

MEMO



Meeting

Date: July 2, 2018

To: Zoning Board of Adjustment

From: Jon James, AICP
Planning & Development Services Director

Request: Findings And Order Regarding ZBA18-06: Favre

Background:

The Board of Adjustment has jurisdiction over an Applicant's appeal pursuant to Local Government Code Section 211.010 (d); City of San Angelo Code of Ordinances, Section 2.07.062, et. seq.; and the City Code of Ordinances, Chapter 12, Exhibit "A" Zoning Ordinance, Section 214. In exercising its authority, the Board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for the purpose of the board has the same authority as the administrative official.

Attached to the memo are the final findings and orders regarding case ZBA18-06: Favre finding that the failure of the Applicant to comply with Section 406.D.2 of the Zoning Ordinance (i.e. providing a one year period from the effective date of the ordinance for an operator of a Short-Term Rental to obtain a Conditional Use approval and a Certificate of Occupancy for the Short-Term Rental) does not negate the exception for which the Applicant qualifies under Section 406A.4 (i.e. providing an exception to the condition for approval of a Short-Term Rental that the property adjoin a public street at least 30 feet in width).

Per Article 5, Section 5.13 of the By-Laws of the Zoning Board of Adjustment of the City of San Angelo, all decisions of the Board "shall be made at a public meeting by a motion made and seconded, and by a showoff hands." To this end, a public hearing for case ZBA18-06: Favre has been scheduled for July 2, 2018, in which the Board shall hear the final decision on the matter and vote accordingly.

Attachment: Findings And Order Regarding ZBA18-06: Favre



**City of San Angelo, Texas
Zoning Board of Adjustment**

FINDINGS AND ORDER REGARDING ZBA18-06: FAVRE

On the 4th day of June, 2018, at 1:30 p.m., at the McNease Convention Center, 501 Rio Concho Drive, South Meeting Room-Room “C”, a Public Hearing was held by the Zoning Board of Adjustments of the City of San Angelo, Texas (hereinafter the “Board”) at the request of the Applicant, Sammee Favre, for consideration of and possible action regarding the written determination of the Planning Director on application for a Conditional Use, Short-Term Rental, dated March 5, 2018 that:

- (1) That Appellant does not qualify for the exemption set forth at Section 406 Subpart ‘D’ Part (2) of Section 406 of the Zoning Ordinance which provides:

A change in occupancy from a single-family home to a Bed and Breakfast or Short-Term Rental shall require issuance of a new Certificate of Occupancy to ensure compliance with all applicable standards. A Short-Term Rental that is currently operating and paying City and State hotel tax as of the effective date of this ordinance shall have one year therefrom to obtain Conditional Use approval and a Certificate of Occupancy for the Short-Term Rental use.

and

- (2) That a Conditional Use cannot be approved for a Short Term Rental at 2458 Fisherman’s Road because the Appellant does not meet the requirements set forth at Section 406 Subpart ‘A’ part (4) of the Zoning Ordinance which provides:

The Planning and Development Services Department and all interested parties having had opportunity to present evidence; material evidence having been presented; and, the Board having considered the evidence presented:

UPON MOTION DULY MADE, SECONDED AND UNANIMOUSLY CARRIED THE BOARD DOES NOW MAKE THE FOLLOWING FINDINGS OF FACT:

1. The identified parties in interest and their last known addresses are:
 - Sammee Favre, 2458 Fishermans Road, San Angelo, TX 76904 (the “Applicant”)
 - Jon James, Planning and Development Services Director, 72 West College Avenue, San Angelo, TX 76903
2. The meeting of a quorum of the members of the Zoning Board of Adjustments has been duly convened and public written notice of the date, hour, place, and agenda of the meeting

that included the subject of this public hearing has been duly given pursuant to the requirements of the Texas Open Meetings Act.

3. The Planning and Development Services department has caused a diligent effort to be made to determine the identity and address of the property owner(s) and other entities or individuals to whom the municipality was required to give notice of this proceeding pursuant to law.
4. All persons or entities identified as being entitled to notice have been given timely, proper notice in the manner required by law.
5. The Subject Property is located at 2458 Fishermans Road, having a legal description of: Lot: 10, Block: 1, Lake Nasworthy Subdivision, Group 14, Tom Green County, San Angelo, Texas.
6. The Subject Property does not adjoin a public street at least 30 feet in width. The Subject property is not within 500 feet of a Bed and Breakfast or Short-Term-Rental.
7. The Applicant was registered with the State of Texas and the City of San Angelo for purpose of Hotel Occupancy Tax on or before September 1, 2016.
8. On January 17, 2017, the effective date of the ordinance, the Applicant was currently operating a Short-Term Rental and paying City and State Hotel Tax, and did not obtain a Conditional Use approval and Certificate of Occupancy for the Short-Term Rental within one year of the effective date of the ordinance.

THE ZONING BOARD OF ADJUSTMENTS HAVING MADE THE FOREGOING FINDINGS OF FACT, DOES HEREBY MAKE THE FOLLOWING DETERMINATIONS AND ORDER:

1. The Board has jurisdiction over Applicant's appeal pursuant to Local Government Code Section 211.010 (d); City of San Angelo Code of Ordinances, Section 2.07.062, et. seq.; and City Code of Ordinances, Chapter 12, Exhibit "A" Zoning Ordinance, Section 214.

2. The failure of Applicant to comply with Section 406.D.2 of the Zoning Ordinance (Providing a one year period from the effective date of the ordinance for an operator of a Short-Term Rental to obtain a Conditional Use approval and a Certificate of Occupancy for the Short-Term Rental.) does not negate the exception for which Applicant qualifies under Section 406A.4 (Providing an exception to the condition for approval of a Short-Term Rental that the property adjoin a public street at least 30 feet in width.). Therefore, Applicant's property is exempt from the restriction that a Short-Term Rental may be approved unless it adjoins a public street at least 30 feet in width.

3. The March 5, 2018 written determination made by the Planning Director regarding the Applicant's application for Short-Term Rental is hereby reversed to the extent that it is

inconsistent with the foregoing determination. The Applicant's property located at 2458 Fisherman's Road is exempt from the restrictions set forth at Section 406A.4.

4. The Planning Director shall place the Applicant's pending application for Conditional Use for Short-Term-Rental at the Subject Property, 2458 Fisherman's Road, on a agenda for regular meeting of the Planning Commission for consideration.

5. All regulatory ordinances applicable to Short-Term Rental Conditional Use shall apply.

IT IS FURTHER ORDERED THAT:

1. Within ten (10) days of the date this Order is issued, the Planning Director:
 - (a) cause a copy of this Order to be filed in the office of the City Clerk for the City of San Angelo; and,
 - (b) deposit in the United States Mail, certified return receipt requested, , or personally deliver to the Applicant, owner of the Subject Property, a copy of this Order.

ISSUED this 2nd day of July, 2018.

ZONING BOARD OF ADJUSTMENTS

Louis Rork, Chair

**STATE OF TEXAS
COUNTY OF TOM GREEN**

Before me, _____, on this day personally appeared Louis Rork, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and consideration therein expressed.

Given under my hand and seal of office this _____ day of July, 2018.

Notary Public, State of Texas