

**MINUTES OF THE  
ROSWELL BOARD OF ZONING APPEALS  
March 9, 2010  
7:00 p.m.**

**Members Present:** Michael Brennan, Hayden Branch, Richard O'Donnell,  
Lee Rainwater and Nancy Allvine

**Members Absent:** Frank Hasty and Glenn Maggiola

**Staff Present:** Kristie Yarger and Kenwin Hayes

Vice-Chairman Michael Brennan brought the March 9, 2010 meeting of the Roswell Board of Zoning Appeals to order at 7 p.m. The Board members are appointed by the mayor and city council and serve without pay. Decisions are made by majority vote. Any person who is aggrieved by such a decision may appeal to Fulton County Superior Court. Tonight's meeting will be a public hearing for the applications as they are listed on the agenda. Brennan will call for the applications in order. Kenwin Hayes from the city of Roswell's Community Development Department will introduce each case. After each case is introduced the Board will hear from the applicant. Then they will have the public comment portion of the public hearing when anyone will be allowed to speak. Thereafter, the applicant will have the opportunity for rebuttal. The public hearing will then be closed and the Board of Zoning Appeals will make its decision.

Tonight's meeting is being recorded. When one is recognized to speak he should come forward and speak into the microphone. He should begin by stating his name and address for the record. The microphones can be removed from the stands. One may use the projector if he wishes to display a document. All comments must be directed to the Board. Please do not repeat what others have already said or make comments that are irrelevant to the application being considered.

At this time Michael Brennan opened the public hearing and asked Kenwin Hayes to introduce the first case.

**10-0059  
RBZA10-01  
MICHAEL CHANDLER  
350 Knoll Woods Drive**

Kenwin Hayes stated that RBZA10-01 is the Chandler residence located at 350 Knoll Woods Drive. Michael Chandler is proposing to expand his current car porch, which is already over the side setback. This property is zoned R-1 with a side setback of 10 feet. The existing property already is over that by...it currently

sits seven feet from the property line and the applicant wants to bring it down to four feet. The property was built in 1965 so it preceded city of Roswell zoning in 1971. The applicant is proposing to go over that setback another three feet on the side and it will be expanding in the rear as well.

Michael Brennan asked if the Board had any questions for Kenwin Hayes.

Hayden Branch asked if the encroachment is counted from a wall structure or does a roof overhang get counted in that encroachment where the side setback needs to be? The reason he asks is it looks like the house has about a three-foot overhang over the wall of the carport. He is trying to understand if that counts, if the encroachment is measured to the wall or to the edge of the roof overhang.

Kenwin Hayes stated that from the planning standpoint it goes to the exterior wall. However it is the building official's call on a case by case basis if he wants to count the overhead structure a part of the extension of the building. There are certain requirements that he has to fulfill while determining that. Hayes does not know if it is a certain load or if it is a certain distance. But as far as planning, they just go for the exterior wall. If there is any type of distance between those two that is something that would work out between those two departments.

Hayden Branch stated that he would probably ask the applicant about it because it seems like if they move the wall he is wondering if they are going to move the roof as well. Extend the roof further out or just bring the wall of the garage to about the edge of the existing roof line. He will check with the applicant later.

Hearing no further questions for the city, Michael Brennan stated that they would now hear from the applicant.

Mike Chandler, 350 Knoll Woods Drive presented the application. To touch on Hayden Branch's question that he was just asking about he stated that basically, right now it will be going to the outside of the exterior wall. However, they have a hip roof right now that causes that overhang. They will be going to a gable type roof that stop and abut with the outside wall.

Hayden Branch clarified that Chandler was replacing the roof in that area as well over the carport. Chandler stated that they have to change it all together and cover that extension.

Michael Brennan asked Chandler to explain his application and describe exactly what it is he is trying to accomplish rather than just answering the questions. The Board will get to questions at the end. Chandler stated that he lives in an old ranch and they are going to re-pitch the roof and add some extra space. While they are doing this remodel, he wanted to enclose the garage. After working with his architect/builder, he has told Chandler that to get the proper support for the

garage door he needs a little bit of extra space. Chandler believes there are 18 inches on each side that one need to hold that door to allow. So they have got to come over an extra three feet to allow for that.

Hayden Branch clarified that the exterior wall where the brick supports of the carport are now, the right hand wall will move three feet over. Mike Chandler stated that was correct. Basically what is coming off the back is actually coming off of the existing wall. They have had to move over three feet and up a few feet just to stay within that four feet from the side setback. Chandler presented a picture that shows the original wall that comes all the way to the front. They are trying to move that out to three feet.

Hayden Branch clarified that part of the porch, is that is what Chandler is calling the back part, a porch or building? Chandler stated that currently it is just a slab and they are looking to cover the slab. It is just a patio right now. Branch clarified that Chandler was not expanding the slab itself, he was just covering it. Chandler stated that he is actually going to move the slab in a little bit, which was on the original drawing of the...he showed the back of the carport and it is going to kind of be squared off so that it will eliminate that semi-circle. Branch clarified that Chandler was not significantly expanding the slab area. He is just squaring it off and covering it. Chandler stated that he was not expanding the slab area. They are cutting off the semi-circle of the slab so it will actually lessen the size of the slab.

Richard O'Donnell stated that he was out at the site earlier and there obviously is a roof over the slab now. What Chandler is proposing, does it extend the roof? He understands his point about he is going to go with a gable and actually cut off the overhang a little bit in terms of what is there. Is Chandler talking about expanding on the side?

Mike Chandler stated that he does not think he understands the question. O'Donnell stated that he did not phrase it very well. Chandler asked if O'Donnell was talking about expanding toward the side setback. O'Donnell asked if Chandler was extending the roof that is over the slab at all. Chandler stated that there is no roof over the slab right now. In the back...O'Donnell stated that he was talking about the carport. Chandler stated that it did not exist currently where the slab is. Where the carport is he is simply moving....O'Donnell asked if he looked at the wrong house.

Michael Brennan explained to Richard O'Donnell that Chandler was moving the exterior wall of the carport out three additional feet.

Nancy Allvine asked Chandler to show the other picture. Chandler stated that the dotted line shows the existing carport and the area around it is the proposed porch over what is currently just a patio slab. One can see the applicant has moved over from the seven foot line to the four foot line at the corner and brought

it forward some to get their depth. If they stayed at the baseline they would have been on the property line.

Richard O'Donnell clarified that the existing carport is not covered now. Chandler stated that it is.

Michael Brennan stated that there is a slab behind the carport. The applicant is describing that as a slab.

Richard O'Donnell stated that he thinks that he misspoke. What he also was a little unclear about is Chandler has gotten some people to say that they are fine with it. Obviously the neighbor that is most critical is the one as he faces Chandler's house on the right. Is he one of the people? Chandler stated that at 1285 Knoll Woods Court is Bill Baker, who has agreed. He signed. Harold McWhorter, another neighbor, has agreed. The next person is actually not next to the actual carport is Patrick Callahan. Chandler got Callahan to agree to it just because he didn't know how changing the whole setback would....because he is towards the back of Chandler's yard so it may have some effect on him but he was fine with everything as well. Chandler stated that these are their rear. He believes all of the Board members have seen the houses. It is their rear setback. They will have a 35-foot setback and currently their house sits +/- 85 feet from the property line. Richard Donnell clarified that Chandler's is also lower and it falls down towards the ivy. Chandler stated that it goes into the ivy where the creek is.

Nancy Allvine asked to see the front of the proposed garage. There was one that showed the side. In looking at that, the side of the garage and the little bit of the gable roof, is it four feet from the side of the garage or four-feet from the gabled roof. Mike Chandler stated that it was his understanding that it would be from the side of the garage. Allvine clarified that it was a little more with the gable, a little less than four feet. Chandler stated that the gable was 18 inches. Allvine stated that the slab they were talking about, they were just seeing the edge of what will be the covered patio. Chandler stated that was correct.

Michael Brennan asked if there were any further questions for the applicant. Hearing none he asked Kenwin Hayes if he had heard anything, other than what is in the Board's packet, in favor or against the proposed application. Kenwin stated that the city of Roswell has not received any phone calls, negative or positive for this application.

At this time Michael Brennan opened the public portion of the hearing. He stated that if anyone would like to come forward and speak in favor of or in opposition to this application to please come forward and speak into the microphone.

**BILL BULLOCH**  
**1285 Knoll Woods Court**

Bill Bulloch stated that he was a few houses down from Patrick Callahan, the neighbor that the applicant said agreed. They had a long talk in the neighborhood about whether they wanted Chandler to build this addition or whether they wanted him to hang around. By vote they did want that to happen. They are looking for a little bit bigger place for them to spend their time and it seems like this addition is going to accomplish that.

Michael Brennan asked if he could ascertain that Bulloch is in favor of the application. He asked if anyone else would like to come forward and express their interest in apparently dining at the applicant's house.

Hearing no further comments from the public Brennan stated that the applicant is invited to rebut any of that if he would like. There was no one else coming forward so Brennan closed the public portion of the hearing.

At this time Brennan stated that he would entertain a motion from the Board.

**Motion**

Hayden Branch made a motion to approve RBZA10-01 to reduce the side setback from seven feet to four feet to allow for the expansion of the carport into a garage and to have a covered porch on the back. Lee Rainwater seconded the motion.

Richard O'Donnell asked if what the Board was approving conditioned upon it being built consistent with the site plan that has been presented. Do they want to make it conditioned upon built as that and not a permission to otherwise invade the setback?

Michael Brennan stated that he thinks the motion was pretty clear about expanding the building to enclose the garage.

Hayden Branch stated that he mentioned the garage and the porch. If they decide architecturally to change the roof or change something, as long as they don't go further over he does not want to tie them to this specific plan and it turns out that there is a window or something different. He prefers not to get into that level of details as long as they don't go beyond the borders that they have requested.

Michael Brennan asked if there was any change in the motion that Richard O'Donnell would like to see changed or added. O'Donnell stated that it is usually difficult for this kind of a motion to be conditioned upon the site plan that has

been submitted to the city, particularly when they are dealing with reductions of critical setback. They are trying to not allow a bait and switch.

Hayden Branch stated that he could make it conditioned on the expansion of the garage and the covered porch maybe to the point that if the applicant came back later and decided to build an auxiliary shed in the back yard or something. He does not want to make the motion say to allow anything anywhere up to four feet of the property line if that is what O'Donnell is getting at. If he wants to make the motion conditioned on the expansion of the garage and the covered porch that is sort of how Branch defined the motion. If they need to make it clearer...

Michael Brennan stated that he thinks if the concern is that the plans that they submitted to the city be followed, wouldn't that be required by the building permitting and things along those lines?

Richard O'Donnell stated that it was something that is typically done particularly by the Planning Commission and he just thought they ought to all be consistent about that. That way if there are any changes they have to go through the city of Roswell which has certain discretion obviously. The Board is concerned here with the dimensions and this is a site plan, not an architectural plan so it is really not that restrictive.

Michael Brennan asked Hayden Branch if he would be willing to accept that amended version. Branch stated that he would. The site plan is basically the floor plan that they have here and as long as they abide by the dimensions of the site plan as submitted then that is fine. If they architecturally want to change the roofline or do something else, that is not in the Board's package and Branch does not want to tie them to the pictures the Board just happens to see. Brennan clarified that Branch was willing to grant the exception as it has been applied for. Branch stated that he was. Brennan asked if the footprint as it was applied for was okay with Richard O'Donnell. Richard O'Donnell stated that he likes that a little better.

Nancy Allvine stated that the applicant does not look like a shady character but that is probably a good idea to condition it to the site plan.

Michael Brennan stated the motion would be to approve RBZA10-01 reducing the side setback from its current state of seven feet to four feet contingent upon the plan set forth regarding the footprint as submitted by the applicant.

Hayden Branch stated that he was fine with that. Lee Rainwater seconded the amendment.

Michael Brennan asked if there was any further discussion.

The motion passed unanimously.

Michael Brennan stated that what Mike Chandler asked for was to reduce the side setback. Chandler stated that he needed clarification on the contingency. It has to stay within what....Brennan stated that if Chandler encroaches further than four feet into the side setback he would be in violation. If Chandler moves it into that four-foot setback, that is when he would be in violation. Chandler stated that he understands. Brennan stated that he was absolved up to a certain line and that is it.

Hayden Branch stated that what the Board was trying to say is the footprint as it is laid out is fine as long as it doesn't beyond into four feet to the property line. So if Chandler moved the whole thing say up or back a little bit he does not think it would matter. But if he made the garage twice as big, even though it wasn't four feet, that is what they are preventing.

Mike Chandler stated that was perfect. He is okay with that.

#### **APPROVAL OF MINUTES:**

Lee Rainwater made a motion to approve the minutes of the January 12, 2010 meeting of the Roswell Board of Zoning Appeals as modified by the Board in their correspondence and e-mails. Nancy Allvine seconded the motion.

The minutes were approved unanimously.

#### **DISCUSSION**

Michael Brennan asked if anyone on the Board would like to introduce a motion about Glenn Maggiola missing a meeting for the first time in the entire time that Brennan has been on the Board.

Nancy Allvine made a motion to adjourn the meeting. Richard O'Donnell seconded the motion.

#### **ADJOURN:**

The meeting adjourned at 7:57 p.m.

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Michael Brennan, vice-chairman

CC: mayor and city council  
community development  
applicant's files