

**MINUTES OF THE MEETING OF THE JERSEY VILLAGE  
BOARD OF ADJUSTMENT**

March 12, 2019 – 12:00 p.m.

The Board of Adjustment of the City of Jersey Village, Texas, convened on March 12, 2019, at 12:00 p.m. in the Municipal Civic Center Meeting Room at 16327 Lakeview Drive, Jersey Village, Texas 77040.

**A. The meeting was called to order by Chairman Tom G. Simchak at 12:00 p.m. and the roll of appointed officers was taken. Board Members present were:**

Thomas G. Simchak, Chairman	M. Reza Khalili, Board Member
Ken Nguyen, Board Member	Doyle Stuckey, Alternate Place 1
Joe Pennington, Board Member	

Board Member s Henry Hermis and Joyce Berube were not present at this meeting.

Council Liaison, Gary Wubbenhorst was present.

City Staff in attendance: Scott Bounds, City Attorney; Austin Bless, City Manager; Lorri Coody, City Secretary; Danielle Amason, Assistant City Secretary; Christian Somers, Building Official; and Jim Bridges, Engineering Technician.

**B. Designate alternate members to serve in place of any absent Board Members.**

Chairman Simchak appointed Alternate Place 1, Doyle Stuckey as a voting member in the absence of Board Member, Henry Hermis.

**C. Consider approval of the minutes for the meeting held on December 10, 2018.**

Board Member Khalili moved to approve the minutes for the meeting held on December 10, 2018. Board Member Nguyen seconded the motion. The vote follows:

Ayes: Board Members Pennington, Stuckey, Nguyen, Khalili  
Chairman Simchak

Nays: None

The motion carried.

**D. Conduct a public hearing on James and Deborah (Gilchrist) Finlay’s request for an appeal of the City of Jersey Village’s decision that the 15' wide landscaping buffer yard along 54.15 lineal feet contiguous to Lot 3, Block 1, Lakes of Jersey Village was acceptably delineated within the approved construction documents and in accordance with Section 14-88(a)18 and Section 14-88(a)19(a) of the Jersey Village Code of Ordinances, for the property located at 17300 Jersey Meadow Drive, Jersey Village, Texas.**

Chairman Simchak opened the public hearing at 12:03 p.m. in order to receive written and oral comments from any interested person(s) concerning James and Deborah (Gilchrist) Finlay’s request for an appeal of the City of Jersey Village’s decision that the 15' wide

landscaping buffer yard along 54.15 lineal feet contiguous to Lot 3, Block 1, Lakes of Jersey Village was acceptably delineated within the approved construction documents and in accordance with Section 14-88(a)18 and Section 14-88(a)19(a) of the Jersey Village Code of Ordinances, for the property located at 17300 Jersey Meadow Drive, Jersey Village, Texas.

The Board found that all notification requirements for both the City and the applicant have been met for this public hearing.

The applicants, James and Deborah Finlay, provided background information relating to their appeal. Mrs. Finlay explained that bulldozers began removing trees along the buffer between the property located at 17300 Jersey Meadow Drive, Jersey Village, Texas and the homes in the adjacent subdivision on February 14, 2019. She is of the belief that the owner of the commercial property to be built, Brass Thimble, has claimed 2 foot of her rear property. Mrs. Finlay made reference to the survey of her home and explained that she has been paying taxes on the 2 feet of property in question for a number of years. She believes the Board made an error in a previous order concerning Brass Thimble and asked that the decision be reversed.

City Attorney, Scott Bounds, clarified to the Board that the purpose of the meeting was to determine if the Building Official made a reasonable decision to release the permit for the construction of the Brass Thimble as the dispute over the boundary line is a civil matter.

Mr. Finlay reiterated the points brought up by Mrs. Finlay; he explained that his surveys have been consistent over the past 20 years and a manual measurement of the northwest side of his property had been taken reflecting the lot line being located at 156.4. He is of the belief that the Brass Thimble property owner did not do due diligence and the concerns of the residents of the Lakes of Jersey Village had been minimalized and were not taken into consideration.

Christian Somers, Building Official, clarified that the 15-foot buffer yard was per the surveys provided.

Chairman Simchak questioned the documents referenced by the Building Official.

Mr. Somers explained that he referred to the site plan he was provided by the developer; he did not reference any surveys from the homes located on Cherry Hills in order to make the decision to issue the permit to Brass Thimble for construction.

Mr. Bounds informed the Board that the Board's responsibility is to reverse, affirm or modify the determination of an administrative official if the Board does not find that the City Official made a reasonable decision.

Board Member Pennington questioned the legal definition of the term reasonable.

Mr. Bounds explained that the Board would have to consider the facts in order to determine if the City Official acted reasonably.

Mr. Somers clarified that a survey was taken prior to the pouring of concrete.

Mr. Bounds explained to the Board that the permit was issued with the assumption that the final survey could call for adjustments in the site plan.

Architect for the Brass Thimble property, Ngoc Nguyen, presented the Board a form survey that had been prepared by the surveyor earlier that morning.

The Board discussed the form survey provided by Ms. Nguyen.

With no other input from the applicant, or the city, Chairman Simchak called upon those signing up to speak at the public hearing as follows:

**Lindy Mandy, 7 Peachtree Court, Jersey Village, Texas (713) 816-8955:** Ms. Mandy suggested the Board reverse the decision of the Building Official. She is of the belief that a procedure should have been in place during the discussions between the Brass Thimble and Mr. Somers. She explained that when residents reached out to City Officials, they were told an appeal would have to be made. She feels the 15-foot buffer between the commercial property and the neighboring homes should be kept as this land belongs to the homeowners, not the business.

**Joy Priest, 32 Cherry Hills, Jersey Village, Texas (281) 890-6601:** Ms. Priest suggested the Board reverse the decision of the Building Official. She explained that since the removal of the landscaping, there are more lights and noise that can be seen and heard from the inside of her home. She is of the belief that the homeowners have adverse possession of the 2 feet of property in question.

**Fred Grimm, 3 Augusta Court, Jersey Village, Texas (281) 830-0270:** Mr. Grimm suggested the Board reverse the decision of the Building Official. He is of the belief that the site plan provided by the Brass Thimble's architect was prepared for construction purposes and that the landscaped barrier should be replaced.

**Bill Schuster, 8 Peach Tree Court, Jersey Village, Texas (832) 594-1310:** Mr. Schuster suggested the Board reverse the decision of the Building Official. He explained that homes were originally supposed to be built on both sides of the landscaped barrier and no one has ever questioned the placement of the buffer. He believes that the homeowners should have been notified prior to the removal of the barrier.

**Marilyn Schuster, 8 Peach Tree Court, Jersey Village, Texas (832) 594-1310:** Mrs. Schuster suggested the Board reverse the decision of the Building Official. She believes that the homeowner's surveys are correct and they should have been notified of the discrepancy. She explained that the City needs checks and balances in place for situations involving conflicting information.

Board Member Pennington questioned whether Mrs. Schuster contacted members of the City Council to inform them of her concern.

Mrs. Schuster indicated that she had spoken at a recent City Council meeting and notified the Council at that time.

With no one else desiring to speak at this public hearing, Chairman Simchak closed the public hearing concerning James and Deborah (Gilchrist) Finlay's request for an appeal of the City of Jersey Village's decision that the 15' wide landscaping buffer yard along 54.15 lineal feet

contiguous to Lot 3, Block 1, Lakes of Jersey Village was acceptably delineated within the approved construction documents and in accordance with Section 14-88(a)18 and Section 14-88(a)19(a) of the Jersey Village Code of Ordinances, for the property located at 17300 Jersey Meadow Drive, Jersey Village, Texas at 1:24 p.m.

*After closing the public hearing, it came to the Board's attention that additional meeting attendees wished to speak about the item being considered.*

City Attorney Bounds suggested Chairman Simchak reopen the public hearing in order for the applicants to address the Board once again.

Chairman Simchak re-opened the public hearing at 1:25 p.m. in order to receive written and oral comments from any interested person(s) concerning James and Deborah (Gilchrist) Finlay's request for an appeal of the City of Jersey Village's decision that the 15' wide landscaping buffer yard along 54.15 lineal feet contiguous to Lot 3, Block 1, Lakes of Jersey Village was acceptably delineated within the approved construction documents and in accordance with Section 14-88(a)18 and Section 14-88(a)19(a) of the Jersey Village Code of Ordinances, for the property located at 17300 Jersey Meadow Drive, Jersey Village, Texas.

Mrs. Finlay explained that her home had been surveyed several times over the course of the last 20 years and all surveys were in agreement with one another in relation to the boundary line in question.

Chairman Simchak called upon the additional individuals that signed up to speak.

**Luisa Lago, 117 Cherry Hills, Jersey Village, Texas (713) 392-2004:** Ms. Lago suggested the Board reverse the decision of the Building Official. She was of the belief that Board Members should have visited the site prior to the Board meeting.

Mr. Bounds explained that he does not advise Board Members to visit such sites as their decisions should be made based solely upon information provided to them.

**Silvia Barnes, 10 Peach Tree Court, Jersey Village, Texas (713) 906-8019:** Ms. Barnes suggested the Board reverse the decision of the Building Official. She believes that concrete should have not been poured until after the Board meeting was held.

Mr. Finlay questioned whether a reasonable decision was made by the Building Official and if it was based upon certified documentation.

With no one else desiring to speak at this public hearing, Chairman Simchak closed the public hearing concerning James and Deborah (Gilchrist) Finlay's request for an appeal of the City of Jersey Village's decision that the 15' wide landscaping buffer yard along 54.15 lineal feet contiguous to Lot 3, Block 1, Lakes of Jersey Village was acceptably delineated within the approved construction documents and in accordance with Section 14-88(a)18 and Section 14-88(a)19(a) of the Jersey Village Code of Ordinances, for the property located at 17300 Jersey Meadow Drive, Jersey Village, Texas at 1:39 p.m.

**D1. Discuss and take appropriate action on James and Deborah (Gilchrist) Finlay’s request for an appeal of the City of Jersey Village’s decision that the 15’ wide landscaping buffer yard along 54.15 lineal feet contiguous to Lot 3, Block 1, Lakes of Jersey Village was acceptably delineated within the approved construction documents and in accordance with Section 14-88(a)18 and Section 14-88(a)19(a) of the Jersey Village Code of Ordinances, for the property located at 17300 Jersey Meadow Drive, Jersey Village, Texas.**

The Board discussed the procedure followed by the Building Official and referenced surveys provided by the applicant and architect. Some members felt that a reasonable decision was made by Mr. Somers based on the information he was provided. Other members disagreed and felt as though additional information was needed prior to releasing the permit for construction. It was noted that the homeowner’s surveys did not reference a benchmark.

City Attorney Bounds explained that administrative officials of the City do not have authority over discrepancies in boundary lines and the Board does not have the authority to make a decision in a boundary line dispute.

The Board questioned whether an agreement could be made between the property owner and the homeowners and discussed the City Ordinance concerning setbacks. Mr. Bounds explained that the City would have to comply with the most stringent regulations relating to setbacks.

With no further discussion on the matter, Board Member Stuckey moved to grant the appeal of James and Deborah (Gilchrist) Finlay’s relating to the City of Jersey Village’s decision that the 15’ wide landscaping buffer yard along 54.15 lineal feet contiguous to Lot 3, Block 1, Lakes of Jersey Village was acceptably delineated within the approved construction documents and in accordance with Section 14-88(a)18 and Section 14-88(a)19(a) of the Jersey Village Code of Ordinances, for the property located at 17300 Jersey Meadow Drive, Jersey Village, Texas. Board Member Pennington seconded the motion. The vote follows:

Ayes: Board Members Stuckey, Pennington

Nays: Board Members Nguyen and Khalili  
Chairman Simchak

The motion failed.

## **E. Adjourn**

With no other business before the Board, Chairman Simchak adjourned the meeting at 2:13 p.m.




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Danielle Amason, Assistant City Secretary