## MINUTES ZONING BOARD OF ADJUSTMENT CITY OF RICHARDSON, TEXAS MARCH 21, 2012

The Zoning Board of Adjustment met in session at 6:30 p.m. on Wednesday, March 21, 2012 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 Larry Menke, Member Shamsul Arefin, Alternate

**MEMBERS ABSENT:** John Veatch, Alternate

**CITY STAFF PRESENT:** Chris Shacklett, Planner

Cindy Wilson, Administrative Secretary

Randy Roland, Chairman, introduced Chris Shacklett, Planner; and Cindy Wilson, Administrative 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 that John Veatch, Alternate is absent and all Members present will vote. Roland noted 4 of the 5 members present must vote in favor for a request to be approved.

## 1. MINUTES:

The Zoning Board of Adjustment minutes of the September 21, 2011 meeting were approved with one correction on a motion by Walker. The motion was seconded by Menke and passed with a unanimous vote.

2. PUBLIC HEARING ON ZBA FILE V 12-01: A request by Susan Hiegel for the following variances to the City of Richardson Comprehensive Zoning Ordinance: 1) Article IV, Sec. 4(h)(1), to allow a carport in lieu of an enclosed 2-car garage and 2) Article IV, Sec. 4(h)(2), for a 7-foot variance to the required 24-foot length of pavement perpendicular to the supporting member of the carport for maneuverability at 313 Meadowcrest Drive.

Shacklett stated the applicant is requesting approval of two (2) variances from the Comprehensive Zoning Ordinance to accommodate the reconstruction of an attached carport. Shacklett continued that the applicant states that the existing carport has deteriorated over the past several years to a point beyond repair and the applicant would prefer to replace the entire structure with a new carport.

Shacklett explained the first variance request is to allow a carport in lieu of a 2-car garage as required in the Comprehensive Zoning Ordinance. The applicant states that the original attached garage, which was converted into living space, and the carport was in place when she moved into the home in 1995. Shacklett added that in January of 2004, the Comprehensive Zoning Ordinance was amended to require two (2) parking spaces to be provided in an enclosed garage, thereby creating a non-conforming situation because the residential lot does not provide for the 2-car garage. Shacklett explained The Comprehensive Zoning Ordinance allows non-conforming structures to be repaired and would therefore not require the need for a variance; however, allowing the new carport to be constructed prolongs the non-conforming status of the structure which is contrary to the declared purpose for non-conforming uses and/or structures to be eliminated and brought into zoning compliance.

Shacklett continued that as proposed, the new carport would be constructed in the same location as the existing carport except that the posts on the sides of the carport would be moved out 1-2 feet on each side. Shacklett stated the proposed location of the proposed carport complies with the required side and rear yard setbacks.

Shacklett stated the second variance request is to allow a 7-foot variance to the required 24-foot depth of pavement perpendicular to the supporting member of the carport for maneuverability. Shacklett indicated that as proposed, and as it exists today, there will be approximately seventeen (17) feet of depth for maneuverability for the proposed new carport. Shacklett suggested that the proposed seventeen (17) foot length of maneuverability includes the alley pavement, which can be used to comply with the Comprehensive Zoning Ordinance requirement.

Shacklett indicated that the applicant states that an economic hardship would be created if the original garage was required to be converted back into a garage. Shacklett pointed out that the applicant's intent is to recreate a covered parking area that is in better condition than the existing carport and the applicant contends that even if the existing carport was repaired, the same non-conforming issues would still exist.

Shacklett delivered the staff technical recommendation in case V 12-01 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. Repairing the non-conforming structure (the carport) as allowed in the Comprehensive Zoning Ordinance will not cause the structure to lose it non-conforming rights with respect to the lack of a 2-car garage enclosure or the lack of required maneuvering space.

At this time, Shacklett asked for questions of staff.

There being no questions for staff, Chair Roland made comments regarding the seriousness of these deliberations because the rulings stay with the property. Roland then asked the applicant to come forward to present her case.

Susan Hiegel, 313 Meadowcrest Drive, Richardson, Texas came forward to present her case. Hiegel noted that one thing considered was if she could tear down the carport and make the converted garage back into a garage. Hiegel stated that it is not financially feasible at this time. Hiegel continued that the converted garage area has no heat or air except for a window unit. Hiegel added that the converted garage is only good for living area in Spring and Fall. Hiegel stated that the carport has lots of leaks and it is difficult to get in and out without getting drenched. Hiegel continued that she lives alone and she would like to have some sort of protection and security when pulling into a carport at night.

Roland asked the applicant how she envisioned a safer environment with the new carport. Roland also asked if she might add some kind of gate.

Hiegel stated that sooner or later she would like to fence part of the west side as well as add a rolling gate. Hiegel added she has no plans at this time to add a gate.

Roland pointed out that Ms. Hiegel had plans to have the fence that separates the carport from the backyard and the fence on the other side as well.

Roland asked if the applicant currently stored anything other than her car under the carport.

Hiegel noted that she has one trash can full of potting soil and one closed, storage unit that keeps the contents out of site.

Menke questioned the carport as protection and stated that the plan presented offers even less security. Menke asked the applicant if she had considered putting in a garage.

Hiegel stated no, she had not considered that.

Walker asked the applicant if she had considered repairing the existing structure.

Hiegel stated that two posts of the carport need to come out because they have termites. Hiegel continued that whether the posts go back in the same holes or are moved out, something will still have to be done about the roof during the time of construction. Hiegel also made the point that water stands on the existing flat roof.

Walker asked the applicant if she already had an estimate from a contractor.

Hiegel stated that yes, she has an estimate.

Pratt pointed out that tonight's decision could go a several different ways. Pratt continued that the situation with Ms. Hiegel's property is the result of an ordinance that Council passed. This ordinance cited there have been a lot of garage conversions resulting in a lot of parking on the street in some neighborhoods and in a general devaluation of property because homes with garages tend to sell better. Pratt continued that in the future if there is a carport at a residential property there must be enclosed parking as well.

Pratt asked the applicant if she had any thoughts of adding a full garage rather than a carport.

Hiegel stated that she is not opposed to enclosing the carport and adding a sliding gate someday. Hiegel clarified that this information was not part of her request. Hiegel added that she has to do things one step at a time financially.

Roland pointed out that Pratt had touched on the legally non-conforming aspect of the applicant's carport. Roland noted that Ms. Hiegel could repair her property and it could stay legally non-conforming rather than do a complete rebuild that would cause the property to need a variance. Roland stated that the Board is looking for a hardship in this situation. Roland asked about the materials used to construct the carport.

Hiegel commented that the carport has a shingled, flat roof and is constructed of wood.

Menke asked the applicant if she had considered reconstruction or minor repair in order to maintain the legal non-conforming status as opposed to building a major new structure.

Hiegel responded that she would like to do all the work, and not complete it in pieces.

Kidd pointed out the applicant that her hardship was a result of the City of Richardson requesting changes to the carport.

Hiegel responded that this is not the only reason. Hiegel added that the posts of the carport have termites and she does not want damage to her fence.

Kidd asked the applicant if she had been given any guidance from the City regarding what needs to be done to keep the existing structure and bring it up to standards.

Hiegel stated the letter she received only stated that the situation needed to be addressed.

Shacklett clarified that the citations were along the lines of paint and work to the soffit and Code Enforcement has said that the City's issues have been resolved.

Hiegel stated that she wants to do the work a little at a time. Hiegel continued that she wants to move the carport out a little bit to allow her to move two motorcycles from her backyard under the carport. Hiegel added that she really does not like getting wet from the leaks in the current carport. Hiegel indicated that she plans to have the outside painted. Hiegel added that she wants to enclose the carport at some time.

Kidd stated that he understands Hiegel is here before the Board because she desires to have a different structure.

Hiegel confirmed Kidd's statement.

Arefin asked Shacklett if there were any other carports like this in the area.

Shacklett responded this is the only carport in this general section of the alley.

Walker asked the applicant if she is eventually planning to enclose the carport and does this means she has designed a carport that can be converted to a garage.

Hiegel stated that she hopes so. Hiegel added by moving the fence out she hoped to have some place that a sliding gate could hook onto.

Walker noted that sooner or later the carport will be deteriorated enough that something will have to be done because of the termites and water leaking.

Pratt asked Shacklett if the Board was to deny the request on the basis that we want to see repairs made; we want her to be able to make the kind of changes she would like to make from a flat roof to a pitched roof because of reliability; however we would rather not make a permanent change to her zoning position so it would continue to be a legal non-conforming. What would the City's position be with respect to how much of the work she could do; how quickly. Addressing the termites would mean taking care of some posts; maybe some beam work so she could move them out and then come back and add a new roof.

Shacklett stated if this were the desire of the Board, he would suggest that the case be continued with the suggestion to take a look into what repairs can be done and when. Shacklett added that he, the applicant and Building Inspection had not looked into repairs too deeply because the applicant wanted to bring this request before the Board. Shacklett pointed out that if the case were continued we could talk with Building Inspection to determine exactly what can be done and in what time frame. Shacklett continued that if the applicant is not interested, she could choose to withdraw the case or come back to the Board with the new information and make a final decision at that time. Shacklett pointed out the importance of determining the applicant's interest in looking at what could be done as repair and what the time frame might be. Shacklett added that the time frame would be longer because there would be requirements on how much work could be done at any given time.

Roland explained that the construction would have to be staged to fit the requirements for repair rather than reconstruction.

Hiegel asked Roland if a permit was required to replace the roof.

Roland stated that a permit would be required to replace the roof.

Hiegel stated this would mean more permit fees for each portion of the repair.

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

Pratt expressed that he would like to find a way for the applicant to repair her carport under City code without changing the legal nonconforming status.

Menke indicated that he has a problem allowing this carport to be done a little at a time. Menke added that tying into an existing roof is a major project and handling it piecemeal is not the way the work should be done. Menke added that the applicant's statement regarding turning a carport into a garage would be a misuse.

Shacklett clarified that a structure is considered a carport when it has two open sides. That is why there had been discussion of not having three enclosed sides. However, three enclosed sides on a structure does not necessarily make a conforming garage either.

Roland stated that the Board has granted carport variances before, but there has always been a hardship. Roland added that he is having a hard time with the hardship in this case.

Walker indicated his agreement with Menke. Walker added that termite damage could cause the carport to collapse. Walker stated he is in favor of the request.

Pratt noted the line between repairs and rebuilding was a gray area and he would like for the applicant to be able to do the repairs that she needs to.

Shacklett stated the Board could continue the case if the applicant wants to sit down with Building Inspection to determine how repairs can be addressed and in what time frame. Shacklett added that he would like to see the Board do its best to keep as many options open as possible at this time.

Kidd stated his agreement with Menke and Walker and added that termites might cause the carport to be very near to an unsafe structure.

Roland stated he sees the applicant's hardship is that the home was built prior to 1995 and Council passed the ordinance regarding garages and parking in 2004.

Walker made a motion to approve V 12-01, limited to those specifics the applicant presented in the case. There was no second made to this motion.

Menke made a motion to deny V 12-01, based on the information the applicant presented in the case. Kidd seconded the motion that was denied on a 2-3 vote.

Menke made a motion to continue case V 12-01 until the April 18, 2012 ZBA Meeting with the stipulation that staff meet with the applicant and Building Inspection to view possibilities regarding repairs and reconstruction. Pratt seconded the motion and the motion passed on a 4-1 vote with Kidd opposed.

There being no further business, the meeting was adjourned at 7:23 p.m.

William R. Roland, Chair