

**MINUTES
ZONING BOARD OF ADJUSTMENT
CITY OF RICHARDSON, TEXAS
JULY 15, 2015**

The Zoning Board of Adjustment met in session at 6:30 p.m. on Wednesday, July 15, 2015, in the Council Chambers, at the City Hall, 411 West Arapaho Road, Richardson, Texas.

MEMBERS PRESENT: Mike Walker, Chair
Larry Menke, Vice Chair
John Veatch, Member
Chip Pratt, Member
Brian Shuey, Member

MEMBERS ABSENT: Shamsul Arefin, Alternate
Jason Lemons, Alternate

CITY STAFF PRESENT: Mohamed Bireima, Planning Technician
Sam Chavez, Asst. Dir., Development Services
Cindy Wilson, Administrative Secretary

Mike Walker, Chair, introduced: Mohamed Bireima, Planning Technician, Sam Chavez, AICP, Asst. Dir., Development Services; 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. Walker summarized the function, rules, and appeal procedure of the Zoning Board of Adjustment. Walker noted that all members will vote. Walker added at least 4 of 5 must vote in favor for a request to be approved.

MINUTES:

The Zoning Board of Adjustment minutes of the May 20, 2015 meeting were approved as presented on a motion by Menke; a second by Pratt and a vote of 5-0.

PUBLIC HEARING ON ZBA FILE V 15-04, a request by Lynn Livingston, LivingDesigns unLimited, representing Fern Livingston, for approval of the following variance to the City of Richardson Comprehensive Zoning Ordinance; 1). Article IV, Sec. 4(f)(1)(a), for a two (2)-foot variance to the required 7-foot side setback for an existing home located at 3007 Wren Lane.

Bireima informed the Board the current owner purchased the subject home in 2011 and now desires to build an accessible covered porch and a new study room on the north side of the home.

Bireima continued that the applicant is requesting a variance to allow a two (2) foot encroachment by the proposed covered porch and the study room into the required 7-foot side yard setback. Bireima added the applicant desires to construct a wheelchair accessible covered porch to provide an outdoor space to enjoy the view of the adjacent common open space.

Bireima stated that the study room was included in the variance, however; the need for the patio is the primary reason for the request.

Bireima stressed that although a side yard setback is not required for an uncovered porch according to the Comprehensive Zoning Ordinance; however it is mandatory that a covered porch meet the required 7-foot side yard setback for the principal building.

Bireima reported the subject home was granted a rear setback variance by the Zoning Board of Adjustment in 1988 prior to the construction of the home to allow the home to be built 4'-10" into the rear yard setback.

Bireima explained that the applicant has chosen to locate the covered porch along the north side yard of the house since the existing home was built 5 feet short of the side yard setback. Bireima commented that the applicant sees the unique shape of the lot, due to its location on a curved alley and the need for adequate maneuvering clearances for a wheelchair present the hardship for requesting a variance. Bireima added that the applicant sees that the proposed addition will add to the aesthetic value of the neighborhood.

Bireima stated there had been no correspondence in this case.

Variance Request: Based on the information provided by the applicant, it appears a property hardship does not exist.

There being no questions of staff, Chair Walker requested the applicant come forward.

Lynn Livingston, LivingDesigns unLimited, 8117 Ship Street, Frisco, Texas, representing Fern Livingston, came forward to present his case. Livingston explained that he and his wife are now taking care of his wheelchair bound, 80 year old mother. The porch is planned to be wheelchair accessible from the house to accommodate his mother's enjoyment of the outdoors. Because the three family members will be living in the home, Livingston stated he is adding the additional space to house his office.

Pratt questioned the applicant about the rendering and what appeared to be siding under the porch.

Livingston responded it is siding and that he plans to salvage the brick to use in the addition and to gain some space. Livingston stated his plan will include wheelchair accessibility. He added the porch floor will be sloped and taking off the brick allows for pulling the porch up to the plate of the house so there is no level change between the inside and outside of the house.

Menke asked about the different material shown to be used on the porch.

Livingston responded that he wanted the patio to be a less dominant element with a less steep slope.

Pratt asked the applicant if his homeowners association was mandatory.

Livingston stated that it was and that is also had an architectural control committee. He added he has submitted plans to the committee and gotten approval for his project. Livingston continued that he had explored purchasing a portion of the common area and that proved to be unworkable. Livingston added that the request for variance helps him meet any building code requirements.

Veatch commented that based on the rendering provided, this shows improvement through the clean, well designed plan.

Livingston noted that builder communities generally do a lot with front elevations, but not much with side or rear elevations.

Walker asked the applicant how often is the common area next door used.

Livingston said he uses it occasionally and people walk their dogs through there.

Shuey pointed out there were no gutters and asked if the applicant had plans to install any to help route water on the property.

Livingston stated there were no gutters and that gutters would be added.

Pratt asked if the utility meter on the side of the house would be moved.

Livingston indicated that the meter would not be moved.

With no response for speakers in favor, Chairman Walker asked for those who would like to speak in opposition to come forward.

Jim and Carol Wilson, 3010, Wren Lane, Richardson, Texas came forward to speak in opposition. This couple live directly across from 3007 Wren Lane. Mr. Wilson indicated the usual notice from the architectural control committee had not come to them and they were uncertain if the request had in fact been approved. He continued that there are no other side porches in the neighborhood and with this property right on a curve they considered it less attractive.

Walker asked Mr. Wilson how he would feel about this request if the area was fenced and could not be seen from the street.

Mr. Wilson responded that if the area could not be seen from the street then he would have no objection. He added it would take a tall fence to accomplish that and the homeowners association has restrictions that apply to fences.

Mrs. Wilson stated her issue concerning the fact there are no side porches in the neighborhood and this was designed to protect side views, including those next to green areas. She added that

she sees this request as using the disability aspect to add on the office. Mrs. Wilson concluded that the aesthetics of the neighborhood would be damaged.

Veatch asked if the Wilsons had spoken with their homeowners association.

Mr. and Mrs. Wilson responded they had not.

Veatch noted that some of the information shared tonight has been opinion and everything must be weighed to reach a decision.

Menke assured the Wilsons that their comments are taken into consideration when making final decisions.

With no further comments in favor or in opposition, Walker closed the public hearing.

Pratt pointed out that the objections seem to center around aesthetics and that is outside the charge of this Board. He added that it seems that the homeowners association has a process through an architectural control committee to approve or deny this structure and that is within their purview. Pratt closed by saying that without written proof of approval by the homeowners architectural control committee, he would be in favor of continuing the case.

Menke agreed with Pratt especially with conflicting information being presented.

Walker made the point that the City of Richardson had done their job of notifying property owners within 200-feet of the property.

Shuey added that although there had been no correspondence, seeing that residents right across the street were directly affected, and based on similar, personal experience, he would not be inclined to approve this request.

Walker emphasized this is a self-imposed hardship.

With recognition from Walker, Chavez asked if the Board is leaning toward a continuance, what is hoped to be accomplished.

Walker thanked Chavez for an insightful question.

Menke responded that he would like to have documentation that the homeowners association did go through their procedure and this request was approved. Menke explained he hoped to avoid a response from the homeowners association indicating they are against the proposal. Menke emphasized that an approval of this request would stay with the property.

Chavez responded that the City has a charge to enforce the Zoning Ordinance, which also applies to the amount of masonry that a structure is required to have. Based on the zoning district requirements, any house could be built with a minimum amount of 75% brick and be considered

a masonry structure. Chavez further explained the balance of 25% could be any other permitted building material such as wood, concrete, vinyl, or fiberglass composite.

Chavez emphasized that continuing the case to allow the homeowner's association architectural control committee to rule on the request has no bearing on what this body is being asked for and that is a variance for the side yard setback. Chavez continued that the architectural control committee is not approving the variance; they are approving the aesthetic quality of the structure. This Board is either approving or denying the two (2) foot variance request.

Pratt stated it appears that the fact that objections from neighbors across the street regarding aesthetics unless there is a tall enough fence to hide the property will have an effect on the vote. A continuance would allow time to get more information from the homeowners association.

Veatch stated that more information would be an advantage. He added the fact that property owners were notified with 200-feet of the property and with no one responding in writing or by coming to the meeting but one opposing neighbor, a motion could be made to grant the request with the stipulation that a written report be provided from the homeowners association.

Chairman Walker called for a motion.

Pratt questioned staff regarding the number of votes needed to pass the request.

Chavez responded that for any action to move forward would require 4 votes in favor.

Pratt made a motion to continue item number V 15-04 to the August 19, 2015 ZBA Meeting. The motion was seconded by Menke and approved 4-1 with Walker in opposition.

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

Mike Walker, Chairman
Zoning Board of Adjustment