

**MINUTES
ZONING BOARD OF ADJUSTMENT
CITY OF RICHARDSON, TEXAS
AUGUST 18, 2010**

The Zoning Board of Adjustment met in session at 6:30 p.m. on Wednesday, August 18, 2010 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
Eron Linn, Alternate

MEMBERS ABSENT:

Larry Menke, Member
Chip Pratt, Member
John Veatch, Alternate

CITY STAFF PRESENT:

Chris Shacklett, Planner
Cindy Wilson, Secretary

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 and added that because there are only three members and one alternate present this evening, a unanimous vote in favor is required for the request to be approved.

1. MINUTES:

The Zoning Board of Adjustment minutes of the June 16, 2010 meeting were approved as presented on a motion by Walker. The motion was seconded by Kidd and passed with a unanimous vote.

- 2. PUBLIC HEARING ON ZBA FILE SE 10-01:** A request by Jeff Sorensen for the following special exception to the City of Richardson Code of Ordinances: Chapter 6, Article IV, Sec. 6-209 (3), to allow an 8 foot fence to be located between the front property line and the front wall of a building. The site is located at 2528 Big Horn Lane.

Shacklett stated the applicant is requesting a special exception to the City of Richardson fence regulations to allow an 8-foot fence to be located between the front property line and the front wall of a building. Chapter 6 of the City of Richardson Code of Ordinances authorizes the ZBA to consider variances to the

City's fence regulations. Shacklett added the existing structure was demolished in early 2010, and the current owner purchased the property and constructed a new house on the property. Shacklett continued that after the construction of the house, the applicant applied for a fence permit for a fence to be located between the front property line and the front wall of the house. Shacklett stated the permit was denied because a fence is not allowed to be located between the property line and front wall of a building. Shacklett pointed out the property is situated in such a way that the site has one (1) front setback that extends the length of Big Horn Lane from the northwest side of the property, counter clockwise to the northeast corner of the property, one (1) side setback, and one (1) rear setback. Exhibits were shown during the meeting that indicated the proposed fence location and an area shaded in red depicting the area of encroachment.

Shacklett stated the applicant is requesting the special exception to allow for a larger, fenced yard area at the northeast side of the property. Shacklett explained that due to the configuration of the lot, this property is subject to a front setback along a large portion of its boundary. Shacklett continued that in the case of a typical corner lot, the fence along the side street would be allowed to extend out past the side of the house, and the house would still be subject to a 20-foot setback. Shacklett added in this case, the applicant desires to fence a portion of the yard along the eastern property line that would be allowed on a typical corner lot. Shacklett informed the applicant that the fence would need to be placed a minimum of twelve (12) feet back of curb and a 15-foot by 15-foot corner clip at the northeast corner of the property, adjacent to the alley, would be required as well. Shacklett indicated the applicant has incorporated the setback and corner clip into the proposed plan. Shacklett pointed out that these requirements ensure adequate visibility along Big Horn Lane.

Shacklett noted the applicant has already acquired a permit and begun construction on the portion of the fence that is allowed based on the ordinance. Shacklett pointed out that if the special exception is approved, the applicant will request an additional permit to complete the fence.

Shacklett noted that four letters were received regarding this case. Shacklett added that the correspondence has been received; two letters in support of the request and two are opposed to the request.

Shacklett delivered the staff technical recommendation in case SE 10-01 by stating it had been requested the applicant provide a 15-foot by 15-foot corner clip at the northeast corner of the property, adjacent to the alley. Staff also requested the fence be placed a minimum twelve (12) feet back of curb along the eastern property line. Shacklett stated the applicant's plan reflects these requests, thereby addressing staff's concerns regarding public safety as it relates to visibility.

Aaron Brandes and Tracy Brandes, 2528 Big Horn Lane, Richardson, Texas 75080 came forward to present their case. Mr. Brandes stated that they are trying to have a little more backyard.

Ms. Brandes added that the fence would also help block the bathroom windows. Ms. Brandes continued that she had talked with neighbors who face the fence; the Archibalds, the Dawsons, and Martin Clark and his wife who are co-block captains.

Linn noted that this neighborhood is sensitive to change and asked if the applicants had spoken to other neighbors.

The Brandes stated they had spoken to neighbors as they saw them out and at the Country Club.

Linn stated that in the study session he had questioned staff regarding the square footage of the backyard and the area the fence ordinance would allow is approximately 4,000 square feet. Linn asked the Brandes if they agree with that number.

The Brandes responded that the number seemed a little high to them.

Ms. Brandes stated there is a whole side of the yard with air conditioning units and trees and that area also slopes off toward the alley leaving it unusable. Brandes added that if they can have some of the area on the side, that gives them useable backyard space.

Mr. Brandes noted that it is approximately 3,000 square feet and there is probably only 1,500 square feet where it is flat and useable before it slopes off.

Linn stated that if the Board approves their request they will be doubling the size of their backyard.

The Brandes agreed they would be doubling the space in their backyard if their request is approved.

Linn asked the applicants if they plan to add a pool to the backyard.

The Brandes stated they do not plan to add a pool initially, but maybe in the future.

Linn questioned the Brandes, asking if a smaller area would limit their ability to have a pool.

The Brandes both stated yes.

Roland stated that the Brandes had completely reoriented the driveway to the other side of the property. Roland continued by asking if they were aware how much the 40-foot front yard setback would take from their land.

The Brandes both stated no, not initially.

Roland asked if there would be a retaining wall continued all the way around the back yard with a fence on top.

The Brandes stated the retaining wall was required, but there would be no retaining wall all the way around. The Brandes added there would be a stair step fence. The Brandes stated the retaining wall replaced an old, existing retaining wall used for drainage. The Brandes continued that they can see over their fence at the crest of the backyard.

Martin Clarke, 2532 Big Horn Lane, Richardson, Texas came forward to speak in favor of the case. Clarke stated that he and his wife live 2 houses away from the subject property and they are joint block captains for the homeowners association. Clarke noted that he called the Planning Department at the City with some questions and then he circulated an email containing details of the case to the community. Clarke noted that the footprint of the house had been shifted away from the original. Clarke stated he could see how his new neighbor would want to capture as much backyard as possible. Clarke indicated that the City has addressed his safety concern in their comments regarding how the fence should be built. Clarke added that he would like to see some compromise on where the fence might be placed. Clarke stated he would also like to have the neighborhood welfare also be considered.

Linn mentioned the two letters that were received in opposition to the request. Linn asked Clarke if he had spoken with these two property owners.

Clarke stated that he did not speak to them, however, that each property owner within the 200-foot radius of the subject property did receive his email.

Roland asked Clarke to describe the house and what it has done for the neighborhood.

Clarke stated the house will cause property value appreciation in this neighborhood. Clarke added that the Brandes will be good neighbors and appear to be interested in associating with their neighbors and are intent on being active in Crime Watch as well.

Dale Dukes, 2511 Big Horn Lane, Richardson, Texas came forward to speak. Dukes commented he is located directly across the alley from this property and they are happy to see a new house and welcome new neighbors.

Dukes indicated that a fence 2 feet from the sidewalk is extremely close. Dukes noted that this is an unusual property. Dukes stated he could support the idea of a setback further from the sidewalk by 15 feet as that would eliminate coming out of the alley 2 feet from an obscure view. Dukes closed saying no where else in the neighborhood were fences only 2 feet from the sidewalk.

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

Linn questioned staff regarding any other plans that might have been provided indicating a compromise.

Shacklett stated there were no other plans submitted indicating a compromise.

Walker stated this is not a busy street and the 12 feet; the length of a car will be past the fence. Walker added that based on this, safety is not a huge issue.

Kidd commented that living in this area he does see a safety issue when garbage trucks race down alleys that are barely wide enough.

Linn commented that he can see both sides of the situation, however, without compromise he cannot see how this request can be approved.

Roland stated this subdivision is not unique, but this road is. Roland noted that if there was a 90° turn instead of a 120° turn; it would be a clear delineation of the side yard and the front line setback and by right their backyard would look just like my neighbor's backyard that faces a side street and an alley. Roland explained that this applicant is not being asked to do anything different than has already been done through out the city, in every neighborhood. Roland stressed this applicant has improved the neighborhood by building this beautiful new home and he will support the request tonight.

Walker pointed out that this applicant is not asking for anything unusual, the safety issue has been addressed. Walker stated he will also be able to vote for the request.

Linn indicated the issue is compromise and if the applicant asks for something different he could support that.

Shacklett suggested that if there is not going to be a motion that passes to grant what is presented here today, a continuation would be appropriate at this point.

Walker moved to continue the case SE 10-01 to the next meeting of the Zoning Board of Adjustment. The motion was seconded by Linn and approved by a 3 to 1 vote. Kidd voted in opposition.

Shacklett noted that the continuation should be made to the next meeting date. Shacklett requested that Walker amend his motion to reflect the continuation to the September 20, 2010 ZBA meeting.

Walker amended the motion as follows: Walker moved to continue the case SE 10-01 to the September 20, 2010 meeting of the Zoning Board of Adjustment. The motion was seconded by Linn and approved by a 3 to 1 vote. Kidd voted in opposition.

There being no further business, the meeting was adjourned at 7:20 p.m.

William R. Roland, Chair