

**CITY OF HORSESHOE BAY**  
**BOARD OF ADJUSTMENT**  
**MINUTES OF REGULAR MEETING**

**February 25, 2020**

The Board of Adjustment of the City of Horseshoe Bay held a Regular Meeting in the City Council Chambers at City Hall, #1 Community Drive, Horseshoe Bay, Llano County, Texas, on February 25, 2020, in accordance with the duly posted notice of said meeting.

The posted agenda for this meeting is made a part of these minutes by attachment and the minutes are herewith recorded in the order the agenda items were considered, with the agenda subject and item number shown preceding the applicable paragraph.

1. **Call the meeting to order and establish a quorum**

The meeting was called to order at 3:00 p.m. by Chairman Jim Babcock with a quorum of all Board members present as follows:

Present:

Chairman Jim Babcock  
Board Member Bill Knox  
Board Member Dale Amstutz  
Board Member Frank Gracely  
Board Member John Minyard

Alternate Board Member Carla Rowland

2. **Pledge to the Flags**

The pledge to the Flags was led by Frank Gracely.

3. **Approval of Meeting Minutes of the December 17, 2019 Regular Meeting**

A motion to approve the minutes as written was made by Dale Amstutz and seconded by Bill Knox. The motion was approved unanimously (5-0).

4. **Public hearing, discuss, consider and take action on BOA Case No. 2020-01, a request by John and Jennifer Insalata for a Variance to Sections 14.02.402(b)(15)(T) and 14.02.413(13) of the Zoning Ordinance for approval of a 7.8' x 11' above ground therapeutic spa in the front yard on Lot No. 1A of Trails End, Section One-B and Section Two-B, also known as 149 Christine Circle in The Trails of Horseshoe Bay**

Chairman Jim Babcock opened the Public Hearing at 3:03 PM. Mayor Clinesmith and 22 members from the community were in attendance as well as Jennifer and John Insalata and 3 contractors who the Insalata's hired to install their spa, fence, wall and landscaping.

John Insalata provided packets of information to the Board members and thanked the Board for hearing their request. Jennifer Insalata told the Board she is disabled and needs the therapeutic spa for health benefits. Jennifer gave a brief history of the process they have

gone through for this variance request. They followed the process with The Trails HOA. Sam Drago drew the plans for the wall and fence. They worked with Mike Walsh and came to an agreement on landscaping. They had the spa site plan approved by The Trails Development Review Committee on December 19, 2019. The City had originally determined the spa was in the front yard but later decided this was the side yard. She felt the only issue was the spa being above ground. The spa will be behind a 7-foot wall and no one will see or hear it. Jennifer said Darleen Cooper, a concerned homeowner, wrote a letter in opposition saying she felt that additional budgeting by the homeowner should preclude hardship. Jennifer felt this was ignorant and inconsiderate. It is expensive to be ill with a chronic illness.

John Insalata stated the POA appointed Mike Walsh and Sam Drago to the ACC. The ACC approved the plans. Recently Mike Walsh, Chairman of The Trails Development Review Committee withdrew his approval. Jennifer said there were neighbors in The Trails that support their plan. Jennifer stated that much of what is in letters written by the homeowners is incorrect or about the covenants. She has been coordinating with an advocate regarding the Americans With Disabilities Act (ADA). She felt the ADA guidelines applied to this request. John Insalata stated they have roads on three sides of the lot and at first the City said the spa was proposed to be in the front yard then changed their mind and said the proposed location would not be considered the front yard and removed the front yard from the variance. The spa will be concealed behind a 7-foot stone wall. It is tastefully designed for low impact exercise. This is not a leisure pool and will only need to be drained every 2 years or so and will be drained with a garden hose into the sink.

Twenty-two (22) members from the community who were in opposition to the Variance request were in attendance and 4 signed up to speak prior to the meeting starting. Tom Koby lives on The Trails Parkway, three houses from the Insalata's house, and is also a limited partner in The Trails Partnership. He thinks the variance will have a negative impact on the community and their lives because it is against the covenants. He feels this location meets the definition of a front yard. He feels this will have a negative impact on the property values. He stated that the applicant has a lack of landscaping at their home. He felt there is no undue hardship on the applicant.

Laura Nagle resides at 1046 Overlook Parkway and stated she and her husband live in The Trails and own another home in The Trails that they are trying to sell. She is concerned about draining the spa and the chemicals getting into her yard and into the lake.

Larry Snyder of 707 The Trails Parkway said the HOA did not approve the plan; it was approved by the developer and the approval has been retracted. He feels this spa will harm their property values and have a negative impact on their lives and asked that the applicant go back the drawing board and comply with the guidelines and covenants.

Patricia Pozza lives across from the Insalatas and was the first resident to move into The Trails. A variance is presumed to not be a good thing. They have not met all the criteria for granting the variance. A disability is not a hardship. There is a pool near the applicant's home they can use.

Chairman Babcock provided background information about The Trails and the City's incorporation.

Jennifer Insalata said other homeowners have violations to the covenants in their yards and they don't know what this will do to property values. They are working on the landscaping. She feels this is not in her front yard. The plumbing can tap into the sewer line. There are no chemicals in the spa. It is cleaned by filters and lights. She does not have a physical hardship, she is disabled. She does not feel The Trails pool is clean enough to swim in. Other homeowners have complained about the pool not being clean.

Eric Winter clarified the front yard and side yard aspects of this property. The yard along The Trails Parkway is technically their front yard as shown on the plat, but because of the way they oriented their house on the lot they are using the part of the yard where the spa is proposed as their front yard. A variance is necessary for the spa being in the front yard and above ground. Jennifer Insalata said Eric Winter wrote a letter saying this was not in the front yard and showed a copy of one of the Public Notices.

Chairman Babcock said he has been by the house and he understands what they are saying. Frank Gracely asked about the chronological order of the approval. There are separate documents for the covenants and the City ordinance. He asked if there were other pools in the front yards in The Trails. Eric Winter stated a building permit and this variance is required for them to install the spa. The City can no longer enforce the ACC covenants.

Bill Knox is concerned about establishing a precedent and if the 2 vacant lots across the street from the proposed wall will be impacted. John Insalata said there are at least 3 houses in The Trails that have pools in the front yards and did not have to get a variance. Eric responded that these pools were built prior to the City reviewing pool permit site plans. Now the City reviews pool permit site plans.

Mike Walsh said the ACC had issues with the house design and an extensive landscape plan was required. They moved into the house without installing the landscaping. Mike told the Insalatas that they would have to install landscaping. He spoke with Eric Winter and was told that the City cannot enforce landscaping. Mike feels this is not an ADA compliance issue. John Insalata said they will install more landscaping at the same time they install the spa and build the wall and fence.

Rex Baker, City Attorney, provided information about the relationship between the City and the HOA. The relationship and issues between the applicant and the HOA have nothing to do with the City approval.

Chairman Babcock said the applicant has the right to go to District Court if the variance is denied.

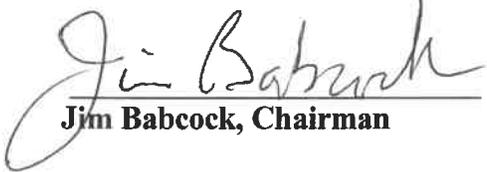
A motion to deny the variance request was made by Bill Knox and seconded by John Minyard. The motion passed unanimously (5-0).

**5. Adjournment**

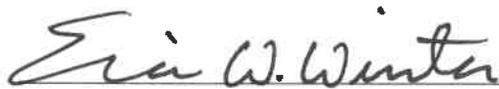
A motion to adjourn was made by Frank Gracely and seconded by Dale Amstutz. The motion was approved unanimously (5-0). Chairman Jim Babcock adjourned the meeting at 3:57 p.m.

Approved this 22nd day of June, 2020.

**City of Horseshoe Bay, Texas**

  
**Jim Babcock, Chairman**

**ATTEST:**

  
**Eric W. Winter, Development Services Director**