



**OFFICIAL MINUTES
BOARD OF AJUSTMENTS**

December 2, 2009

Members present: Malcolm Hodnett, Gary McNeal, Nathan Oubre, Rudy Soignet and Clarence Savoie
Members absent: Foye Lirette and Mark Tortorich
Also Present: Eric Faucheaux, Public Works Director, Errol Price, Zoning Administrator and Ruby Maggio, Secretary

Mr. Hodnett stated we don't have any meeting minutes so we'll go straight into the agenda items.

The first item on the agenda was to consider a request by Audubon Villa Condominium Association to vary from front yard setback requirement of 20' in order to construct fence along Audubon Avenue (R-1 Zoning District). Mr. Ben Forbes of the Audubon Villa Condominium Association came forward and stated that he lived at 5-C Audubon Court and we're proposing on taking out the pampas grass that is along Audubon Avenue which periodically clogs up the ditch and also causes a problem for all the meter readers because the water meters are buried in the middle of the pampas grass now and we would just like to take the pampas grass out and put a fence and then put crepe myrtles and azaleas on the outside of the fence on the street side to beautify the situation. We already have fences behind the patios on the two buildings that back up to Audubon so if we took the pampas grass out there would be a fence there already behind the two buildings, building one and two so what we're proposing is just putting up a fence probably 6 to 8 feet in from the edge of the ditch and then putting crepe myrtles and azaleas on the street side to beautify the situation and give a little additional sound buffer which the pampas grass currently provides and some of the previous people who lives there didn't want the pampas grass taken out because they thought the sound proofing was very valuable but I don't think there is anybody there now that has that concern. Mr. Hodnett stated now the pampas grass now is on the property line or off the property line? Mr. Forbes replied I don't know exactly where the property line is, once we get the pampas grass taken out of there I'm going to ask Andy to have somebody go over there and survey to determine where the property line is so we can start putting a fence up to know exactly where we are. Mr. Hodnett replied yes because it is so big. Mr. Forbes replied yes, it is probably 8' thick. Mr. Hodnett stated now fence wise, are you all proposing a 30" fence or what height? Mr. Forbes stated a 6' tall wooden fence with wooden posts. Mr. Hodnett stated Errol, a question for you I guess in respect to Plantation and Lynn, how is this similar or is it a different situation, on Plantation and Lynn we went with the code requirements and they did a 30" fence there. They decided to go 6' away from the side property line, that is a rear yard, this is a rear yard. Mr. Price replied no, this is actually a front yard. Mr. Hodnett stated this is a front yard. Mr. Forbes stated it is actually the back of the two buildings because the buildings back up to Audubon. Mr. Price stated the buildings are the rear but actually the frontage is the public street, so Audubon is the public street to access their property, so it is considered a front, so what you're dealing with it is actually not an intersection except for Belle Meade but he is offset enough that it won't affect it, so you're actually just dealing with the frontage. Mr. Hodnett stated ok, because actually you're entering, you park in the back of the unit or enter the unit from the rear. Mr. Forbes stated Audubon Court comes off of Audubon Dr. just around the corner of Belle Meade and that is the driveway and the two buildings that back up to Audubon turn and go that way and then I live on the other side of the street, it is just a dead end street. The existing fence, the patio fence is behind buildings 1 & 2 are currently 6' fences so what we are proposing is just another 6' fence, if we took the pampas grass out and didn't put anything there it would be simply the patio fence and we're proposing putting a second fence in and putting shrubbery on the outside of the new fence to make it more attractive and also to provide a little bit additional sound proofing. Mr. Hodnett stated the fences that are there now that is a little patio area. Mr. Forbes replied yes a patio area behind. Mr. Hodnett stated and then that fence is, I guess at the setback line, is that right, at the 20' setback. Mr. Forbes replied I really don't know where the end of the property lines is. Mr. Hodnett stated you don't know that Errol? Mr. Price replied no. Mr. Hodnett stated those existing little patio fences are at the 20' setback line. Mr. Price stated I actually don't know, I didn't know where the property line was at. Mr. Hodnett stated Mr. Forbes, this is Nathan Oubre, another member of our board; Nathan, do you need a minute to get situated. Mr. Oubre replied no. Mr. Hodnett then asked if any board members had any questions or comments. Mr. Soignet stated where the pampas grass is located that is the front of the property but in reality it is the rear. Mr. Forbes stated it is to the rear of the two buildings that back up to Audubon, they face onto Audubon Court which is the driveway that comes in and then it has an "L". Mr. Soignet stated now you park technically in the back of the building. Mr. Forbes replied no, we're parking

in the front of the building. Mr. Soignet replied that is right, that is you entrance on #1 and #2. Mr. Forbes stated when you come in, you come past building 1 & 2 and then the street goes down perpendicular to... Mr. Hodnett stated it goes perpendicular to Belle Meade. Mr. Forbes stated no, it goes parallel to Audubon. Mr. Soignet stated I take it as a rear. Mr. Price stated this is actually, this is the public street access, this is private, which makes it the frontage. Mr. Hodnett stated oh, Audubon Court is not a public street. Mr. Price replied no, not that I am aware of, it is a private street. Mr. Hodnett replied oh ok, so that is how that is the frontage, I thought Audubon Court was a public street. Mr. Price replied not that I am aware of. Mr. Hodnett stated except for the fact that Audubon Court is not a public street this is very similar to the situation we had on Plantation and Lynn in the sense that they have a rear yard. Mr. Price stated well Audubon Court and Plantation Ridge are both private and that intersection would be the same as Lynn and Plantation but you also have to look at Belle Meade and Audubon, he actually has his 20' off of Belle Meade but then he still would be addressing a 2nd front as 10', that wouldn't play too much into it because he wants to move it to the property line. Mr. Hodnett stated but also don't we with the intersection of Belle Meade and Audubon don't we need a 50' radius. Mr. Price replied he has that, he is far from that, no he doesn't have a vision problem, if you take the center of Audubon with the ditch and everything, he has his 50' easy. Mr. Hodnett replied ok, so we don't have the same issue we had before. Mr. Price replied no. Mr. Savoie stated if you're going to cut down the pampas grass and somewhere on the line put the fence, are you still going to have room between the ditch and the fence for crepe myrtles? Mr. Forbes replied yes, we would probably put the fence 7' or 8' from the edge of the ditch. Mr. Savoie replied ok, so let's say from what I'm looking at, the fence is about in the middle of the pampas grass and you don't have a lot of crepe myrtles, so you're vision should be better than what you have now. Mr. Hodnett replied yes, the fence is not going to be where the pampas grass is you probably would have a little bit more visibility. Mr. Price stated now we would have to measure from the intersection to make sure, when he is putting it up that he has that 50' radius but as of right now with the grass he has it, now how far the fence is going to come to Audubon Court is something I would have to measure. Mr. Hodnett stated and since Audubon Court is a private street we don't have to have the 50' radius...Mr. Price replied oh no, you still do. Mr. Hodnett replied you still do, ok, so you'll be checking the 50' radius. Mr. Price replied if you give it to him I'll check that when the fence goes up we're going to check for that radius. Mr. Hodnett stated at Audubon Court and at Belle Meade. Mr. Price stated Belle Meade I know he is far from Belle Meade. Mr. McNeal stated if he stops the fence at the ditch is what you're saying. Mr. Price replied correct. Mr. Soignet stated the pampas grass, wouldn't we consider that a fence at this point. Mr. Price replied that is correct. Mr. Forbes stated it is 6' tall and 8' wide. Mr. Soignet stated but we don't know where it runs at, if it is on the property line or off the property line. Mr. Hodnett replied yes. Mr. Price stated the way that I looked at it I did treat it as a fence the thing is if he removes it, it is non-conforming so if he removes it he would still have to come in front of you all. Mr. Soignet stated well I was thinking if we knew exactly the location and they come back with a fence behind the pampas grass and then take the grass down, does that make any sense. Mr. Hodnett replied well but you would still be in the 20' setback. Mr. Forbes stated at the present time from the patio fence to the pampas grass there is probably about 8' of just grass strip behind the two buildings and the pampas grass is 8' thick which goes almost to the ditch, so if we put the fence on what is now the back or the inside of the pampas grass, we'd be 8' away from the drainage ditch, the edge of the drainage ditch. Mr. Soignet stated well we have a lot of issues with fences these days it seems and we can't contradict one decision over the other, I understand where you're going with this where I see the layout and it looks good but it is conflicting with the other things that we've dealt with in the past that is where I'm going with this. This pampas grass is in a sense, it is already up and grandfathered in there, I wish we knew the exact location, maybe if you could construct a fence behind it and then come back and take it down because the existing fence is already there, does that make any sense. Mr. Forbes stated well there are existing patio fences that were built when the buildings were built 25 or 30 years ago and the pampas grass was planted at that time probably 3' thick and it has just grown since that. Mr. Hodnett stated what Rudy is referring to also we had a previous individual who came before us who wanted a variance to do a 6' fence and they had nothing at the time so there was no existing condition and they wound up having to do, the code required a 30" fence and that is what we base it on, we try to be consistent from one to the other but like Rudy is saying, can they do that though, can they put a fence up with the pampas grass and then take the pampas grass down. Mr. Price replied no, he's still creating a new fence, the only thing I want to bring to your attention, with the zoning ordinance it says that you all have the right, if he has something non-conforming and he wants to put up something back still non-confirming but if he's making a better situation with it and the way I looked at this was, I'm not trying to sway you all either way, right now the pampas grass is 8' wide and with a wood fence you're only going to be dealing with 4" wide. Mr. Soignet stated I agree with that and then the utility people would be able to check their meters so it enhances the application I guess you would say. Mr. Hodnett stated and currently just to see if it helps reinforce it is any of the pampas grass within 50' of the intersection like at Audubon Court. Mr. Price stated I would have to measure it exactly. Mr. Hodnett stated because we would be improving the visibility, by doing the fence he may be improving the visibility. Mr. Price replied oh, I think you definitely are, I've been out there and took some pictures and all and I definitely think by getting rid of the grass you're improving the situation of what they have there. Mr. Forbes stated from the ditch there is like 25' of grass between that and the street already. Mr. Hodnett stated perpendicular to Audubon Court or... Mr. Forbes replied yes, like parallel to the edge of Audubon Drive there is 20' of grass and then with the drainage ditch and then 8' of pampas grass and then 8' of grass in then the patio fence. Mr. Eric Fauchaux came forward and stated I'd like to make a comment, one of the problems we run into throughout the city right now the way the configuration is from

the road to the ditch, we could maintain that grass we could get close enough to the ditch and cut with a flail blade tractor, we could cut that side. Mr. Hodnett stated that is the boom tractor. Mr. Fauchaux replied yes, side boom. We can't get on the other side right now because of the pampas grass was removed that fence would probably be in our servitude and the problem that we have in some areas is the servitude, we can't get on the other side right now because of the pampas grass, if the pampas grass was removed ok, that fence would probably be in our servitude. The problem we have in some areas is the servitude, we can't get on the other side of the ditch or we may not have a servitude so that is something to consider also is that fence might be in our servitude and if at all possible we'd like it far enough away from the ditch so we can have access to that ditch if the pampas grass would be removed. Mr. Hodnett replied ok. Mr. Fauchaux replied that also sets it further back from the road so that you don't have any visual obstruction but I think when I went out there and measured it, I measured off from the center of the road to the edge of the road right of way and then I went 25' and I think they still had about 10' to 12' of grass before you reached the back fence of the apartments. Mr. Hodnett stated now when you say grass you mean the pampas grass or... Mr. Fauchaux replied no, you have the pampas grass kind of at the edge of the ditch then that is where our meters are, usually our meters go to the property line so then there was still some distance of grass before you got to the rear fence of the property so I don't know where that falls out, the sketches that we have are hand sketches so if you were going to consider it we would need to take a step further to see how much he could actually have but the preference would be if we're going to remove the pampas grass then certainly as public works we would like to have the access so that we could cut the ditch, keep it trimmed and maintain the drainage. Mr. Hodnett asked what do you think you need I guess from the center line of the ditch, do you need it to the point that you are at the level part of the bank. Mr. Fauchaux stated it is not a very deep ditch but that doesn't mean that we wouldn't improve it and make it deeper later or if we would ever have to go in there and put culverts in and bury it, we would have to remove the fence and it wouldn't be at our expense to replace it but that is always an option. It presents issues for public works having items such as that on our servitude. Mr. Soignet stated he couldn't construct a fence over a public servitude he has to be on the property line, correct? Mr. Fauchaux replied I think where the meters are for the water typically that goes to the property line that is about where the pampas grass is. Mr. Forbes replied the meters are about in the middle of the pampas grass. Mr. Fauchaux replied yes because it has grown nonetheless I think it requires a pretty accurate, something that we can clearly identify where everything is located. Mr. Hodnett stated is that something that let's say for instance hypothetically we go ahead and approve it provided that when you do your survey the two of you all get together and kind of come upon an agreement for the location of the fence. For instance, the center line of the pampas grass is the property line which apparently is covered at least 4' on either side of the center line or the property line and if you were to and it looks like, of course it is hard to tell with all the pampas grass, once you cut that down maybe the property line and center line where the pampas grass is a mutually agreed upon location for it but if not would you all agree to move it back a little bit more to accommodate city equipment. Mr. Forbes replied yes, whatever they need. Mr. Hodnett stated even though it may be from the property line, maybe part of the property line is part of the bank and if you roll that fence up on the level part of the ground maybe that works better for them and I don't know if that would work for you. Mr. Forbes replied yes, that is fine with us. Mr. Hodnett stated I mean we're not talking about probably no more than about 2'. Mr. Fauchaux replied no it may be more than that, you know if you get up onto the bank and have maybe at least 12' to be able to get equipment or a tractor and a minimum of 15' might work for us, we have a 25' servitude and I don't know what that distance is so it would be helpful to have it marked with survey stakes and then we can eyeball it and see where the too lines are. I would suggest that we maybe do that before you approve it, I mean we can approve it then everybody has a problem. Mr. Andolsek stated if you approve it doesn't Errol have the right, you've got to get a fence permit still and we have to send him a sketch and everything else right, correct to get a building permit. Mr. Price replied correct. Mr. Andolsek stated so it could be made subject to Errol's approval because if it is a 25' servitude and the pampas grass is on the edge, we could move the fence back 15' easily and still have 10' between the unit and we don't know, we've all been looking at it and nobody knows. We hate to go pay for a survey if this is not going to get approval. Mr. Savoie stated Andy what Eric was saying about the water meters... Mr. Andolsek replied the water meters are up by the road, they're in the middle of that pampas grass and they're way away from the back fence. Mr. Savoie stated you're fence has got to be closer to the building and the water meters are exposed and that alone tells me that you're going to have at least half of that pampas grass clear property towards the road. Mr. Andolsek replied oh, yes, I think he is going to have 15' and we'll have probably 5' to 10' between the fence but again, we don't know until we survey and we are going to get it surveyed we're not just going to stick it up there. Mr. Fauchaux replied yes, I concur with Andy and we need the fence permit, so I concur with that if you all want to go that route. Mr. Forbes stated and if there is more space in between the ditch and the fence and the city is going to cut it that is fine with us; that means our yard man doesn't have to cut it. Mr. Soignet stated don't we need a setback variance also now. Mr. Hodnett replied well that would be having it as a 6' high fence it is in the 20' setback, I always thought Audubon was the rear but Audubon is actually the front of the property so you have a 20' setback, if they went with a 30" fence then they don't need anything. Mr. Forbes replied we wouldn't bother with a 30" fence. Mr. Hodnett stated right, there is no point in doing that. Mr. Forbes stated we're more than willing to do whatever is necessary to accommodate Errol and Eric. Mr. Hodnett asked if there were any other comments from the board or a motion from the board and the other thing would be to verify our 50' radius. Mr. Soignet stated if I make a motion the hardship is actually for the city, to give the city accessibility to the ditch and the servitude, to service that area, that would be my motion more, do you know where I'm going with this, I think it would

help both sides but in order to make it a variance to help the city out because you need that accessibility right there on that part of the property. Mr. Hodnett stated do you want to go ahead and make a motion. Mr. Soignet replied yes I can but I don't know how to word that exactly because the city is not asking for a variance and just considering what we've been up against and the way this property is laid out the back of the property is actually the front, and with all those factors in and with the city having more accessibility that would be my motion, it is just to word it. Mr. Hodnett made a motion to allow the 6' fence provided that you all work it out with the city in terms of the exact location of where that fence falls in relation to the property line and the ditch. Mr. Fauchaux replied and the accessibility to the servitude. Mr. Price stated and vision requirements. Mr. Forbes replied that is fine with us. Mr. Hodnett asked if that was a good enough worded motion. The motion was seconded by Mr. Soignet, all members were in favor, motion carried. Mr. Hodnett stated you all get together and see how you are going to work it out. Mr. Forbes replied thank you very much. Mr. Hodnett replied you bet.

The second item on the agenda was to consider a request by Mary Ann Lewis to vary 7' from front yard setback requirement of 20' in order to construct front porch at residence located at 1203 Arms Street (R-3 Zoning District). Ms. Mary Ann Lewis of 1203 Arms St. came forward and stated my husband usually does this for me so I'm a little shaky; he is not here because he went to find the man upstairs and I'm on my own. Mr. Hodnett replied I'm sorry to hear that. Mr. Hodnett asked Ms. Lewis if the reindeer was her good luck charm. Ms. Mary Ann Lewis replied it was a present from her little grandson. Ms. Lewis replied this is my house at 1203 Arms St. and I brought the pictures because I can explain it better. This sidewalk was put at my house when it was built in '84 and since then I've made a little rock garden right in front of the picture window and I built a little white picket fence and a cyclone fence in the back yard. Now in between the little white picket fence right here, which is the property line and my sidewalk, I've got 13' and it is supposed to be 20' from what Mr. Errol is telling me but I want to put a porch. I have extended this cement right here all the way to the end of my house which is all the way to the end right here, the whole front of my house is cement but it is no wider than the sidewalk. I want to put a porch on the front of my house, the length of my house so I can sit there in the afternoon with a swing and enjoy the traffic but I need the 7' in order to put the front porch; that is why I'm here to try to get the 7' to put my front porch. Mr. Hodnett stated from the front of the front wall of your house to the property line, I'm just wondering how far is it, 13' plus. Ms. Lewis replied the 13' is from the fence to the end of the sidewalk right here, not to the house. Mr. Hodnett asked what is to the edge of the sidewalk to the house, how far is that. Mr. Price replied she has 20', the wall of the house is 20' to her property, I measured it. Mr. Hodnett replied ok and that little sidewalk area is about 7' then? Mr. Price replied about 6' something like that 6' or 7', yes. Ms. Lewis stated once you put the porch the porch would be going a little bit over. Mr. Price replied yes, that is why she's asking for a 7' variance from the 20' in other words. Mr. Hodnett replied ok. Ms. Lewis replied right. Mr. Hodnett replied and then the porch that you would build, you have a slab on grade and you'd have concrete just poured. Ms. Lewis replied yes, sir, it is already there. Mr. Hodnett stated and then that would run the entire length. Ms. Lewis replied the whole entire length of the front of the house. Mr. Hodnett stated you're going to build that, oh I see, 4 x 4 posts, so it would be out of wood. Ms. Lewis replied yes, you see I already have my back porch. Mr. Hodnett stated ok, I was looking at the back porch, yes I see it is the front porch. Ms. Lewis stated I have a lot measurement and then my back porch. Mr. Hodnett replied got you. Mr. Soignet stated you've already got 20' right now. Mr. Hodnett replied yes, 20' to the brick or to the overhang. Mr. Price replied to the brick, to the wall. Mr. Soignet replied so really you're asking for a 13' variance. Mr. Price replied no, she only wants to put a 7' porch overhang so she needs a variance of 7' from the 20' which would give you 13' left. Mr. Hodnett replied which would be the end of you little white picket fence. Ms. Lewis stated from the white picket fence to the cement to the little sidewalk it is 13' but from the picket fence to the brick of the house is 20'. Mr. Oubre stated so you're just trying to cover the concrete. Ms. Lewis replied that is it. Mr. Oubre stated just making a covering over the concrete, tying into your existing roof. Ms. Lewis replied that is it; that is all I want so I can enjoy the rest of my days in a swing. Mr. Oubre asked if it would be done with shingles just like on the roof on your house. Ms. Lewis replied yes, the same way, it is going to be added as if it was a part of my house. Mr. Hodnett stated your little diagram here indicated a 5' dimension but really for your existing porch and then the overhang winds up giving you the 7'. Ms. Lewis replied you see I couldn't do it so my husband is not here so my carpenter did it and he did the best he could do for me. Mr. Hodnett replied well that means that you don't really need, well no; you do need to pour some additional concrete further down the front of the house. Ms. Lewis replied no, I'm not putting any concrete, I have it, it is already across. Mr. Price stated yes and what she is giving, her 7', she is measuring from the fascia board and that is how come she is coming up with the 7', the cement itself is 5' and you put the posts and then you have the overhang. She just finished, I just gave her a permit for the rear so I know exactly what he is putting up and I went out there and measured it for her, she actually has 5' of concrete and I know with the new ordinance now it measures from the wall but she counted it from the fascia because actually if you look at it right it is only a 5' variance instead of the 7' because we don't measure from the fascia anymore. Mr. Hodnett asked if there were any comments or questions from the board. Mr. Soignet replied the typical neighborhood is like that there are a lot of houses that are built along there and you could have worded it also to say you wanted to enjoy what your neighbors are enjoying in the sense that it could be worded a little more to your advantage. Mr. Oubre replied it looks like everyone else did the same thing. Mr. Hodnett asked if there were any other comments from the audience or do we have a motion? Motion to grant her request was made by Mr. Soignet and it was seconded by Mr. Oubre, all members were in favor, motion carried. Ms. Lewis stated I can have my porch. Mr. Hodnett replied yes, ma'am, we all want to be in the position

where you are going to be in where you can just sit out and enjoy the traffic. Ms. Lewis replied oh thank you I'm going to have myself a good Christmas present now. Mr. Hodnett stated well you good luck charm worked.

Mr. Hodnett asked if there were any other comments or a motion to adjourn. Mr. Soignet replied we're still in session how about Christmas, do we want to discuss that now. Mr. Hodnett replied I don't have a calendar. Mr. Price replied Christmas is on a Friday so we could get it the Wednesday before. Mr. Soignet asked if everybody was available for that. Mr. Oubre stated Christmas is on Friday so it would be the day before Christmas Eve. Mr. Soignet asked what the deadline was. Mr. Price replied next Tuesday. Mr. Hodnett replied what do all of you think, good, bad, ugly. Mr. Oubre stated another thing too it is the week that school is going to be off. Mr. Soignet replied I want to bring up, my hours are going to be extended until 7:00 that week, it is going to be a busy week, can we move it, this is a December meeting here for November and move it over to the following month. Mr. Price replied cross your fingers and hope you don't have one, we don't have anything yet. Mr. Hodnett replied that is fine, whatever works for you all, it doesn't matter to me. Mr. Oubre replied that is fine. Mr. Soignet stated if anything comes up we can have it in the first week of January. Mr. Oubre replied so we could move it to the 6th of January. Mr. Hodnett replied does that pose any problems. Mr. Price replied not for us I don't believe. Mr. Hodnett stated so the Wednesday the 6th. Mr. Oubre replied January 6th provided we have something. Mr. Price replied there's two ways we could do it, don't set any date and the deadline is next Tuesday so if nobody gets on by next Tuesday because if you set it for January 6th then the deadline would be pushed back another week, but what happens if somebody comes in next week, let's see if you are gambling people, see if you want to take that chance. Mr. Hodnett stated would you rather make it officially January 6th or do you want to see if anybody shows up. Mr. Soignet stated leave it like it is right now and let's see what happens. Mr. McNeal stated so the 23rd now. Mr. Price replied well we could do this, leave it like it is and if somebody does come in we'll tell them that we'll call and see if we can get a quorum and then we can tell them if we don't get it we can push it a week back, that's the bottom line, if we would have gotten here tonight and we had no quorum we wouldn't have had a meeting. Mr. Oubre stated you can always say how about we'll wait until January to make sure we have the amount of members we need and then see what they say, if they're adamant and say... Mr. Price stated you want us to cover for you, ok. Mr. Hodnett replied that will work. Mr. Price stated now I like to leave the door open a little bit in case something big comes in that somebody really has to handle an issue, it doesn't happen often but we can go that route, we can talk with them, we'll leave it as it is, correct. Mr. Hodnett replied all right, do I have a motion to adjourn. Mr. Savoie made a motion to adjourn and it was seconded by Mr. McNeal, all members were in favor, meeting adjourned.