

**MECHANICAL, PLUMBING, ELECTRICAL, AND SWIMMING POOL
BOARD OF APPEALS
MINUTES**

December 10, 2013

Public notice having been posted, a public hearing of the MPE Board was held at 4:00 p.m., Tuesday, December 10, 2013 in the Council Chambers at City Hall, 555 Walnut, Abilene, Texas.

MPE BOARD MEMBERS PRESENT: Pete Torres
Kenneth Rich
Melissa Sparks
James Wheeler
Terry Williams
Frank Perez
Gene Isenburg

STAFF PRESENT: Kelley Messer
David Sartor
Van Watson

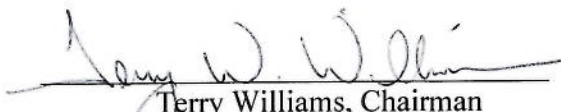
GUESTS: Jennifer Jenkins
Brian Holaman

1. The meeting was called to order by David Sartor, at 4:06 PM.
2. The first item on the agenda is elections of chair and co-chair. Mr. Sartor stated the current chairperson Mr. Jay Wyatt was no longer serving on the board and the current co-chair, James Wheeler, was not yet in attendance. After discussion with legal counsel, it was determined Mr. Sartor would oversee the election of a new chairperson who would then take charge of the meeting. Mr. Sartor asked for nominations for chair. Melissa Sparks nominated Terry Williams as chair person. Kenneth Rich seconded the nomination and the motion carried by a vote of five (5) in favor (Torres, Rich, Sparks, Perez, and Isenburg) and none (0) opposed. Mr. Williams took charge of the meeting.
3. The next item to come before the board was the approval of the August 14, 2012 minutes. Mr. Rich made a motion to approve the minutes as written. Mr. Perez seconded the motion and said motion unanimously passed.
4. Next, Mr. Williams asked for a nomination for co-chair. Ms. Sparks nominated Mr. Rich. Mr. Perez seconded the nomination and the motion carried by a vote of five (5) in favor (Torres, Sparks, Williams, Perez and Isenburg) and none (0) opposed.
5. The next matter to come before the board was the consideration of a request of Joseph and Jennifer Jenkins to consider a natural barrier in lieu of the required fencing around a proposed swimming pool at their residence located at 9 Green Bay Circle, Abilene, Texas. Mr. Sartor stated the requirement of a wall or fence 4ft. high, non climbable with self-closing and latching gates surround all residential swimming pools. (At this point Mr. Wheeler arrived and took his place on the board.) One exception is that the board can hear a request of a natural barrier. Mr. Sartor made a presentation to the board showing pictures of the yard and location of proposed swimming pool and existing chain link fence, lake area and existing shrubs, trees and bushes. He also identified an existing retaining wall that is backed up to the lake itself. Mr. Sartor stated that staff had no recommendation. Ms. Sparks asked if the proponent was proposing to leave all of the

existing fencing. Mr. Sartor stated it was his understanding they were going to leave all side fencing and remove the back fence adjacent to the lake. Mr. Perez restated that not only do they want to leave the chain link they also want to take out the back portion. Mr. Sartor stated that was his understanding. Mr. Williams asked about the neighbors' pool and asked if it pre-dated the code. Mr. Sartor stated yes. Ms. Sparks asked if that pool had a fence in the back and Mr. Sartor stated he did not recall that it did. Mr. Williams asked if the side fences ran all the way to the retaining wall and Mr. Sartor stated yes. Mr. Perez pointed out the fence along the street had places void of shrubs and bushes. Mr. Sartor restated that chain link fencing does not meet the criteria for non-climbable. Mr. Sartor also stated that the proponent would be willing to fill in the gaps with shrubbery. Mr. Perez pointed out that other cases with chain link fencing and shrubbery and additional requirement for barbed wire was required on top of the fence. Mr. Rich was concerned that even though with all that has been discussed his concern was kids could still climb over it. Mr. Williams opened the public hearing and asked for Mrs. Jenkins to speak on her behalf. Jennifer Jenkins stated she was the owner of 9 Green Bay Circle. Mrs. Jenkins stated one of the reasons for the request was due to the expense of replacing the chain link fence. The board suggested putting the fence just around the pool but Mrs. Jenkins did not want to impede the view of the lake. Mrs. Jenkins stated they do have two retaining walls on the lake side. Mrs. Jenkins reiterated they would be willing to put in more shrubbery to fill in the gaps. Mr. Perez discussed the street side fence and preferred at minimum a privacy fence on that side and Mrs. Jenkins agreed that they would be willing to do that. Mr. Rich was not in favor of keeping the chain link along the neighbors' side either. Mrs. Messer asked the question if the board is approving a natural barrier, what natural barrier would they be approving along the neighbors' property. Mr. Sartor stated that the board could not approve a chain link fence as a natural barrier. Mr. Williams closed the public hearing. After discussion Mr. Williams asked for a motion. Mr. Rich made a motion to accept the water's edge as a natural barrier but the rest of the fence would need to be brought up to code. Mr. Torres seconded the motion and the motion carried by a vote of seven (7) in favor (Torres, Rich, Sparks, Wheeler, Williams, Perez, and Isenburg) and none (0) opposed.

6. The next matter to come before the board was the consideration regarding the request of Jeff Luther Construction to consider a natural barrier in lieu of the required fencing around a proposed swimming pool at 1431 Tanglewood Rd, Abilene, Texas. Mr. Sartor made a presentation to the board showing pictures of the yard and location of the swimming pool and the creek behind the property. Mr. Sartor identified the existing solid fence and stated the proponent wished to construct a fence that continued from the existing fence towards the creek as far as the board deemed necessary. Mr. Perez asked how far down to the creek bottom did Mr. Sartor think it fell. Mr. Sartor estimated a range of 30' to 40'. Mr. Williams opened the public hearing and Mr. Bryan Holaman came forward to speak. Mr. Rich asked how far they intended to carry the fence. Mr. Holaman anticipated 10' to 15'. The board discussed options of placement and Mr. Sartor did make mention that the approval by the board would be that the creek would serve as a natural barrier and staff would get with the proponent regarding the location in order to comply. Mr. Perez asked what the slope was. Mr. Sartor estimated at 40 degree slope. Mr. Williams closed the public hearing. After discussion Mr. Rich made a motion to approve the creek as a natural barrier as long as fencing on the north and south side extends 10' beyond the start of the slope. Mr. Wheeler seconded the motion and the motion carried by a vote of seven (7) in favor (Torres, Rich, Sparks, Wheeler, Williams, Perez, and Isenburg) and none (0) opposed.

7. Mr. Williams called for adjournment at 4:55 P.M.


Terry Williams, Chairman
Van Watson, Acting Secretary