

**CITY OF RICHARDSON
ZONING BOARD OF ADJUSTMENT MINUTES
AUGUST 21, 2024**

The Zoning Board of Adjustment met on Wednesday, August 21, 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, Member
Moosa Madha, Alternate
Mohamed Hafeez, Alternate

MEMBERS ABSENT: None

CITY STAFF PRESENT: Sam Chavez, Director of Development Services
Derica Peters, Senior Planner
Amber Pollan, Planner
Norma Mendoza, Administrative 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 JULY 17, 2024.

Motion: Member Kupfer made a motion to approve the minutes as presented. Member Thames seconded the motion. Motion passed 5-0.

PUBLIC HEARING

2. **SE 24-02**, a request for a special exception to Chapter 6, Article IV of the City of Richardson's Code of Ordinances: Sec. 6-210 (4) to allow an 8-foot-tall tubular metal fence to be located between the front property lines and the front wall of a building along E. Renner Road and Shiloh Road. The property is located at 3000 E. Renner Road, being the southeast corner of E. Renner Road and Shiloh Road and zoned I-FP (1) Industrial.

Ms. Peters stated the applicant is Collins Aerospace seeking approval of an eight-foot-tall tubular metal fence to be located between the front property lines and the front wall of the building along East Renner Road and Shiloh Road. The property is zoned industrial floodplain one and that ordinance includes special conditions that enacted a minimum forty-foot front yard setback along Shiloh and Renner Road and allows fencing, parking, security buildings and antennas to be located within that setback, however, it does not indicate the required height of the fencing. The Richardson Code of Ordinances states when a fence is in the front yard it may not exceed four feet, so the applicant is requesting eight feet around the perimeter of the site.

Ms. Peters further stated that applicant has indicated they need additional security and fencing to meet mandatory security requirements set forth by the US government. Based on the information provided by the applicant and applicable codes and ordinances, it is staff's opinion that the applicant's request is not contrary to public safety. Ms. Peters stated that no correspondence has been received regarding the request.

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

Mike McCoy, 2906 N. Sunbeck Circle, Farmers Branch, began by stating he is the architect for Collins Aerospace and that they are making several improvements to the building, however, the primary reason for the request is called security in depth, a requirement of the federal government to produce products that are top-secret in nature at this facility.

Lesley Mullan, Facilities Manager, 3200 Renner Road, introduced themselves and was also available for questions.

Chairman Lemons asked the applicant if this a new regulation regarding the height or is it just something that they are trying to get in compliance.

Ms. Mullan responded they are trying to comply like their other locations at City Line, where they do similar type of work and have similar security infrastructure.

Member Thames stated the reference to the city ordinance, Sec. 6-210 has two components, one being the four-foot height and the other is a reference to a fifty percent minimum through vision; he asked if the eight-foot height is all they are voting on.

Mr. McCoy replied that is correct, that the fence will meet vision requirements because the iron rods are spaced approximately four to six inches.

With no further speakers, Chairman Lemons closed the public hearing and asked the Board for comments or motions.

Member Thames stated Shiloh and Renner is a significant intersection and asked if the City made the determination that there are no public safety issues, like a line-of sight issue.

Ms. Peters responded yes, the applicant must comply with the site visibility triangle requirements, so that may result in a sharper angle or chamfer there at the corners.

Member Thames confirmed that they would not need to include this information in their vote.

Ms. Peters confirmed they would not need to mention the line-of-sight requirements.

BOARD ACTION

Motion: Member Kupfer made a motion to approve **SE 24-02**, a request for a special exception to Chapter 6, Article IV of the City of Richardson's Code of Ordinances: Sec. 6-210 (4) to allow an 8-foot-tall tubular metal fence to be located between the front property lines and the front wall of a building along E. Renner Road and Shiloh Road. Member Sturman seconded the motion. Motion passed 5-0.

- 3. V 24-05 (continued from July 17, 2024)**, a request for the following variance from Richardson's Code of Ordinances: Ordinance No. 2360-A Sec. 2(E)(1) to allow a 4-foot variance to the 20-foot front yard setback along E. Spring Valley Road, to accommodate the construction of a new structure on property located at 701 Rams Court, being the southeast corner of E. Spring Valley Road and Rams Court and zoned R-1100-M Residential.

Ms. Derica Peters stated V 24-05 is a continuation from the July 17, 2024, Zoning Board of Adjustment meeting which is a request to allow a four-foot variance to the twenty-foot front yard setback along East Spring Valley Road.

Ms. Peters refreshed the ZBA on the details of the request and explained City staff has reviewed historical buildings and fence permits to see where the masonry screening fences were constructed in the neighborhood, however staff was unable to find any consistent information on how that had been enforced. The seven-foot masonry wall will still be required at this property and Exhibit A and B show the two options the applicant will have in the location to construct the screening wall.

In conclusion, Ms. Peters stated that based on the information provided by the applicant, applicable codes and ordinances and the characteristics of the property, it is Staff's opinion a physical hardship does not exist, and the request therefore should be denied. Ms. Peters indicated this to be a continuation and public notice was not re-issued and no correspondence has ever been received as response to this request; in addition, the applicant was out of state and unable to attend this meeting.

Chairman Lemons began by reiterating the city is providing two options regarding the masonry wall and the applicant is still requesting an encroachment on the setback line to the north.

Ms. Peters responded that is correct.

With no further questions for staff or speakers in favor or against of the variance request, Chairman Lemons closed the public hearing and asked the Board for comments, questions, or motions.

Member Rooker asked if applicant could reapply if the request was denied.

Mr. Chavez responded yes, but there is a time frame.

Member Rooker commented about the issue of uniformity within the neighborhood. The Board had asked the applicant previously to go back out and survey the neighborhood to try to figure out who's in compliance, who's not, and if it had ever been enforced by the city.

Member Kupfer suggested that by the Board issuing a decision, they could be potentially overstepping and taking away a remedy that applicant would have outside of this Board like a civil suit.

Member Thames responded the Board is being asked to make a variance based on the setback and on inability to access the property to construct the house and the wall is just a collateral thing that they found in the ordinance for that plot of land. This is a private matter between two property owners and if it is denied it will at least force the two property owners to reach some kind of agreement, rather than bringing it to the Board to sort it out.

Member Kupfer stated that if the request is granted, then what could be a broader issue is not being resolved and will keep coming back before them. She suggested this case may fall outside the Board's scope and it's not necessarily their responsibility to remedy since it has not been enforced in the past.

Chairman Lemons stated the applicant could defer to a title attorney and seek a declaratory judgment that could give him latitude regarding his rights to make improvements on his own land with temporary access to the land of another.

Member Madha stated the applicant had already spoken to his neighbor and they were not willing to give him access to their property for construction because it would impose on their view. If they were to grant a variance, could the Board condition the approval to build in line with the neighborhood.

Mr. Chavez stated it would not make any difference because this variance grants them the ability to encroach into that front yard setback but wouldn't preclude them from building it back to the original required location. There is one option outside of a variance, and that is for the applicant to petition the City Plan Commission and ultimately City Council to amend the zoning on the property to relieve them of that setback.

Chairman Lemon asked if that amendment would only be attached to this lot.

Mr. Chavez responded yes, if the variance is denied he has that option and the process takes anywhere from sixty to ninety days, however the application alone is \$2,500 and a Planned Development District would need to be created or this Planned Development District would need amending.

Member Sturman asked if he could just build it three feet smaller.

Mr. Chavez stated that is the other option and explained that all the perimeter lots have that seven-foot-tall masonry wall, but this is the last lot to be constructed and the adjoining neighbor is not cooperative.

Member Thames reported that they determined at the last meeting that the ordinance allows the wall of the home to serve as a part of that masonry wall.

Mr. Chavez responded yes, that was the original intent.

Member Rooker asked about the neighboring property that has a fence that does not comply with that same setback and the fence is substantially further than the building.

Mr. Chavez stated the twenty-foot setback only applies to the structure not the fence.

Member Rooker responded that if they're worried about public safety, there would be a visibility issue with that fence that appears to be further than what this variance structure would allow.

Chairman Lemons stated with him not being present at the meetings, they cannot discuss options and asked if a continuance would be a better avenue.

Mr. Chavez responded a continuance is an option to give more time to look at reducing the structure, however he has to have a two-car garage.

Member Thames asked if he could add a third story.

Mr. Chavez responded no.

Chairman Lemons asked how much extra time a denial would add compared to just a continuance.

Mr. Chavez responded a continuance gives him another thirty days and Ms. Peters could have a conversation with the applicant about reducing the width of the structure, but it would not make sense because reducing the structure to meet the setback along Spring Valley when he still cannot get to the property line on the south end. Mr. Chavez stated he received an e-mail from the applicant saying that his contractor reached out to the adjacent property owner about constructing the prefab screening wall and the seven-foot masonry wall, but the neighbor said no.

Member Madha asked the applicant could withdraw from the application and go through the CPC.

Mr. Chavez replied that the applicant can withdraw the application at any time.

Member Madha asked if the applicant withdrew his application would it start a ninety-day period with the CPC.

Mr. Chavez responded that is correct.

Chairman Lemons asked if the request is denied would his only recourse be to appeal to District Court but then closes the door to CPC review.

Mr. Chavez responded if you recommend a denial, yes. If the action taken by the board is to deny the case and he appeals, he won't be able to pursue a zoning case for this piece of property because litigation with the City is underway.

Member Thames stated the subdivision has completely been built out as intended except for this last piece that did not get built. He asked if there is anything in the original zoning definitions or legally, that says the next-door neighbor should have known that there could be a home built there and could only be built with access provided to his property.

Mr. Chavez replied there is no language in the ordinance requiring a three-foot-wide maintenance easement be on the opposing lot; the plat does not have easements on it, and it is unfortunate there is an uncooperative neighbor knowing what the impact will be.

Mr. Chavez recommended to continue the case because it gives the applicant the option to attempt to meet the required setback and come back to the September 18th meeting to explain his rationale

for not being able to reduce the width of the structure, or to withdraw and seek a zoning amendment.

Member Kupfer asked if there anything they can do to get the neighbor to attend the meeting.

Mr. Chavez replied that the Building and Standards Commission can subpoena and call witnesses; however, the Board is not acting in that role.

Member Madha asked if someone else in this neighborhood had roof damage and wanted to do repairs but needed access to the neighbor's yard, would they have any recourse?

Mr. Chavez responded they may be in the same situation unless they developed a neighborhood friendship among themselves.

Member Madha stated the neighborhood seems to have more issues that just this one house.

Member Rooker asked if this neighborhood is in an HOA.

Mr. Chavez responded that he was not aware of a HOA.

Member Thames made a motion to deny the variance V 24-05. There was no second to this motion, so the motion failed.

Chairman Lemons stated we would entertain a different motion, or it could be discussed further.

Member Kupfer stated she would like to submit a motion to continue this until September 18th so the applicant can be present to answer some additional questions.

BOARD ACTION

Motion: Member Kupfer made a motion to continue the case to the September 18, 2024, meeting. Member Sturman seconded the motion. Motion passed 4-1. Member Thames opposed.

With no further business, the meeting was adjourned at 7:18 p.m.

Jason Lemons, Chairman
Zoning Board of Adjustment