in the setbacks.

**Chairman Meisel:** My concern is this is kind of speculative which is something we're not supposed to do as a matter of practice and we've been hesitant to do?

**Commissioner Swanson:** There's no precedent in West Lake Hills?

**Chairman Meisel:** In varying degrees I've seen it happen.

**Commissioner Vandersteel:** They could make a layout and we could say its design driven.

**Commissioner Swanson:** I would say I was surprised when I looked at the house how close those trees were to the house and it would be very hard to build something larger and keep those particular trees.

**Commissioner Maccini:** I appreciate you stating keeping a rural character. There's nothing rural about that. Nothing will shield that house unless you put up a 40' fence or something. I feel comfortable as long as you don't come back and ask for another variance. I really feel you can build a fine house. It's location, location, location on that lot. You can't get any better than that location. As long as you don't come with more requests.

**Commissioner Swanson:** If someone makes a commitment before us.

**Commissioner Vandersteel:** In terms of the two rectangles that are shown, are they within the impervious cover regulations?

**Brad:** I did the math on that and I didn't want to make that type of commitment and design the house and realize it doesn't work but it does work. I'm using 32.5% which applied to this size.

**Commissioner Hoestenbach:** It's difficult when you don't have a design drawn on a plan to determine whether or not there is a hardship. I have listened and Commissioner Swanson has been out there, there is enough information to us if they were so to choose could find that there is a hardship there. I'm really hesitant about granting a variance when I don't know what the design is. I understand that. I get it; I've been through it myself. When I'm sitting on this side of the table, if I'm being asked to grant a variance to something that I can't really see, that's difficult.

**Commissioner Vandersteel:** I'm getting the feeling that we are wanting to give you the variance but the discomfort with not having a plan. It sounds like going forward would mean to request a postponement and show different things, we tried this and this and this. We found an "L" shaped house that can actually save that tree after all. Then we would have a sense.

**Chairman Meisel:** I was going to suggest and I'm going the same way you are, given our preference for Live Oaks, two of these trees, the ones on the north end of the lot, or the rear of the lot, the two Cedar Elms.

**Commissioner Hoestenbach:** #29 is the Live Oak.

**Commissioner Swanson:** Sometimes we've had people come and get a sense of how we're likely to go and most people here are more comfortable with you having gotten that out of tonight versus an actual variance as we've not seen a plan tonight.

**Commissioner Vandersteel:** It gives you an opportunity to look at design options. You're trying to save one of those trees. On this lot, any house you put on it, you can't build a very large house. I'm just putting that out there.

**Chairman Meisel:** Rollingwood does extend to our esteemed sister city. There are very different developers over there. I want to point if your client wants to keep the brick BBQ, amend your variance application to include that is as pre-existing structure in the setback.

**Brad:** All the existing improvements would be removed.

**Commissioner Swanson:** Did you want to postpone?

**Commissioner Vandersteel:** I don't know where you are in the design process? If you were going to be moving forward anyway. We'll have more to sink our teeth in.

**Commissioner Tullos:** It takes you out of the dilemma you're stuck with the idea there is no further variance in your future.

**Chairman Meisel:** If you're going to scrape the lot, look at the existing trees and come up with your design and ask for your variances. You've heard what happens.

**Commissioner Vandersteel:** That gives us something to react you. This is a better approach than having full construction plans already done.

**Brad:** Our thinking coming in was if the 2 Cedar Elms were recommended for removal by an arborist for safety concerns the Live Oak being so close to the middle that might be, I didn't know how strongly you want to protecting trees recommended to be removed. Trees 11 and 30 were recommended to be removed.

**Commissioner Swanson:** If we don't have a precedent of granting a variance without a plan.

**Commissioner Tullos:** I found it helpful to have the arborist report. That makes me a lot more comfortable.

**Brad:** I hoped to be just coming for the Live Oak but the city arborist felt more comfortable. He directed me to this process. He said those are variance trees.

**Commissioner Maccini:** You're the builder; is this is a spec home?

**Brad:** We are planning this for our personal residence.

**Commissioner Swanson:** Is there a precedent for this or not?

**City Planner Grundman:** My understanding is each variance is taken up individually.

**Commissioner Vandersteel:** Each situation is different.

**Chairman Meisel:** There is a difference between granting a variance without full plans and having a blank canvass. We need some kind of idea. Let's get a footprint in there to. Based on the arborist report, I'd suggest forwarding approval on the 2 Cedar Elm. Maybe that's the guidance he needs. We have recommended to remove the Cedar Elm. If that's sufficient. You've got the breathing room. Get your design more clear, if you still need the Live Oak then you'd have to come back.

**Brad:** I respect the difficulty in getting a tree removal variance. We figured how we would do it without removing the trees. 2 out of the 3 doesn't help us. We probably wouldn't move forward with the project.

**We would just tell the existing owner we're sorry. If we go show the house on the lot, then we would come back here in a month?**

**Commissioner Hoestenbach: If he did go forward he would be able to show to BOA?**

**City Planner Grundman: Since it is a tree variance it would go to council next week.**

**Brad: We've been working on the footprints. There are 3 different versions. None can save these trees. I'm happy to share this with you.**

**Chairman Meisel: This applicant is entitled to a vote.**

**Brad: I'd like to postpone.**

- c. Public Hearing: All persons wishing to speak for or against shall be heard.

**Chairman Meisel closes the Public Hearing and reconvenes the meeting.**

- d. Deliberation and action.

- 8. Adjournment by Chairman Robert Meisel.

Meeting adjourns at 8:14 p.m.