

**ZONING BOARD OF ADJUSTMENTS  
MINUTES SPECIAL SESSION  
FEBRUARY 13, 2008**

The Zoning Board of Adjustments of the City of Cuero met in Regular Session, Wednesday, February 13, 2008, at 4:00 p.m., Council Chambers, 201 E. Main, Cuero, Texas.

PRESENT: Chairman Bill Matthys, Jerome Dreyer, David Baker, Brad Hedrick, Alton Meyer, R. A. VanWormer, City Secretary Lisa Moravitz and Building Inspector Perry Morris.

**CALL TO ORDER.**

Chairman Bill Matthys called the meeting to order.

**PUBLIC HEARING.**

ORVILLE KARNEI IS REQUESTING AN INTERPRETATION OF THE ZONING ORDINANCE, SECTION 158.022 ATTACHED. MR. KARNEI OWNS THE PROPERTY LOCATED ON PART OF LOTS FOUR (4) THROUGH SIX (6), BLOCK R, CENTENNIAL ADDITION A/K/A 520 S. ESPLANADE, UTILIZED AS MOBILE HOME LOT RENTAL SPACES AND IS REQUESTING TO CONTINUE THIS USE.

Orville Karnei, 522 S. Esplanade, (Mr. Karnei has requested this correspondence be included in the minutes) was present to provide the following information regarding an Appeal to Chapter 158.022 nonconforming use ruling:

We thank the board for agreeing to hear our appeal to a usage ruling on our property here in Cuero. Our residential family owned mobile home rental business, located at 520 south esplanade in an area rezoned from residential to commercial in year 2005, was ruled abandon for a period greater than six (6) months, and now is not permitted to exist in accordance with the nonconforming uses guideline in chapter 158.022. This situation was brought to our attention in November 2007 when a prospective tenant was denied a city permit to move a mobile home onto the lot. Our immediate reaction was to plead our case to the city manager, mayor, city attorney, and city inspector. For about two month, we exchanged emails, letters, and faxes asking the city to acknowledge our family business on the lot, but we were always left with the impression that an attempt to rezone the lot back to residential was our only option. It was not until last month when we again spoke directly with the city inspector that he finally made us realized he had been telling us to take our appeal to this adjustment board, since this was the only city governing body that could consider an adjustment to any initial city zoning rulings. Others along with ourselves have read AND reviewed chapter 158.022 many times. The only conclusion drawn from these reviews has been that, because we have had a constructed mobile home family rental business on our lot since year 2000 and have never stop maintaining or advertising to the public, chapter 158.022 permits such a business to continue until the family either sells or removes the business from the lot. In ADDITION, SHOULD THE lot be sold OR the family no longer operates THE business, chapter 158.022 requires. The lot then can only be used for commercial business purposes. We are grateful for the efforts made ON OUR behalves by both the city manager and mayor. Both asked their consultant about the initial city ruling to see if it was correct. The consultant in both cases agreed with the ruling, contenting that when there are no tenants on a mobile home lot for 6 months IT becomes a "vacant lot" and the mobile home facility on the lot with an installed twenty-five foot electric power pole including power meter and distribution panel, sewer and water connections, surrounding fencing, gravel driveway and turn-around, and raise earthen mobile home pad is not a business constructed and installed on the lot in a permanent manner. The consultant went on to states it was his opinion such a facility was considered a temporary installations. It is therefore believed that the consultant's MISCONSEPTION OF the required permanent facilities that must be installed on a rental mobile home lot, is what has lead to the ruling we are APPEALING to this board.

Submitted By:

Mr. & Mrs. Orville Karnei  
107 Hunters Branch  
Shavano Park Tx 78231-1206

City Inspector Perry Morris was present to request the board's interpretation on Nonconforming uses; Commercial activity and Family-based businesses. In addition correspondence was provided from Public Management Coordinator Kenneth Coignet dated January 3, 2008:

Regarding Mr. Karnei's lot on South Esplanade, I believe the City's interpretation of the ordinance is correct. There are several issues concerning this property and they are as follows:

1. Nonconforming uses: While it is true that nonconformities are allowed to continue until they are removed, this particular lot was vacant at the time of the ordinance and "vacant" is considered a land use. In my opinion, the electric pole does not constitute "construction materials in permanent position and fastened in a permanent manner" because most electric companies would consider that pole "temporary". In addition, the utility connections are ancillary to the construction.
2. Commercial activity: The proposed use is manufactured housing residential and not commercial, regardless of whether it is rental property or not.
3. Family-based businesses: This clause was put into the ordinance to allow businesses to continue to operate inside residential districts. In addition, the intent of the clause was to protect businesses that were conducted on site and owned by family members.

**NEW BUSINESS.**

**ORVILLE KARNEI IS REQUESTING AN INTERPRETATION OF THE ZONING ORDINANCE, SECTION 158.022 ATTACHED. MR. KARNEI OWNS THE PROPERTY LOCATED ON PART OF LOTS FOUR (4) THROUGH SIX (6), BLOCK R, CENTENNIAL ADDITION A/K/A 520 S. ESPLANADE, UTILIZED AS MOBILE HOME LOT RENTAL SPACES AND IS REQUESTING TO CONTINUE THIS USE.**

Discussion was held regarding the mobile home rental lot located at 520 S. Esplanade being considered abandoned since it has not been utilized for over two years.

**UPON MOTION OF DREYER, SECONDED BY VANWORMER, TO NOT AUTHORIZE THE CONTINUED USE OF A MOBILE HOME LOT RENTAL SPACE LOCATED AT 520 S. ESPLANADE. AYES: 2 NAYES: 3 – BAKER, HEDRICK, AND MEYER. CHAIRMAN MATHYS DID NOT VOTE EITHER WAY.**

Discussion was held regarding Orville Karnei advertising the lot as vacant, therefore the interpretation of the Board is the lot has not been abandoned.

**UPON MOTION OF BAKER, SECONDED BY DREYER, AUTHORIZING THE CONTINUED USE OF A MOBILE HOME LOT RENTAL SPACE LOCATED AT 520 S. ESPLANADE, PASSED ON THIS 13<sup>TH</sup> DAY OF FEBRUARY 2008. AYES: 4 NAYES: 1-VANWORMER CHAIRMAN MATHYS DID NOT VOTE EITHER WAY.**

With no further business, the meeting was adjourned.

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Bill Matthys  
Chairman Zoning Board of Adjustment

**ATTEST:**

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Lisa Moravitz  
City Secretary