

**MINUTES  
ZONING BOARD OF ADJUSTMENT  
CITY OF RICHARDSON, TEXAS  
SEPTEMBER 18, 2019**

The Zoning Board of Adjustment met in session at 6:30 p.m. on Wednesday, September 18, 2019, in the Council Chambers, at the City Hall, 411 West Arapaho Road, Richardson, Texas.

**MEMBERS PRESENT:** Jason Lemons, Chairman  
Scott Rooker, Vice Chairman  
Marsha Mayo, Alternate  
Nick Robison, Alternate

**MEMBERS ABSENT:** Shamsul Arefin, Member  
Jordan Everhart, Member

**CITY STAFF PRESENT:** Sam Chavez, Assistant Director of Development Services  
Daniel Harper, Planner  
Amber Hogg, Administrative Secretary I  
Cidnee McCutchen, Administrative Clerk

**BRIEFING SESSION**

Prior to the start of the regular business meeting, members of the Zoning Board of Adjustment met with staff to receive a briefing on agenda items. No action was taken.

**REGULAR BUSINESS MEETING**

Opening comments: Chairman Lemons introduced City staff and explained that the staff serves in an advisory capacity and does not influence any decisions the Board might make. Chairman Lemons summarized the function, rules, and appeal procedures of the Zoning Board of Adjustment.

**1. APPROVAL OF MINUTES FROM AUGUST 21, 2019.**

**Motion:** Alternate Mayo made a motion to approve the minutes as presented; seconded by Alternate Robison. Motion approved 4-0.

**2. PUBLIC HEARING ON ZBA SE 19-07:** a request for a special exception to Chapter 6, Article IV of the City of Richardson's Code of Ordinances: Sec. 6-209 (3) to allow an 8-foot fence to be located between the front property line and the front wall of the building along Mesa Drive. The property is located at 2413 Fairway Drive and zoned R-1800-M Residential.

**Staff Comments**

Daniel Harper presented the case. He stated that the applicant is requesting a special exception from Chapter 6 of the City of Richardson's Code of Ordinances to allow an 8-foot wood screening fence to be located along the front property line along Mesa Drive.

The applicant requested this special exception in order to construct a fence with the intent of enclosing the front yard space along the side of the house in order for the enclosed area to be utilized as a private side yard that is contiguous with the existing backyard.

Mr. Harper stated that the lot had been platted with 40-foot front building setbacks located along both Mesa Drive and Fairway Drive. Because the setbacks are platted along both streets, both sides are deemed front property lines and therefore an 8-foot fence would not be allowed to be constructed along the property and the wall of the building.

Mr. Harper then presented an exhibit showing the proposed fence location along with additional photographs of the property and surrounding location.

Mr. Harper stated that he had received twenty-two correspondences objecting to the request and two pieces of correspondence in favor of the request.

Mr. Harper stated that based on the information presented by the applicant and the applicable Code of Ordinances it is the Staff's opinion that this request does not appear to be contrary to public safety, however, the developed condition of the subject property and surrounding neighboring property is commonly found throughout residential subdivisions and does not represent a unique situation in the specific case. Mr. Harper made himself available for questions.

### **Board Discussion**

Vice-Chairman Rooker asked Mr. Harper if there were other known cases of corner lots being platted with two front yard setbacks.

Mr. Harper stated that the applicant had presented to the staff four other lots with a similar platted condition. Two of the properties had obtained fence permits through the Building Inspection Department due to conditions specified in the fence code. The other two properties had constructed their fences without obtaining the proper permits.

Vice-Chairman Rooker asked for clarification to confirm that there was not a stop sign at the intersection of Mesa Drive and Fairway Drive.

Mr. Harper confirmed that the intersection does not have a stop sign.

Vice-Chairman Rooker then asked for clarification on the distance from the front wall of the home to Fairway Drive.

Mr. Harper stated that the front yard setback was 40-feet from the right-of-way.

Mr. Robison asked Mr. Harper if a new owner wanted to demolish the house and build a new house along Mesa Drive, would that be allowed and would the granting of the special exception for the fence location allow for a new home to be built to that fence setback.

Mr. Harper stated that the specifics of the special exception would apply only to the fence location as presented and that a building would need to comply with the platted 40-foot setback.

Mr. Rooker asked Mr. Harper to elaborate on an example case for 1219 Comanche Drive that was also included in the packet.

Mr. Harper gave a brief description of the case including that the application was approved with conditions by the Board.

Mr. Rooker then asked what types of neighborhood correspondences were received regarding that case.

Mr. Chavez responded stating that the primary opposition to the request came from a neighbor who shared the subject properties rear lot line and that the revised conditions were negotiated between the concerned party and the applicant at the meeting.

### **Public Comments**

Nathan Ham, 2413 Fairway Drive, stated that he applied for a special exception for the fence in order to enclose the functional side yard of the property to allow for greater area to be utilized as private backyard space. He stated that the purpose of this fence would be to provide privacy and security for his children as they utilized the outdoor space and backyard swimming pool. He stated that the proposed fence would also provide security to his vehicles located in the driveway that connects to Mesa Drive. He stated that the fence would not look out of place in the neighborhood and that the proposed fence would be aesthetically pleasing and made him himself available to questions from the Board

Vice-Chairman Rooker asked the applicant if the pool was existing on the property when the applicant purchased the home and if they were aware of the property was platted with two front yard setbacks.

Mr. Ham confirmed that the pool was existing when they purchased the home and that they did not know that the lot had been platted with two front yard setbacks.

Vice Chairman Rooker asked the applicant if they had discussed an option regarding the possibility of replatting the property as stated in the application.

Mr. Ham responded that he had not investigated that option.

Mr. Harper clarified that in order to remove the setback, the individual lot would have to be replatted and that this measure would be uncommon to pursue.

Vice Chairman Rooker asked the applicant to clarify if the location of the proposed fence would reduce driver visibility from the street from Mesa Drive or Fairway Drive.

Mr. Ham responded saying that the home is approximately forty-five to fifty from the street.

Vice-Chairman Rooker then asked Mr. Harper to clarify that the properties brought to the staff by Mr. Ham had been addressed in the presentation and staff report.

Mr. Harper confirmed that the four properties had been discussed.

Vice-Chairman Rooker asked Mr. Ham to clarify the required corner clip that is described in his application.

Mr. Ham identified the corner clip in his plan and that all corner lots need to comply with the corner clip requirement. Mr. Harper confirmed this.

Chairman Lemons then invited any persons in attendance to speak in favor of the request to come forward.

Chad Stancil, 407 Ridgehaven Place, spoke in favor of the application.

Chairman Lemons invited any persons in attendance to speak in opposition to the request.

Jeff Sloane, 2401 Mesa Drive, spoke in opposition to the application arguing that a fence located along the property line would not be aesthetically appealing and would be inconsistent with the neighborhood.

Vice-Chairman Rooker asked the speaker if they would have an objection if the existing wrought-iron fence was replaced with a wooden fence. He also asked if the objection was the location of the fence relative to the sidewalk or the wooden fence material.

Mr. Sloane confirmed that the objection was the proposed location of the fence in relation to the side property line and not the fence being wooden.

Mr. Ham then showed the Board an artistic rendering of the proposed fence via pictures from his cell phone.

Robin Thurmond, 2403 Mesa Drive, spoke in opposition to the application arguing that a fence located at the proposed location would be unsafe for the visibility of drivers and pedestrians. She also argued that the proposal would not be aesthetically appealing and would be inconsistent with the neighborhood.

Perry Prindle, 2402 Mesa Drive, spoke in opposition to the application arguing that the fence would compromise visibility and safety along Mesa Drive. They would also be impacted as they share a side property line with the applicant's rear property line.

Chairman Lemons asked Mr. Ham if he would like to speak to some concerns.

Mr. Ham addressed the concerns of visibility and the proposed gate for the driveway.

With no further comments in favor or opposed received, Chairman Lemons closed the public hearing.

### **Board Action**

Vice-Chairman Rooker spoke in favor of the application.

Member Mayo expressed concerns over the neighborhood opposition to the application and expressed a hope that a compromise between the applicant and the neighborhood could be reached.

Member Robison also expressed a hope that a compromised could be reached between the applicant and the neighborhood.

Chairman Lemons also expressed a hope for compromise. Chairman Lemons asked the applicant if they were willing to have the item continued to another date so that a compromise could be reached. The applicant confirmed that he would be willing to have the item tabled to a further date so that a compromise can be reached.

**Motion:** Member Mayo made a motion to have the item continued to the November 20<sup>th</sup> ZBA meeting. Mr. Rooker seconded the motion. Motion approved 4-0.

- 3. PUBLIC HEARING ON ZBA V 19-18:** a request for the following variances from Appendix A (Comprehensive Zoning Ordinance) of the City of Richardson's Code of Ordinances: Article IV, Sec. 4(h)(1) to allow for an unenclosed carport in lieu of a required enclosed garage structure and Article IV, Sec. 4(h)(2)(a) to allow the pavement for maneuvering to be less than the twenty-four (24) feet in length measured perpendicular to the supporting member of the carport. The property is located at 1804 Yale Place and zoned R-1500-M Residential.

### **Staff Comments**

Daniel Harper presented the case. He stated that the applicant is proposing to add a 19-foot by 20-foot carport located in the rear driveway of the property in order to provide shelter for the applicant's vehicles.

He stated that the proposed carport is located in the rear driveway, detached from the rear of the home. The rear driveway is curvilinear in design which prevents the carport from having a perpendicular straight-line entry for motor vehicles.

He stated that Article IV, Sec. 4 (h)(2)(a) of the Richardson Code of Ordinances, requires that carports where parking spaces are nine (9) feet in width and eighteen (18) feet in length, the pavement for maneuvering shall be a minimum eighteen (18) feet in width and twenty-four (24) feet in length, measured perpendicular to the entry opening of the supporting member of carport.

He stated that due to the proposed location of the carport in relation to the curvilinear design of the driveway, only five (5) feet of the required twenty-four (24) feet of perpendicular maneuverability is provided from the last supporting member of the carport before the curve of the driveway cuts off the perpendicular line. As proposed, the maneuverability criteria were not met.

Mr. Harper stated that based on the information provided by the applicant, and applicable codes and ordinances, it is staff's opinion that a physical property hardship does not exist and should therefore be denied.

### **Board Discussion**

With no further comments, Chairman Lemons opened the public hearing.

### **Public Comments**

Arthur W. Cooper Jr., 1804 Yale Place, stated that he enclosed the garage in 1989 to create a new bedroom for the home. He stated that he would like to build a carport to protect his vehicles.

Vice-Chairman Rooker asked the applicant what the enclosed space is used for now.

Mr. Cooper responded saying that the space is used as a family room.

Vice-Chairman Rooker asked for clarification regarding the length of the perpendicular length in question.

Mr. Harper responded that the distance is approximately five (5) feet.

Vice-Chairman Rooker and the applicant discussed the dimensions of the driveway and the feasibility of the proposal including options of widening the driveway.

Chairman Lemons asked the applicant if the neighborhood had other carports.

Mr. Cooper confirmed that there were carports located in the neighborhood.

No further comments in favor or opposed received, Chairman Lemons closed the public hearing.

### **Board Action**

Vice-Chairman Rooker spoke in favor of the case with some hesitation regarding the maneuverability.

Chairman Lemons asked city staff to clarify the maneuverability requirements from the city.

Mr. Chavez responded that the driveway would be wide enough to accommodate two vehicles, but the maneuverability requirements would not be met.

Alternate Member Mayo spoke in favor of the request.

**Motion:** Alternate Member Mayo made a motion to grant the request listed in V 19-18 as presented; second by Alternate Member Robison. Motion approved 4-0.

4. **PUBLIC HEARING ON ZBA V 19-19:** a request for the following variances from Appendix A (Comprehensive Zoning Ordinance) of the City of Richardson's Code of Ordinances: Article VIII, Sec.4 (f)(1)(b) to allow an elevated wooden deck greater than thirty (30) inches in height from the ground to be located seven (7) feet from the side property line in lieu of minimum ten (10) foot setback and Article VIII, Sec. 4 (f)(1) to allow an elevated wooden deck greater than thirty (30) inches in height from the ground to be located six (6) feet from the side property line in lieu of the forty (40) foot platted building line. The property is located at 1028 N. Lindale Lane and zoned R-1000-M Residential.

#### **Staff Comments**

Daniel Harper presented the case. He stated that the applicant is requesting a variance to allow an elevated wooden deck greater than thirty (30) inches in height from the ground to be located seven (7) feet from the side property line in lieu of minimum ten (10) foot setback and to allow an elevated wooden deck greater than thirty (30) inches in height from the ground to be located six (6) feet from the side property line in lieu of the forty (40) foot platted building line.

Mr. Harper presented a site plan of the property showing the location of the decks. He explained that the applicant was in the process of constructing the wooden decks but upon inspection by the City Building Inspection Department they were made to stop due to the structure being in violation of the setbacks.

Mr. Harper stated that wooden decks are allowed for residential properties; however, the height of the decks being higher than thirty (30) inches caused the structures to be in violation of the building setbacks.

Mr. Harper stated that based on the information provided by the applicant, and applicable codes and ordinances, it is staff's opinion that a physical property hardship does not exist and should therefore be denied.

#### **Board Discussion**

With no further comments, Chairman Lemons opened the public hearing.

#### **Public Comments**

Don Reavis, 633 Silverstone Drive, spoke as a representative for the applicant and explained that the requests are essentially landscape projects and that the purpose of the height of the structures was to allow access to the occupants whose parents are mobile through wheelchairs.

Vice-Chairman Rooker asked the representative to clarify the encroachment on the northern portion of the property and asked that if the deck was located on the ground would the variance be necessary.

Mr. Harper responded that if the deck was on the ground, then the applicant would not need to apply for a variance and that the setbacks requested in the variance would be limited to the specifics of the case.

No further comments in favor or opposed were received, Chairman Lemons closed the public hearing.

### **Board Action**

Alternate Member Mayo and Chairman Lemons spoke in favor of the case.

**Motion:** Vice-Chairman Rooker made a motion to grant the requests listed in V 19-19 as presented; second by Alternate Member Mayo. Motion approved 4-0.

### **5. Adjournment**

Chairman Lemons called for a motion to adjourn the regular business meeting.

**Motion:** Alternate Member Robison made a motion to adjourn the regular business meeting; second by Alternate Member Mayo. Motion Approved 4-0.

There being no further business, the meeting was adjourned at 8:50 p.m.

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Jason Lemons, Chairman  
Zoning Board of Adjustment