

**CITY OF RICHARDSON
ZONING BOARD OF ADJUSTMENT MINUTES
JANUARY 17, 2024**

The Zoning Board of Adjustment met on Wednesday, January 17, 2024, at 6:30 p.m. Chairman Lemons convened the Board into Regular Session. A quorum was present.

MEMBERS PRESENT: Jason Lemons, Chairman
Scott Rooker, Vice Chairman
Brent Sturman, Member
Phil Thames, Member
Lisa Kupfer, Alternate
Moosa Madha, Alternate

MEMBERS ABSENT: Nick Robison, Member

CITY STAFF PRESENT: Chris Shacklett, Asst Director of Development Services-Planning
Derica Peters, Senior Planner
Anna Jo Castaneda, Executive Secretary

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 DECEMBER 18, 2023.

Motion: Member Lisa Kupfer made a motion to approve the minutes with a correction to the spelling of February; Member Thames seconded the motion. Motion passed 5-0.

PUBLIC HEARING

2. **SE 24-01**, 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-tall wooden fence to be located between the front property line along West Shore Drive and the front wall of a building. The property is located at 98 West Shore Drive and is zoned R-1500-M Residential.

Ms. Peters began her presentation stating the applicant is requesting a special exception to Chapter 6, Article IV, Sec. 6-209 (3), of the City of Richardson's Code of Ordinances which prohibits fences between the front property line and the front wall of the building unless it's part of the landscaping or decorative screen, does not exceed three (3) feet in height and does not create a traffic hazard.

Ms. Peters reported the applicant's property is located within an island where West Shore Drive makes a loop completely around the property. The front of the home faces north onto West Shore Drive and the property is unusual in that it is surrounded by a platted 30-foot front yard setback. There are no side or rear yards on this property, where a fence would typically be allowed.

Ms. Peters stated there is an existing 6-foot-tall wrought iron fence in the southeast portion of the property. Although a fence is not allowed to be in this area, the existing fence was granted a permit in 1997. The applicant is requesting a special exception maintaining their enclosed yard space by replacing the existing wrought iron fence with a new 8-foot-tall wooden fence, where portions of the fence will be built on a masonry retaining wall. The applicant will also add a vehicle gate next to the garage entry on the west side of the property as part of this proposal.

Ms. Peters further stated that the applicant has attempted to improve privacy by planting approximately 150 holly trees around the existing wrought iron fence, but the trees have not reached maturity and do not provide sufficient privacy. The holly trees will remain and will help soften the look of the yard along the street. The applicant has petition signatures from 10 properties, 7 of which were within this notification zone.

In conclusion Ms. Peters stated that based on the information provided by the applicant, and applicable codes and ordinances, it is staff's opinion that the applicant's request does not appear to be contrary to public safety. To date, staff has received one piece of correspondence in opposition with the person being present.

With no questions for staff, Chairman Lemons asked the applicant to come forward and present the request.

Mrs. Christine Richardson, 98 West Shore Drive stated that efforts were made to notify the neighborhood residents of this public hearing and details of the construction of a fence. There is a petition that has signatures of approval from the neighboring residents with the exception of three (3) houses they were not able to make contact with.

Chairman Lemons asked the applicant to give specifics on the request.

Mrs. Richardson stated that due to structural and foundation issues with the house, it was recommended to put a retaining wall and to fill in an area of dirt to help level the ground. Therefore, a part of the fence would sit on the retaining wall and make the fence measure as high as 8-feet-

tall from the outside, but the fence would measure 6-feet-tall from the inside. She stated that at one place the fence could be up to 8-feet-tall on the outside but measuring from the inside it would be 6-feet-tall, however it would all be level. She stated the fence would provide safety and privacy. She stated that they planted over 150 holly trees, however after two years they had not grown as high as they wanted for privacy. The holly trees could eventually grow to be 10-15 feet tall.

Chairman Lemons asked if the fence would be flush with the retaining wall.

Mrs. Richardson replied yes.

Chairman Lemons wanted to confirm that the fence would be an extension of the retaining wall and be flush all around. He also asked where the retaining wall would be located.

Mrs. Richardson confirmed and stated the retaining wall would be at the front wall of the house.

Mr. Bryce Richardson, 98 West Shore Drive came forward to explain the retaining wall in more detail as it pertained to the fence.

Chairman Lemons wanted to confirm that at some point of the fence it would be up to 8-feet-tall.

Mrs. Richardson answered yes and stated the retaining wall could be anywhere from 12-24 inches so it may not reach 8-feet-tall in all areas.

Chairman asked if the staff could clarify how the treatment of a retaining wall would be in relation to a fence that is not part of the height measurement.

Chris Shacklett stated it would be considered 6-feet-tall measured from the inside. A retaining wall could be built to level out that portion of the yard and then a 6-feet-tall fence would be built on it. If the commission wants to set height limitations on the fence, a motion could be made to reduce the height.

With no further questions for staff or the applicant, Chairman Lemons invited those wishing to speak in favor or opposition to the request to come forward.

Mrs. Kay Woods, 105 West Shore Drive stated she was present to oppose the request. She stated her property is behind the applicant's property along with the residents at 103 and 107 West Shore Drive, and that they would be looking at the fence from their front yards. She stated she was concerned about the resale value of her home. She went on to state she understood that state law allows the Board to grant a variance when strict application would result in an unnecessary hardship, but she did not feel that privacy was a hardship. She stated that that the other properties would be affected and that public convenience, welfare and public safety should be considered.

Member Thames asked if there were any compromises that could be made.

Mrs. Woods replied that she thought the holly trees would ~~private~~ provide adequate privacy.

Mr. Shacklett advised the standard for a special exception is whether this would be contrary to public safety and that hardship is not part of the consideration. He stated public safety can be more objective, but the Board may consider all of the facts including hardship.

Member Rooker asked what the height of the hollies were currently.

Mrs. Woods answered the holly trees were 5-feet-tall.

Member Thames asked Mrs. Woods if she had any issues getting in and out of her driveway.

Mrs. Woods answered no.

Member Kupfer asked if there had been any discussion between her and the applicant.

Mrs. Wood answered no.

Chairman Lemons asked the applicant to come up for clarification on some issues.

Member Madha asked if they were aware of any neighbors who may face a fence or side fence that is a privacy fence.

Mrs. Richardson replied yes there were a few corner-lots down the street that had fences that neighbors looked at from the front of their houses.

Member Rooker asked if they intended to keep the holly bushes.

Mrs. Richardson answered yes, they were hoping they would grow and make the exterior attractive.

Member Rooker asked what the maximum height the bushes could grow.

Mrs. Richardson advised that they could reach 8-10 feet tall.

Member Rooker asked if the fence could be seen after the holly trees had matured.

Mrs. Richardson answered no.

Member Kupfer asked what the lowest height fence would be acceptable.

Mrs. Richardson stated 6-feet tall from a privacy standpoint.

Member Sturman asked if there was a gap between the fence and the trees.

Mrs. Richardson answered yes.

With no further questions, Chairman Lemons closed the public hearing and asked if there were any more questions for staff.

Member Madha stated if the existing wrought iron was replaced with the same material, would it be permitted.

Mr. Shacklett no it would not be permitted.

Chairman Lemons stated that the standard review of this case is different than a typical zoning case and that he was reluctant in approving an 8-foot tall fence. He also stressed that it could cause animosity between neighbors and asked if there is an option of tabling the request.

Mr. Shacklett informed the commission of the options of making a motion tonight to deny or approve the request with conditions, but they also could make a motion to continue for the parties to address whatever considerations they need to address. However, if a motion to continue was made then a specific date and time it would be advised along with detailed information needed for the meeting.

Chairman Lemons re-opened the public hearing.

Mrs. Woods spoke to say she would like for the other neighbors who did not review the petition or were opposed to this exception to have a chance to state their opinions.

The applicant and Mrs. Woods agreed that the neighborhood will communicate with each other to resolve this request.

Chairman Lemons asked staff if they can impose that the applicant maintain the holly trees in perpetuity.

Mr. Shacklett stated they would need a motion to continue growing the holly trees when they die or are taken down for some reason, however the City does not have the same landscaping requirements on residential properties as it does commercial properties.

Chairman Lemons stated that more clarification on what is allowable for residential landscaping.

Mr. Shacklett replied they did not have an immediate answer for the residential landscaping at this time.

Chairman Lemons closed the public hearing and asked the Board for further dialogue or a motion.

BOARD ACTION

Motion: Member Rooker made a motion to approve **SE 24-0102**, a request for a special exception to Chapter 6, Article IV of the City of Richardson's Code of Ordinances: Sec. 6-209 (3) and request be limited to six feet in height regarding the fence which the applicant has presented in their application. Seconded by Member Thames. Motion passed 5-0.

With no further business, the meeting was adjourned at 7:31 p.m.

Jason Lemons, Chairman
Zoning Board of Adjustment

APPROVED