

**CITY OF RICHARDSON
ZONING BOARD OF ADJUSTMENT MINUTES
SEPTEMBER 16, 2020**

The Zoning Board of Adjustment met on Wednesday, September 16, 2020 at 6:30 p.m. Chairman Lemons convened the Board into Regular Session via videoconference. A quorum was present.

MEMBERS PRESENT: Jason Lemons, Chairman
Brent Sturman, Member
Marsha Mayo, Alternate
Sebrena Bohnsack, Member
Shamsul Arefin, Member
Nick Robison, Alternate

MEMBERS ABSENT: Scott Rooker, Vice Chairman

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

BRIEFING SESSION

The Briefing Session was cancelled.

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 19, 2020.

Motion: Member Arefin made a motion to approve the minutes as presented; Member Bohnsack seconded the motion. Motion passed 5-0.

2. PUBLIC HEARING ON ZBA SE 20-04: 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 a four-foot and nine inch (4'-9") metal fence and gate to be located between the front property line and front wall of a building along E. Main Street. The property is located at 512 E. Main Street and zoned R-1250-M Residential.

Staff Comments

Daniel Harper presented on the case. He stated that the metal fence was 4'-9" tall and approximately 120 feet long with two gates that secured access to the property along E. Main Street. The fence and gate are located approximately 15 ½ feet from E. Main Street.

Mr. Harper stated that the City of Richardson requires gates to be located 20 feet from the street to allow for drivers to turnaround and maneuver on streets. He stated that the required is enforced by the City's Building Inspections Department, but it is not a part of the actual code.

Mr. Harper stated the applicant constructed the fence without a obtaining a fence permit from the Building Inspections Department. He stated that the applicant has applied to obtain a permit for the work that has already been done and would like the fence to remain.

Mr. Harper stated that the purpose of this fence is to provide the applicant secured access to their parking lot as he has had issues with heavy trucks parking on the lot causing pavement damages. He stated that the applicant just repaved the lot, and the fence and gate would restrict access to keep neighbors located on the southside of their property from driving through the parking lot.

Mr. Harper stated that three alternatives were given to the applicant in response to the request. Suggestion 1 was to remove the fence and place signage indicating no overnight parking and enforcement. Suggestion 2 was to reduce the height of the fence to the allowable 3 feet as allowed by City Code. Suggestion 3 was to remove the structure and construct a low rail gate or to seek the variance request.

Based on the information provided by the applicant, and applicable codes and ordinances, it is staff's opinion that although the applicant's request does not appear to be contrary to public safety with regard to the fence location, the location of the gates may cause a unnecessary safety issue in the future, and made himself available for questions.

Board Discussion

Member Bohnsack asked Mr. Harper to clarify the unnecessary safety issue.

Mr. Harper stated that the safety issue related to pulling up into the driveway and the gate appearing at the 15 ½ instead of the of 20 feet as required in City policy resulting in a safety issue with having to back out onto E. Main Street.

Member Bohnsack asked Mr. Harper if the applicant implemented some of the City's suggestions would the same issues exist.

Mr. Harper stated that the same issue would not exist as it pertains to the City's recommendations, but the gate would have to still have to be moved back 20 feet to meet City's policy requirement.

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

Public Comments

Josh Stevens, fence contractor, 1314 West McDermott, expressed his apologies for not having a permit. He stated that when he initially went out to inspect the property with Pastor Wayne the pavement was new, and Pastor Wayne expressed to him his concern with the traffic coming through onto the pavement. He stated that the fence would not create any public safety issues and that Pastor Wayne to protect his property.

Member Bohnsack asked Mr. Stevens if he could lower the fence to keep it in within City code.

Mr. Stevens stated that the fence can be lowered.

Chairman Lemons asked Mr. Stevens was he involved in the discussion with the City for recommendations on the fence.

Mr. Stevens stated that he was not and that it was his first-time hearing of the options.

Pastor Lewis (Inaudible)

Member Arefin asked Mr. Lewis how the gate will be utilized.

Mr. Lewis stated the gate will be opened during services and closed when there are no services.

With no further comments of staff, Chairman Lemons closed the public hearing.

Board Action

Motion: Member Arefin made a motion for approval; Member Sturman seconded the motion. Motion passed 5-0.

- 3. PUBLIC HEARING ON ZBA V 20-11:** a request for the following variance from Appendix A (Comprehensive Zoning Ordinance) of the City of Richardson's Code of Ordinances: Article IV, Sec 4 (f)(a) to allow for side setback of four (4) feet in lieu of the minimum required seven (7) feet to accommodate a backup generator. The property is located at 1305 Chesterton Drive and zoned R-1500-M Residential.

Staff Comments

Daniel Harper presented on case. He stated that the applicant is proposing to add a backup generator to the west side of the property alongside their air conditioning system. He stated that air conditioning systems are exempt from side yard setbacks, but backup generators are considered separate structures by the City's Building Inspection Department and thus are subject to the side yard setback regulations.

Mr. Harper stated that the generator would be required to meet the City's noise performance standards which regulated the maximum day time octave band decibel at or within the bounding of the residential district of 56 decibels on the A scale. Based on the technical sheet provided by the applicant, the proposed backup generator would not comply with the allowable decibel level. The proposed location of the backup generator is located with other utility equipment is located and will be screened by the existing fence and operates on a natural gas or liquid propane but relies on an electrical monitoring system which then transfers electricity from the generator to the house when the electricity goes out.

Based on the information provided by the applicant, and applicable codes and ordinances, it is staff's opinion that a property hardship does not exist and should therefore be denied. He made himself available for questions.

Board Discussion

Member Mayo asked City Staff to clarify if the Board's decision would be based off the setback.

Mr. Harper clarified that was correct.

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

Public Comments

Frank Ometz, 1305 Chesterton Drive, stated that his reason for a backup generator is due because of his sleep apnea condition and he sleeps with a sleep apnea machine. He stated that the only times the generator would run continuously is in the event of a power outage and during a weekly 5-minute exercise runs.

Member Bohnsack asked how often Mr. Ometz was having power outages.

Mr. Ometz stated that prior to Oncor fixing the problem he would have an outage every time there was a heavy rain pour but he was not having that issue often anymore.

Robert Maguire, 1209 Eden Drive, asked were there any gas pipes exposed and if so, is there any protection around them to protect immediate neighbors. He also inquired about the noise decibel.

Mr. Harper stated that all gas line installations would have to fit within the City's code and would be approved upon inspection. He stated that regarding the noise decibel, once a permit is submitted the applicant would need to provide performance standards for the proposed equipment.

With no further comments of staff, Chairman Lemons closed the public hearing.

Board Action

Member Bohnsack asked the applicant if he had backup battery equipment for his sleep apnea machine and if so, was he utilizing that feature.

He stated that he did not have the feature.

Chairman Lemons asked the applicant if had he received any feedback from his neighbors.

Mr. Ometz stated that he spoke with two of his neighbors and they had no objections.

Member Arefin spoke in favor of the case.

Motion: Member Arefin made a motion for approval; Member Bohnsack seconded the motion. Motion passed 5-0.

- 4. PUBLIC HEARING ON ZBA V 20-12:** a request for the following variance from Appendix A (Comprehensive Zoning Ordinance) of the City of Richardson's Code of Ordinances: Article VII, Sec 4 (h)(1) to allow for the addition of a detached patio cover that could be utilized as a parking structure while not providing a required enclosed garage structure that would accommodate two motor vehicles and Article VII, Sec. 4 (h)(2) to allow for the patio to encroach into the minimum 18' x 24' wide driveway leading to the garage enclosure. The property is located at 715 Westover Drive and zoned R-1100-M Residential.

Staff Comments

Daniel Harper presented on the case. Mr. Harper stated that the applicant would like to construct a 10-foot tall wooden pergola that is 14- feet by 12-feet in dimension to act as patio cover over an existing driveway located on the rear side of the property. The swing garage on the property was converted to a room without a permit by the previous homeowner leaving the home without an enclosed garage. The current homeowner had been using what was left of the driveway as a patio for their backyard pool. The Building Inspection Department interpreted the pergola addition as an expansion of the existing nonconforming status of the home since it does not have an enclosed garage or carport and thus was denied.

Mr. Harper stated that the pergola could be used a shelter for a single vehicle but would not be utilized as such unless there is an emergency. If the pergola is used as car shelter the minimum 24-foot backup space would not be met and as proposed the minimum 14-feet of back up space would be provided.

Mr. Harper stated that the applicant proposed an addition of a pergola in addition to the already existing nonconforming condition of the structure without providing an enclosed garage and to allow the pergola to satisfy the carport with that reduce maneuvering space of 14 feet.

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. He made himself available for questions.

Board Discussion

Member Bohnsack asked Mr. Harper had he spoke with the applicant about other options to the proposed variance and does he foresee any future issue that the approval could create.

Mr. Harper stated that he had talked to the applicant about other options pertaining to building a carport and that if the variance is granted it solves all future issues.

Member Arefin asked Mr. Harper to further explain what options he and the applicant discussed.

Mr. Harper stated that he suggested the applicant apply for a covered carport that could be attached or detached; however, the application has gone through with the applicant proposing to construct a wooden pergola.

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

Public Comments

Ruben Flores, 715 Westover Drive, stated that he and Mr. Harper had been in discussions about the increased aesthetic view of the home. He would like to use the pergola for entertainment.

Member Mayo asked Mr. Flores what the reason was for constructing the pergola was instead of the City's recommendation for a carport.

Mr. Flores stated that the area would not really be used for a carport as he has ample room for a car on the side of his home.

With no further comments of staff, Chairman Lemons closed the public hearing.

Board Action

Motion: Member Bohnsack made a motion for approval; Member Arefin seconded the motion. Motion passed 5-0.

5. Adjournment:

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

Jason Lemons, Chairman
Zoning Board of Adjustment