MINUTES ZONING BOARD OF ADJUSTMENT CITY OF RICHARDSON, TEXAS FEBRUARY 16, 2011

The Zoning Board of Adjustment met in session at 6:30 p.m. on Wednesday, February 16, 2011 in the Council Chambers, at the City Hall, 411 West Arapaho Road, Richardson, Texas.

MEMBERS PRESENT: Randy Roland, Chair

Mike Walker, Vice Chair

Will Kidd, Member Chip Pratt, Member Eron Linn, Alternate

MEMBERS ABSENT: Larry Menke, Member

John Veatch, Alternate

CITY STAFF PRESENT: Chris Shacklett, Planner

Cindy Wilson, Secretary

Kevin B. Laughlin, Nichols, Jackson,

Dillard, Hager & Smith, 1800 Lincoln Plaza, 500 N. Akard Street, Dallas, Texas 75201

Randy Roland, Chairman, introduced Chris Shacklett, Planner, and Cindy Wilson, Secretary explaining that the City staff serves in an advisory capacity and does not influence any decisions the Board might make. Roland summarized the function, rules, and appeal procedure of the Zoning Board of Adjustment. Roland added 4 of the 5 members present must vote in favor for a request to be approved.

Kevin B. Laughlin, Nichols, Jackson, Dillard, Hager & Smith, 1800 Lincoln Plaza, 500 N. Akard Street, Dallas, Texas 75201 made the following comments to the Board. Laughlin stated that the Board has factual points to decide. Laughlin added that he did not believe the case sited by the applicant of case V 11-01 addressed a similar situation.

1. MINUTES:

The Zoning Board of Adjustment minutes of the November 17, 2010 meeting were approved as presented on a motion by Walker. The motion was seconded by Pratt and passed with a unanimous vote.

2. PUBLIC HEARING ON ZBA FILE V 11-01:

A request by Thomas M. Whelan for the following variance to the City of Richardson Comprehensive Zoning Ordinance: 1) Article IV, Sec. 4, for a 6-foot variance to the 7-foot side setback.

Shacklett stated that the applicant is requesting a 6-foot variance to the 7-foot side setback along two (2) property lines located near the rear of the property for the purpose of constructing an 8'x16' workshop. Shacklett added that the 6-foot variance would be limited to the area shown on the attached site plan within the narrow area of land that extends to the alley. Shacklett explained that it appears the lot was platted in this manner to allow alley access for the property. Shacklett added there are three (3) other lots in the subdivision with a similar lot configuration. Shacklett continued that these lots, including the subject property do not appear to utilize the narrow section of their property for alley access, but rather use garage access off of a side street. Shacklett stated the proposed structure will be located within one (1) foot of the property line on the east side of the building; the west side of the proposed structure, however, may not be located one (1) foot. This requested variance would allow either side to be within one (1) foot of the property line. Shacklett noted that the applicant states both sides of the structure would be screened from the adjacent properties by a 6-foot fence and an 8-foot hedge adjacent to Lot 6 and a 20-foot hedge adjacent to Lot 4. Shacklett explained that construction of the proposed structure had already started when the applicant was informed he would need a building permit.

Shacklett referred to the applicant's statement that a hardship exists because the property is narrow and irregularly shaped; there is no developable area once the setbacks are applied. Shacklett added that the applicant also stated the other locations on the property that would not require a variance are less suitable than the proposed location because the structure would be visible from the streets or would preclude the future construction of pool or use of the backyard for other recreational purposes. Shacklett added the applicant desires to place the structure in its proposed location to screen the structure from the streets and adjacent properties while not encroaching on their backyard area. Shacklett reported there has been one (1) letter in favor of this case from the property owners at 702 Shadywood Lane.

Shacklett delivered the staff technical recommendation in case V 11-01 by stating that based on the information presented and applicable codes and ordinances, it is staff's opinion that a property hardship does not exist.

Pratt asked Shacklett if there are any fire safety problems with the structure so close to the fence and the next door neighbor's property.

Shacklett stated there may be some extra fire protection measures required and working through Building Inspection those can be addressed.

Thomas M. Whelan, 700 Shadywood Lane, Richardson, Texas came forward to present his case. Whelan stated that a combination of circumstances and a uniquely shaped lot are his hardships.

Roland asked the applicant why he wanted the building located where it is.

Whelan made the following points:

- 1. The place of right for installing the workshop looks over the neighbors front yard and is not desirable for the neighborhood.
- 2. The chosen location fits right between landscaping on both sides.

Walker asked the applicant why he did not get a permit prior to beginning the project.

Whelan stated that he did not think about it. Whelan added that when approached he did cease building as requested.

Shacklett stated that any structure over 40 square feet has to have a Building Permit.

Roland asked who was constructing the building.

Whelan said this is a personal project that he is building himself.

Pratt asked if there were any fire concerns based on the placement of the workshop.

Whelan stated that he will be working with the Building Inspection Department to use a suitable material.

There being no one to speak in favor or in opposition to the case, Chairman Roland closed the public hearing.

Linn asked Shacklett if anything put in that area would have to have a variance.

Shacklett stated that because of the setbacks this is correct.

Kidd asked if the size of the workshop, 128 sq. ft., means there are no masonry requirements.

Shacklett stated that this is correct.

Laughlin made the following comments in response to information provided by the applicant. Laughlin stated that the fact that something can be located somewhere else by right does not mean a hardship. Laughlin stated that the case cited by the applicant had to do with placing a pool on a portion of the property that had 8-foot high masonry walls and 60-foot precipitous edges surrounding the

property. Laughlin added that nothing contradictory was presented to that Zoning Board of Adjustment. Laughlin concluded that this particular case was presented based on a wholly separate set of facts.

Roland stated that:

- 1. The Board cannot place restrictions on where this structure can be placed.
- 2. The location being requested by the applicant is the best place for the structure to be placed.
- 3. The lot is odd shaped.

Walker stated that the Board has seen a number of unusual lots and tonight's presentation is about the best he has seen in argument for a case.

Pratt made a motion to approve V 11-01, limited to those specifics the applicant presented in the case. The motion was seconded by Walker and passed with a 4 to 1 vote. Kidd voted in opposition.

3. PUBLIC HEARING ON ZBA FILE SE 11-01:

A request by Mike Knox, representing Inarose Bogen for the following variance to the City of Richardson Code of Ordinances, Chapter 6, Article IV: 1) To appeal the decision of the Chief Building Official to allow bamboo as an allowed fence material.

Shacklett stated the City of Richardson Fence Ordinance allows wood, concrete, masonry, chain link, wrought iron, metal tubing, vinyl, fiberglass composite or other materials approved by the building official for exterior exposure fence material. Shacklett added that the applicant desires to use bamboo as a fencing material at 810 Edgefield Drive for the following reasons:

- 1. They prefer the material over conventional wood fencing
- 2. Cured bamboo is termite resistant
- 3. Cured bamboo possesses the qualities of today's lumber without utilizing chemicals
- 4. Bamboo is naturally renewable and can regenerate to its full mass much quicker than traditional wood fencing sources.
- 5. Modern installation techniques along with knowledge of the product can satisfy standard building codes for strength, durability and longevity.

Shacklett explained that in 2006, the applicant made a similar appeal for the property at 395 Sandhill Drive in Richardson and the appeal was granted. Shacklett added the applicant has provided a list of area locations where this type of fence has been constructed. Shacklett continued that the applicant has stated that he no longer constructs the type of fence found at 395 Sandhill, and he is proposing a picture frame type fence. Shacklett further explained the applicant

also stated since the 395 Sandhill fence, there have been changes in how their bamboo fences are constructed; including treating every fence with a stain and sealer and using a maximum post spacing of six (6) feet on 8-foot tall fences.

Shacklett stated the proposed fence would be located along the entire rear lot line adjacent to the alley as well as either side of the extension from the side wall of the house to the side property line. Shacklett added the applicant provided a sample of the bamboo material for the Board members to see.

Shacklett stated that based on the information presented and the applicable codes and ordinances, the Board may choose to allow or disallow bamboo as a fencing material at this location.

Mike Knox, Bamboo Builders' Supply, 802 S. Wildwood Drive, Irving, Texas came forward to present the case. Knox stated that this is a proposal for a 6-foot fence. Knox discussed a picture of a bamboo fence that was built in Richardson in 2006 indicating that this first fence was not stained or sealed. Knox continued that now the fence has been cleaned, stained and sealed, it looks as good as new and no structural damage or decay was found. Knox added that all bamboo fences built by his company are now stained and sealed.

Linn asked if there is an overriding theme related to building a bamboo fence such as building benefits, the owner wants an Asian theme, cost, strength.

Knox stated that each situation is different and depends on the customer. Knox added that some customers want something different and others reason if a fence is going to be costly, they want a fence they really like and don't want to settle. Knox closed saying that bamboo fences are also trendy and popular.

Roland asked the applicant to compare a board on board fence to a bamboo fence.

Knox stated that specifically a western red cedar fence was comparable in cost to a bamboo fence.

There being no one to speak in favor or in opposition to the case, Chairman Roland closed the public hearing.

Linn asked to confirm that an earlier appeal of this nature was approved.

Shacklett confirmed that an earlier appeal was approved.

Kidd stated that the similar case previously brought before the Board was approved and he sees no evidence tonight that indicates anything to the contrary.

Pratt made a motion to approve SE 11-01, limited to those specifics the applicant presented in the case. The motion was seconded by Kidd and passed with a 4 to 1 vote. Walker voted in opposition.

There being no further business, the meeting was adjourned at 7:36 p.m.

William R. Roland, Chair