

**City of Richardson
Zoning Board of Adjustment
Agenda Packet
February 19, 2014**

To advance to the background material for each item in the agenda, click on the item title in the agenda or click on Bookmarks in the tool bar on the left side of your screen.

AGENDA
CITY OF RICHARDSON – ZONING BOARD OF ADJUSTMENT
WEDNESDAY, FEBRUARY 19, 2014
6:30 P.M.
CIVIC CENTER/COUNCIL CHAMBERS
411 W. ARAPAHO ROAD

BRIEFING SESSION: 6:00 P.M. Prior to the business meeting, the Zoning Board of Adjustment will meet with staff in the **Large Conference Room** located on the 2nd floor, Room 206 to receive a briefing on:

A. Discussion of Regular Agenda Items

1. APPROVAL OF MINUTES OF REGULAR MEETING OF JANUARY 15, 2014

2. PUBLIC HEARING ON ZBA FILE V 14-04, a request by Mabel Simpson, for approval of the following variances to the City of Richardson Comprehensive Zoning Ordinance:

- 1) Article IV, Sec. 4(f)(1)(b), for a 9-foot variance to the 10-foot side setback along the west property line of proposed Lot 2 for an existing windmill;
- 2) Article IV, Sec. 4(f)(1)(b), for a 3-foot variance to the 10-foot side setback along the east property line of proposed Lot 2 for a proposed structure;
- 3) Article IV, Sec. 4(f)(1)(c), for a 6-foot variance to the 15-foot side setback along the west property line of proposed Lot 1 for an existing pool patio cover to include overhang.

The property is located at 316 Ridgeview Drive

3. RECESS

4. ADJOURN

This building is wheel chair accessible. Any requests for sign interpretive services must be made 48 hours ahead of the meeting. To make arrangements, call (972) 744-4100 or 972-744-4001.

I hereby certify that the above agenda was posted on the bulletin board at City Hall on or before 5:30 p.m., Thursday, February 13, 2014.

Kathy Welp, Executive Secretary

Agenda

Item 1

**Approval of the minutes of the January 15, 2013
Zoning Board of Adjustment Meeting**

MINUTES
ZONING BOARD OF ADJUSTMENT
CITY OF RICHARDSON, TEXAS
JANUARY 15, 2014

The Zoning Board of Adjustment met in session at 6:30 p.m. on Wednesday, January 15, 2014 in the Council Chambers, at the City Hall, 411 West Arapaho Road, Richardson, Texas.

MEMBERS PRESENT: Mike Walker, Chair
Larry Menke, Vice Chair
Chip Pratt, Member
Shamsul Arefin, Alternate
Jason Lemons, Alternate

MEMBERS ABSENT: John Veatch, Member
Brian Shuey, Member

CITY STAFF PRESENT: Chris Shacklett, Senior Planner
Whitt L. Wyatt, City Attorney
Cindy Wilson, Administrative Secretary
Jennifer Patrick, Residential Plans Examiner

Mike Walker, Chairman, introduced Chris Shacklett, Senior Planner; Whitt Wyatt, City Attorney and Cindy Wilson, Administrative Secretary, Jennifer Patrick, Residential Plan Reviewer, explaining that the City staff serves in an advisory capacity and do not influence any decisions the Board might make. Walker summarized the function, rules, and appeal procedure of the Zoning Board of Adjustment. Walker also introduced the Members of the Board and noted that all members present would be voting.

MINUTES:

The Zoning Board of Adjustment minutes of the November 20, 2013 meeting were approved on a motion by Arefin; second by Lemons and a vote of 5-0.

PUBLIC HEARING ON ZBA FILE V 14-01: A request by Robert Wondoloski for approval of the following variance to the City of Richardson Comprehensive Zoning Ordinance: 1) Article IV, Sec. 4(f)(3), for a 2-foot variance to the 3-foot side setback in the rear yard for an outdoor fireplace at 2210 Sutton Place.

Shacklett stated the applicant was requesting a 2-foot variance to allow an outdoor fireplace to be located within the required 3-foot side setback for structures located in the rear yard. As part of the applicant's update to their backyard to create an outdoor living space, they hired a contractor to construct the fireplace; however, the contractor was not aware a permit was required. After the fireplace had been constructed, the City informed

the applicant a permit was required, and he and the contractor filed for a permit. It was denied due to the structure's location in 3-foot side setback in the rear yard.

Shacklett noted the location of the structure had been chosen to provide a fireplace and seating area adjacent to the pool and the majority of the fireplace did not encroach into the side setback. He did add that the fireplace was located in a 10-foot utility easement; however, the applicant received approval from the appropriate utility companies stating they had no objections to the encroachment into the easement.

Shacklett explained the applicant was stating their hardship was due to: 1) the location of the pool and the entirety of the fireplace could not be placed in its current location without a partial encroachment; 2) due to the nature of the structure, the top of the fireplace chimney is required to be located at least two (2) feet above any other structure for a minimum of ten (10) feet from the chimney and the fireplace and seating area could not be placed on the other side of the pool near the house because of this requirement; 3) the applicant stated that although the fireplace had been constructed without a permit, it was in done in good faith; and, 4) the removal and reconstruction of the structure two (2) feet further in to the property would be an undue financial and physical burden making the area between the pool deck and fireplace too narrow, and the fireplace would essentially located in the same area.

Shacklett concluded his presentation by stating that based on the information provided by the applicant, and applicable codes and ordinances, it was staff's opinion the hardship appeared to be self-imposed, although the area where a fireplace could be located was limited in the rear yard due to separation requirements to other structures.

Lemons asked when the structure was originally built and Shacklett stated it was constructed in August 2013.

Menke asked to confirm if any of the surrounding homeowners had contacted staff to express their opinions. Shacklett replied he had not received any correspondence.

Arefin wanted to know if contractors had to be registered with the City to do work and Patrick replied that at the time the fireplace was built it was not required, but it now is.

Pratt stated that with exception of the height requirement for the chimney, it could almost be treated as if it were a masonry fence.

Shacklett replied a masonry fence could be built on the property line behind the front building line of the home. He added that since the structure had a chimney and seating it was not defined as a fence.

Robert Wondoloski, 2210 Sutton Place, Richardson, Texas, stated his family wanted to invest in year round living space in their back yard including a patio cover that had to be rebuilt to City specifications after an unlicensed contractor was originally hired. He added they learned from that experience and hired a licensed contractor, but did not realize a

permit was required for an outdoor fireplace until after the fireplace was almost completed. At that time, steps were taken to contact the City and utility companies to secure the proper authorizations.

Wondoloski concluded his statement noting that he and the contractor had acted in good faith and to deny the variance would cost a great deal of money to move the structure essentially 2 feet from its current location. He added that he had signatures from eleven of the surrounding homeowners who did not object to the variance.

Menke asked if the homeowners most directly impacted by the variance had signed in agreement to the variance and Wondoloski said they were the first ones to sign the agreement.

Walker asked if any embers would come out of the chimney on the side as opposed to the top and Wondoloski replied that chimney was capped on the top.

Michelle Shook, 10 Forest Park, Richardson, Texas, the homeowner directly behind 2210 Sutton Place, expressed concern over safety because the chimney was directly below the power lines and transformer. She also wanted to know if the fireplace would use gas or wood and, if it is gas, was a licensed contractor used to run the gas line; if it uses wood, would there be a problem with embers floating out of the chimney.

Shacklett replied the fireplace was wood burning.

Shook wanted to know if there were any City requirements for outdoor, wood burning fireplaces and stated she was concerned about the new gate that gave access to her property.

Menke stated the Board's focus and position would only be looking at the specifics of the case before them, specifically the location of the fireplace in relation to the side property line and the other items mentioned were not something the Board could address.

Walker asked if there were any concerns with the fireplace being a fire hazard.

Shacklett replied the utilities companies (electric, gas, and communication) had all signed off on the fireplace. He added that having an outdoor fireplace with an open flame would be allowed in a single family zoning district.

Arefin asked if anyone from the utility companies had visited the site prior to signing off on the request.

Shacklett replied that whatever steps the utility companies takes they would have done prior to signing off on the structure. He added that any safety concerns would fall under building code issues and not under a variance request.

Wondoloski stated their first intent was to make the structure a gas fireplace, but during the permitting process it was decided not to use gas. He added that the utility companies did come out to inspect the fireplace with Oncor requesting the gate for access to the Shook residence.

Pratt noted that most chimneys in homes have caps with screening to prevent hot embers from getting out and wondered if that was a consideration for the fireplace.

Wondoloski said it would be possible to add screens to the chimney.

Menke wanted to know if the gate was required by Oncor because of the fireplace or other issues.

Wondoloski said he thought Oncor wanted a gate and used the requested sign off as an excuse to get a gate.

Pratt asked if Oncor was requiring to keep the gate between the two properties unlocked and Wondoloski said Oncor did not make that a requirement, but he had locked it for safety.

Shacklett stated that probable reason for the gate was the utility easement.

With no further comments, Walker closed the public hearing and called for comments from the Board.

Menke stated that after reviewing the facts he understood the concerns expressed, but did not feel they should have any bearing on the variance before the Board.

Walker said safety relied upon neighbors being good neighbors and the fact that they were interested in the well-being of others as well as their own.

Menke made a motion to approve item number V14-01 as presented; limited to those specifics the applicant presented in the case. The motion was seconded by Pratt and approved 5-0.

PUBLIC HEARING ON ZBA FILE V 14-02, a request by Patricia Simmons, for approval of the following variance to the City of Richardson Comprehensive Zoning Ordinance: 1) Article IV-A, Sec. 4(e)(1), for a 1-foot variance to the 30-foot front setback for an unenclosed porch at 2 Roundrock Circle.

Shacklett advised the applicant was requesting a 1-foot variance to the 30-foot front setback for the construction of an unenclosed porch on an existing home which is being remodeled. The front setback requirement for the subject property is thirty-five (35) feet; however, the Comprehensive Zoning Ordinance allows unenclosed porches to encroach up to five (5) feet in to the front setback. In addition, he mentioned that the home was located

on a cul-de-sac so the 35-foot front setback line follows the curve of the street with the southern corner of the front of the home located within 1-foot of the 35-foot front setback line.

Shacklett stated that the proposed porch would be approximately six (6) feet deep and thirty-six (36) feet wide and, due to the depth, the maximum encroachment of one (1) foot occurs at the southwest corner of the porch. He added the applicant estimated that approximately eight (8) square feet of the proposed 215-square foot porch encroaches into the 30-foot setback.

Shacklett pointed out that the porch would provide a covered seating area on the west side of the home as well as provide shade from the western sun. In addition, he noted the applicant was stating the angling of the southwest corner of the porch to follow the 30-foot setback would not be architecturally desirable

Shacklett concluded his presentation by stating that based on the information provided by the applicant, and applicable codes and ordinances, it was staff's opinion the hardship appeared to be self-imposed; however, the applicant felt the hardship was a result of the curvature of the cul-de-sac that created geometric issues with the straight line of the home.

Patricia Simmons, 2 Round Rock Circle, Richardson, Texas, stated her family had lived at the current address since 1991 and have saved to make the new addition of the front porch. She added there is no overhang to block the elements from the front of the house and respectfully requested to allow the 1-foot variance on the south side of the residence.

William Simmons, 2 Round Rock Circle, Richardson, Texas, said the architect who designed the front porch had submitted the plans to the City for approval.

Lemons asked if the applicants had spoken with their adjacent neighbors and Ms. Simmons responded they had and there were no objections.

With no further comments in favor or opposed, Walker closed the public hearing and asked for any comments from the Board.

Lemons stated the Board was always in support of promotion the use and enjoyment of a property through improvements to properties, and thought the curvature of the cul-de-sac did cause a problem for the homeowner.

Menke and Arefin concurred and stated the request was reasonable.

Lemons made a motion to approve item number V14-02 as presented; limited to those specifics the applicant presented in the case. The motion was seconded by Arefin and approved 5-0.

PUBLIC HEARING ON ZBA FILE V 14-03, a request by Minh Nguyen for approval of the following variance to the City of Richardson Comprehensive Zoning Ordinance: 1) Article VI, Sec. 4(g), for a 17-foot variance to the 25-foot rear setback for an attached garage at 1212 Berkeley Drive.

Shacklett advised the applicant was proposing to construct an attached garage at the rear of the property that would encroach seventeen (17) feet in to the 25-foot rear setback. In addition, there had been discussions with the applicant in the past when he had requested a carport in-lieu-of a garage and staff suggested an enclosed garage would be more desirable.

Shacklett noted that the applicant could construct a detached garage in the same location, which would not require a 25-foot setback since a detached structure is only required an 18-inch rear setback along the alley. However, the applicant decided that would not be ideal because it would leave a narrow gap between the house and detached garage and the applicant felt that would create a maintenance issue and a possible safety hazard.

Shacklett concluded his presentation by stating staff had not received any correspondence on the case and it was staff's opinion that a property hardship did not exist. He added that the applicant was claiming a hardship existed because the conversion did not allow an attached garage to be constructed without removing usable living area.

No questions were asked of staff and Walker opened the public hearing.

Minh Nguyen, architect for the project, 11111 Williamsburg Lane, Frisco, Texas and hired by the owner, Tan Huynh, 3557 Annapolis Court, Sachse, presented their case.

Nguyen stated he had met the deadlines set by the City under the Building and Standards action and asked to be granted the variance because the current requirement could affect the health and safety of any child on the property.

Lemons asked where the entry would be from the house to an attached garage.

Nguyen replied the entry door will be on the left hand side.

Arefin asked if the architect considered putting the garage on the opposite side of the house.

Nguyen said they had thought about putting the garage on the southwest corner, but there would be a problem with the turn radius.

Menke mentioned that if the garage was located on the southwest side of the house it would be impacted by the transformer.

Lemons asked if there had been any discussion with the neighbors regarding the variance request.

Nguyen replied that the neighbors had stopped by to encourage them during the repairs of the house, but they had not discussed the garage.

No other comments were received in favor or opposed and Walker closed the public hearing.

Menke stated that in regards to all the options available to the applicant – detached garage on the same location with the same impact, it would be beneficial to all concerned and an attached garage would be better suited for the neighborhood.

Pratt made a motion to grant item number V14-03, as presented, limited to those specifics the applicant presented in the case. The motion was seconded by Lemons and approved 5-0.

There being no further business, the meeting was adjourned at 7:22 p.m.

Mike Walker, Chairman
Zoning Board of Adjustment

Agenda

Item 2

**ZV 14-04:
316 Ridgeview Drive**

ZONING VARIANCE FILE 14-04

Attachments:

1. Notice of Public Hearing
2. Notification List
3. Staff Report
4. Aerial Map
5. Site Plan
6. Site Photos
7. Application
8. Applicant's Statement



Notice of Public Hearing

Zoning Board of Adjustment • Richardson, Texas

An application has been received by the City of Richardson for a:

VARIANCE REQUEST

File No. V 14-04
Property Owner: Mabel Simpson
Applicant: Mabel Simpson
Location: 316 Ridgeview Drive
Current Zoning: R-1500-M Residential
Request: A request by Mabel Simpson, for approval of the following variances to the City of Richardson Comprehensive Zoning Ordinance:

- 1) Article IV, Sec. 4(f)(1)(b), for a 9-foot variance to the 10-foot side setback along the west property line of proposed Lot 2 for an existing windmill (as shown on attached map);
- 2) Article IV, Sec. 4(f)(1)(b), for a 3-foot variance to the 10-foot side setback along the east property line of proposed Lot 2 for a proposed structure (as shown on attached map);
- 3) Article IV, Sec. 4(f)(1)(c), for a 6-foot variance to the 15-foot side setback along the west property line of proposed Lot 1 for an existing pool patio cover to include overhang (as shown on attached map).

The Zoning Board of Adjustment will consider this request at a public hearing on:

WEDNESDAY, FEBRUARY 19, 2014
6:30 p.m.
City Council Chambers
Richardson City Hall, 411 W. Arapaho Road
Richardson, Texas

This notice has been sent to all owners of real property within 200 feet of the request; as such ownership appears on the last approved city tax roll.

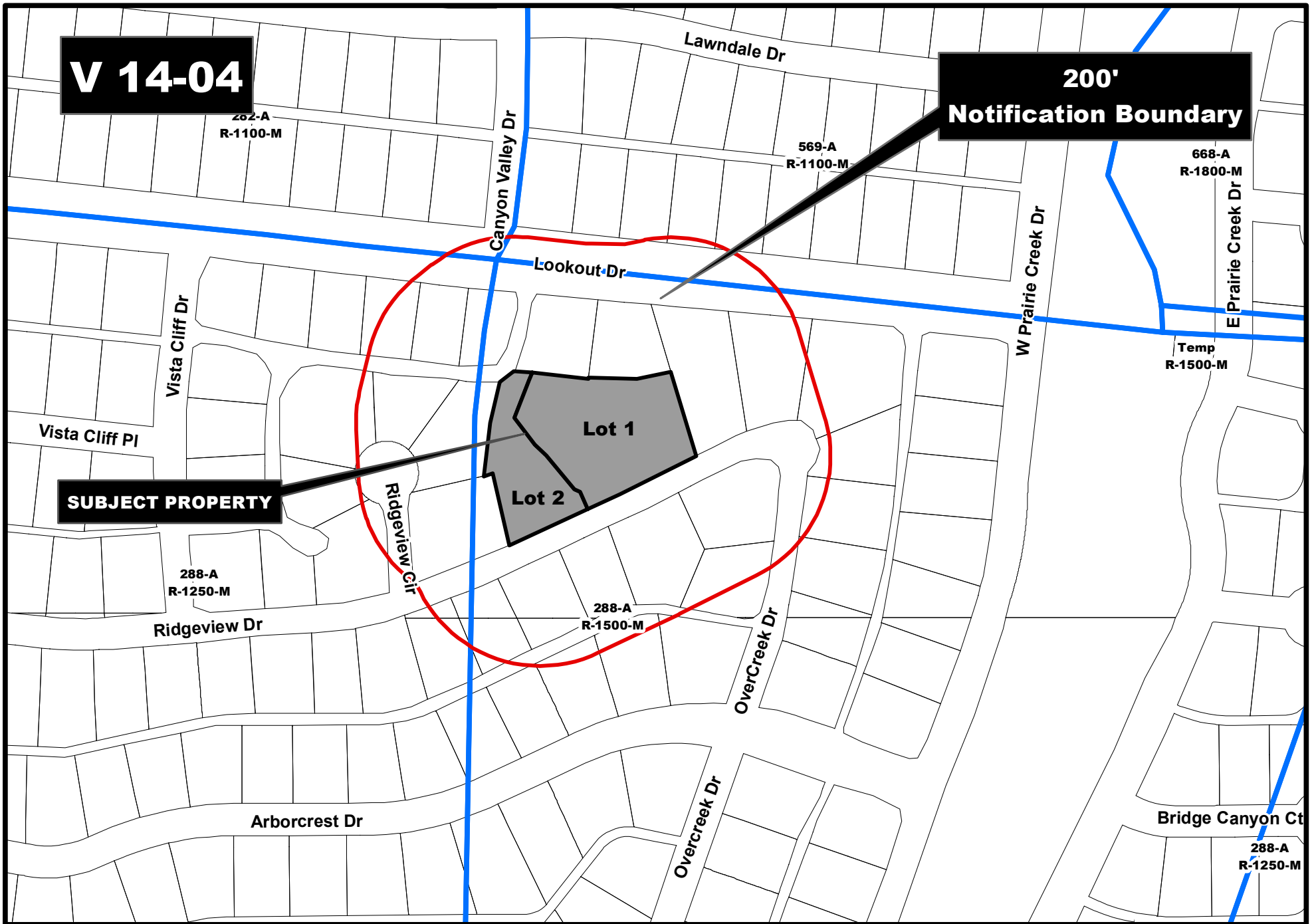
Process for Public Input: A maximum of 15 minutes will be allocated to the applicant and to those in favor of the request for purposes of addressing the Zoning Board of Adjustment. A maximum of 15 minutes will also be allocated to those in opposition to the request. Time required to respond to questions by the Zoning Board of Adjustment is excluded from each 15 minute period.

Persons who are unable to attend, but would like their views to be made a part of the public record, may send signed, written comments, referencing the file number above, prior to the date of the hearing to: Dept. of Development Services, PO Box 830309, Richardson, TX 75083.

Agenda: The Zoning Board of Adjustment agenda for this meeting will be posted on the City of Richardson website the Saturday before the public hearing. For a copy of the agenda, please go to: <http://www.cor.net/index.aspx?page=1332>

For additional information, please contact the Dept. of Development Services at 972-744-4240 and reference Variance number V 14-04.

Date Posted and Mailed: February 7, 2014



V 14-04 Notification Map
316 Ridgeview Drive

Updated By: shacklett, Update Date: January 31, 2014
 File: DSI\mapping\Cases\ZV\2014\ZV 1404\ZV 1404 notification.mxd



KANOFF CAROLYN H
314 W LOOKOUT DR
RICHARDSON, TX 75080-1905

NEWMAN MELISSA GRAY
312 W LOOKOUT DR
RICHARDSON, TX 75080-1905

SHEN CHI CHEONG ETUX HELEN
310 W LOOKOUT DR
RICHARDSON, TX 75080-1905

LYNCH ROBERT L JR
321 W LOOKOUT DR
RICHARDSON, TX 75080-1906

CARSON CHARLES RONALD &
CARSON SHARON LOUISE
319 W LOOKOUT DR
RICHARDSON, TX 75080-1906

TANG ALBERT
317 W LOOKOUT DR
RICHARDSON, TX 75080-1906

CROWLEY WM H
315 W LOOKOUT DR
RICHARDSON, TX 75080-1906

WISENBAKER THOMAS R
313 W LOOKOUT DR
RICHARDSON, TX 75080-1906

STEFANI/JACOBS FAMILY REV LIV
STEFANI JERRY A & JACOBS ELIZA
314 RIDGEVIEW DR
RICHARDSON, TX 75080-1910

RIDGEVIEW TRUST #11074085
EQUITY HOLDING CORP - TR
3275 E ROBERTSON BLVD STE B
CHOWCHILLA, CA 93610-7405

GARRISON KENNY & GENA
310 RIDGEVIEW DR
RICHARDSON, TX 75080-1910

ZOCK DANIEL S & CYNTHIA S
4 RIDGEVIEW CIR
RICHARDSON, TX 75080-1909

SIMPSON HUGH D & MABEL M
316 RIDGEVIEW DR
RICHARDSON, TX 75080-1910

TIPTON JAMES
3 RIDGEVIEW CIR
RICHARDSON, TX 75080-1909

OLIVIER ROY &
OLIVIER STEPHANIE R
2 RIDGEVIEW CIR
RICHARDSON, TX 75080-1909

BOGOSLAVSKY ROMAN & MELINDA DA
2508 OVERCREEK DR
RICHARDSON, TX 75080-1915

BURT RICHARD B ETUX MELODY
5 RIDGEVIEW CIR
RICHARDSON, TX 75080-1909

CHOBANY JOHN A ETUX MARIA
2505 OVERCREEK DR
RICHARDSON, TX 75080-1914

DEVOE DANIEL & TAMMIE
1 RIDGEVIEW CIR
RICHARDSON, TX 75080-1909

DAVIS ALBERT M & LEISHA C
304 ARBORCREST DR
RICHARDSON, TX 75080-2601

WONDERS ALAN &
BILLIE WONDERS
2506 OVERCREEK DR
RICHARDSON, TX 75080-1915

SUMMERS KEVIN L &
TAMARA S SUMMERS
309 RIDGEVIEW DR
RICHARDSON, TX 75080-1911

MCCASKEY KALAH M & ABNER E
3416 PROVINE RD
MCKINNEY, TX 75070-3996

HENRY GERALDINE D LIVING TRUST
311 RIDGEVIEW DR
RICHARDSON, TX 75080-1911

LIGHTFOOT JANA
2504 OVERCREEK DR
RICHARDSON, TX 75080-1915

ENOCH KEVIN MICHAEL & TRACY A
2503 OVERCREEK DR
RICHARDSON, TX 75080-1914

DORAN DAVID B ETUX
313 RIDGEVIEW DR
RICHARDSON, TX 75080-1911

WINGATE MARK J ETUX
315 RIDGEVIEW DR
RICHARDSON, TX 75080-1911

KALIVAS WILLIAM ETUX NANETTE
317 RIDGEVIEW DR
RICHARDSON, TX 75080-1911

MILLER CHRISTOPHER B
308 ARBORCREST DR
RICHARDSON, TX 75080-2601

MCGEE T GLEN & JOAN LYNN
310 ARBORCREST DR
RICHARDSON, TX 75080-2601

HEDTKE KENT M & LISA R
317 RIDGEVIEW DR
RICHARDSON, TX 75080-1911

WINGATE MARK JULIAN &
LISA MCMINN
315 RIDGEVIEW DR
RICHARDSON, TX 75080-1911

DORAN DAVID BRUCE &
MILDRED B
313 RIDGEVIEW DR
RICHARDSON, TX 75080-1911

HENRY-PINCH GERALDINE D
311 RIDGEVIEW DR
RICHARDSON, TX 75080-1911

OAKE ROBERT G
306 ARBORCREST DR
RICHARDSON, TX 75080-2601

V 14-04
Notification List



Staff Report

ZBA Meeting Date: February 19, 2014

TO: Zoning Board of Adjustment
FROM: Chris Shacklett, Senior Planner *CS*
DATE: February 10, 2014
RE: V 14-04
APPLICANT: Mabel Simpson
OWNER: Mabel Simpson
LOCATION: 316 Ridgeview Drive

REQUESTED VARIANCES:

- 1) 9-foot variance to the 10-foot side yard setback along the west property line of proposed Lot 2 for an existing windmill (Article IV, Sec. 4(f)(1)(b))
- 2) 3-foot variance to the 10-foot side yard setback along the east property line of proposed Lot 2 for a proposed structure (Article IV, Sec. 4(f)(1)(b))
- 3) 6-foot variance to the 15-foot side yard setback along the west property line of proposed Lot 1 for an existing pool patio cover to include overhang (Article IV, Sec. 4(f)(1)(c))

EXISTING ZONING:

R-1500-M Residential

EXISTING LAND USE:

Residential

SURROUNDING LAND USE:

Residential

STAFF COMMENTS:

The subject property is a 1.27-acre site that was developed in 1939 with the existing house and windmill shown on the site plan. The associated farm is now developed as part

of the Canyon Creek neighborhood, platted as Canyon Park Estates Second Section. In 1991, a 0.065-acre tract of the site was sold to the owners of Lot 17, Block E as shown on the attached site plan. The sale of this tract was done by metes and bounds and was not subdivided by a plat as required by the City. The current owners purchased the property in 1998 (did not include the 0.065-acre tract). The subject property also received variances for fence height and location from the Fence Board of Adjustment in 1998 and 1999 related to the existing fence in the front yard.

The homeowners plan to subdivide the lot into two (2) lots as shown on the site plan. Proposed Lot 1 would remain as shown on the site plan and would be sold, but the owners plan to construct a new home on Proposed Lot 2, which they would occupy. Since the homeowner is subdividing the tract, the lot and structures are required to comply with the City's Comprehensive Zoning Ordinance and Subdivision and Development Code. Two (2) of the requested zoning variances are required to address the non-conforming setback locations of existing structures. The third variance is requested to increase the allowable area of proposed Lot 2 in which a structure can be built.

Based on the City's zoning requirements for setbacks, as updated in 2008, proposed Lot 1 requires 15-foot side yard setbacks (required for lots 120 feet in width or greater), and proposed Lot 2 requires 10-foot side yard setbacks (required for lots 80 feet in width or greater but less than 120 feet in width). Prior to the changes in 2008, all single-family residential lots were required a 7-foot side yard setback regardless of lot width. Since the applicant is subdividing the existing tract, the new lots are subject to the new setback requirements.

Variance Request:

Lot 2

The existing windmill was constructed in 1939 along with the original home. At the time of construction, the windmill was located approximately 17-18 feet from the side property line. Once the 0.065-acre tract was sold to the adjacent lot owner by metes and bounds in 1991, the existing windmill was located approximately 1.4 feet from the side property line. Although the windmill is an existing structure, a variance is required to allow the lot to be subdivided since the windmill is non-conforming in its location. The applicant intends to incorporate the windmill and windmill house into the design of the new home. They do not want to modify the structure because of its historic nature, and because it is still functional and provides water for landscape irrigation.

The applicant's second variance request for a 3-foot variance to the 10-foot side yard setback along the east property line of proposed Lot 2 is to allow additional buildable area for the new home. The proposed lot narrows substantially toward the rear of the lot. The applicant has proposed Lot 2 at a width just under 120 feet to allow for 10-foot yard side setbacks instead of 15-foot side yard setbacks. If the applicant were to widen the lot, the side yard setbacks would increase and the windmill would require a larger variance and the new home would have to be set back even further off the proposed property line. The

applicant has stated the line can be moved further east, but that would create a larger encroachment of the pool patio cover on proposed Lot 1 and would possibly create an encroachment with the structure located to the south of the pool.

Lot 1

The third variance request is for a 6-foot variance to the 15-foot side yard setback for the pool patio cover located along the west property line of proposed Lot 1. The patio cover adjacent to the pool becomes non-conforming as to its location with the proposed platting of the new property line. If the proposed property line were moved more than six (6) feet to the west, the patio cover would not require a variance; however, as stated in the previous paragraph the applicant is attempting to provide as much width as possible on proposed Lot 2 for their new home.

The applicant has stated their hardship related to the location of the windmill is due to the metes and bounds sale of the southwest portion of the tract prior to their purchase. They have stated the windmill is non-conforming today and platting the tract into two (2) lots will not make the structure more non-conforming. Furthermore, it is their desire to incorporate the windmill into the design of the new house and retain it for its historic value.

The applicant states the hardship related to the other variances is related to providing an adequate amount of buildable area on proposed Lot 2 while providing as much setback as possible for the pool patio cover on proposed Lot 1. The owner desires to construct a 1-story home on proposed Lot 2 and states literal enforcement of the 15-foot side yard setback on proposed Lot 1 and the 10-foot side yard setback on proposed Lot 2 causes a hardship in retaining adequate buildable area while also providing the proper setbacks for the existing structures.

TECHNICAL RECOMMENDATION:

Based on the information provided by the applicant, and applicable codes and ordinances, it is staff's opinion that a property hardship exists with regard to the setback encroachment by the windmill since the encroachment was created by the previous owner and will remain if the variance is not approved. It appears the other two (2) variance requests are self-imposed due to the creation of two (2) lots.



V 14-04

SUBJECT PROPERTY

Lot 1

Lot 2

V 14-04 Aerial Map
316 Ridgeview Drive

Updated By: shacklett, Update Date: January 31, 2014
File: DSI\mapping\Cases\ZV\2014\ZV 1404\ZV 1404 ortho.mxd



PROPERTY DESCRIPTION

Being a tract of land situated in the Richard Copeland Survey, Abstract No. 1618 in the City of Richardson, Collin County, Texas, same being conveyed to Hugh D. Simpson and Mabel M. Simpson by deed recorded in Volume 4229, Page 1699, Deed Records, Collin County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron rod found for corner in the Northwest R.O.W. line of Ridgeview Drive (a 50' R.O.W.), said iron rod being the Southwest corner of Lot 8, Block E of Canyon Park Estates, Second Section, an addition to the City of Richardson, Texas, according to the map or plat thereof recorded in Volume 6, Page 2-A, Map Records, Collin County, Texas;

THENCE South 64 degrees 57 minutes 50 seconds West, along the said Northwest R.O.W. line of Ridgeview Drive, a distance of 313.90 feet to a 5/8 inch iron rod found for corner at the Southeast corner of a tract of land conveyed to Daniel Devoe and wife, Tammie Devoe, by Deed recorded in Instrument No. 20060511000636540, Deed Records, Collin County, Texas;

THENCE North 13 degrees 27 minutes 07 seconds West, along the most Eastern line of said Devoe tract, a distance of 78.98 feet to a 5/8 inch iron rod found stamped "DCA";

THENCE North 03 degrees 27 minutes 01 seconds West, along said Eastern line of said Devoe tract, a distance of 21.69 feet to a 5/8 inch iron rod found stamped "DCA";

THENCE South 84 degrees 04 minutes 02 seconds West, a distance of 15.73 feet to a 5/8 inch iron rod found for corner, said point being the Southeast corner of Lot 18, Block E of said Canyon Park Estates;

THENCE North 03 degrees 08 minutes 15 seconds East, along the East line of Lot 18, Block E, of said Canyon Park Estates, a distance of 15.11 feet to a 5/8 inch iron rod found for corner, said corner being the beginning of a tangent curve to the right having a central angle of 18 degrees 32 minutes 17 seconds, a radius of 400.00 feet and a chord that bears North 10 degrees 56 minutes 16 seconds East, a chord distance of 128.86 feet;

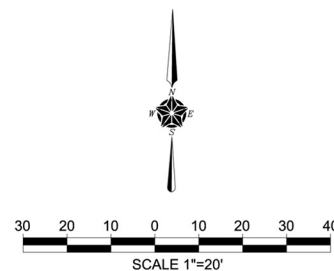
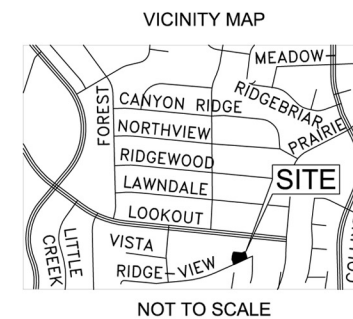
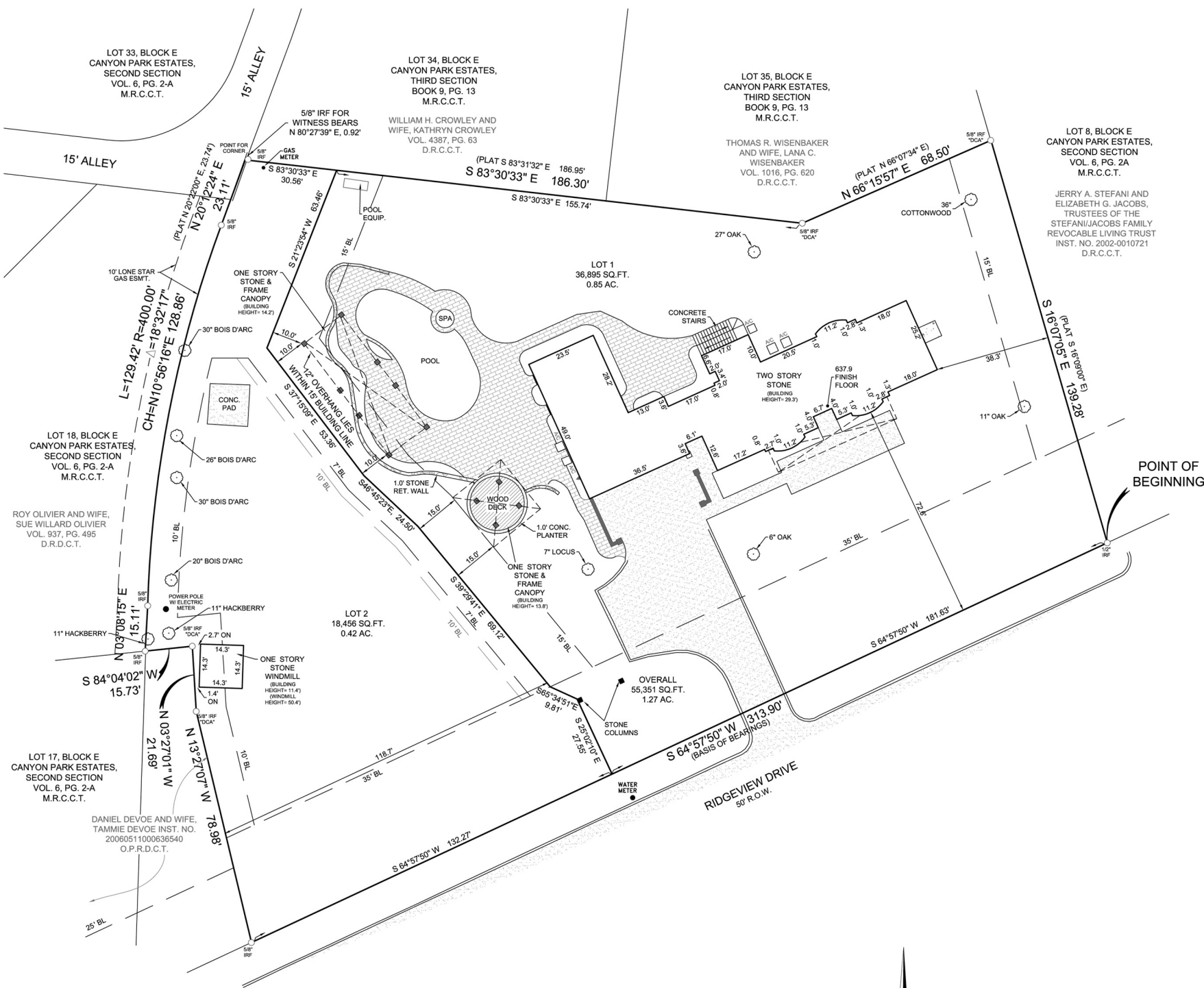
THENCE along said curve to the right, an arc length of 129.42 feet to a 5/8 inch iron rod found for corner lying in said East line of Lot 18;

THENCE North 20 degrees 12 minutes 24 seconds East, continuing along the East line of said Lot 18, passing the Northeast corner of said Lot 18 at 9.32 feet, continuing a total distance of 23.11 to a point for corner on the East line of a 15 foot alley, said corner also being the southwest corner of Lot 34, Block E of Canyon Park Estates, Third Section, an Addition to the City of Richardson, according to the map or plat thereof recorded in Book 9, Page 13, Map Records, Collin County, Texas;

THENCE South 83 degrees 30 minutes 33 seconds East, along the south line of said Lot 34, a distance of 186.30 feet to a 5/8 inch iron rod found for corner stamped "DCA" in the south line of Lot 35, Block E, of said Canyon Park Estates, Third Section;

THENCE North 66 degrees 15 minutes 57 seconds East, along the southeast line of said Lot 35, a distance of 68.50 feet to a 5/8 inch iron rod found for corner stamped "DCA" at the Southeast corner of said Lot 35 and the Southwest line of said Lot 8;

THENCE South 16 degrees 07 minutes 05 seconds East, along the Southwest line of said Lot 8, a distance of 139.28 feet to the POINT OF BEGINNING and CONTAINING 55,351 square feet or 1.27 acres of land.



REVISIONS		
No.	Revision/Issue	Date
1	Address client comments	01/24/14
2	Address client comments	01/27/14

LEGEND	
HC	HANDICAPPED SPACE
⊙	PARKING SPACE
⊗	IRON ROD FOUND
⊗	IRON ROD SET
⊙	IRON PIPE FOUND
⊗	FENCE POST CORNER
⊗	"X" FOUND / SET
⊙	SANITARY SEWER MANHOLE COVER
⊙	LIGHT POLE
⊙	POWER POLE
■	BRICK COLUMN
AC	AIR CONDITIONING
⊙	FIRE HYDRANT
▲	ELECTRIC METER
///	ASPHALT PAVING
—	CHAIN LINK FENCE
—	WOOD FENCE
—	WIRE FENCE
—	IRON FENCE
—	PIPE FENCE
—	COVERED PORCH, DECK OR CARPORT
—	CONCRETE PAVING
—	GRAVEL/ROCK ROAD OR DRIVE
—	OVERHEAD ELECTRIC SERVICE
—	OVERHEAD POWER LINE
—	SANITARY SEWER LINE

GENERAL NOTES

- 1) Bearings are based on the Northwest right-of-way line of Ridgeview Drive by plat recorded as Canyon Park Estates, Second Section, recorded in Volume 6, Page 2-A, Map Records, Collin County, Texas. (S 64°57'50" W)
- 2) This survey plat has been prepared without benefit of abstract title. Texas Heritage Surveying has not researched the land title records for the existence of easements, restrictive covenants or other encumbrances. Additional matters may be disclosed in the course of a thorough examination of the record title.
- 3) New lot line location is chosen to allow for rear driveway entrance for Lot 2.


TEXAS HERITAGE
 SURVEYING, LLC
 10610 Metric Drive, Suite 124, Dallas, TX 75243
 Office 214-340-9700 Fax 214-340-9710
 txheritage.com

VARIANCE REQUEST
 316 RIDGEVIEW DRIVE
 RICHARDSON, TEXAS 75080
 OUT OF RICHARD COPELAND SURVEY,
 ABSTRACT NO. 1618

Task No.
1400186-1
 Drawn By
CHRIS
 Date
01-22-2014
 Scale
1" = 20'





(1)

Looking Northeast at
Proposed Lot 1



Looking Northwest at
Proposed Lot 2



(3)

Looking South at Existing Windmill



(4)

Looking North along
Proposed Property Line

For Department Use Only

Print Form

Date Received: _____ Fee Paid: _____ Accepted by: _____



Board of Adjustment Variance or Appeal Application City of Richardson, Texas

Development Services Department
411 W. Arapaho Road
Richardson, Texas 75080
Phone 972-744-4260
Fax 972-744-5804

Note: Pre-submittal meeting required with staff before application can be submitted.

Please answer the following pre-qualifying questions:

1. Have you filed an appeal or variance on this property within the last six (6) months?
(If yes, six (6) month waiting period required on same variance for the property.) Yes No
2. Have you applied for a building permit (applicable to residential property only)?
(If no, please speak with the Building Inspection Department prior to submitting the variance request.) Yes No

Applicant Information

Owner Information

Signature

Printed Name

Company Name

Mailing Address

City, State, ZIP

Telephone Number

Fax Number

E-Mail Address

Mabel Simpson

1755 N. Collins Blvd. Ste 105

Richardson, Texas 75080

9727836384

9727832573

msimpson@simpsonlaw.org

Subject Site Information

Address of Subject Property: 316 Ridgeview Drive, Richardson, Texas 75080

Legal Description: See Attached Exhibit "A"

Existing Zoning and Ordinance: Single Family Residential

Requested Variance: a) 9' Variance from 10' Set back for Windmill; b) 3' Variance to 10' East side of Lot 2; c) 6' Variance to 15' side

SB on EAST SIDE of LOT FOR POOL PATIO COVER CS

Submittal Requirements

- ▶ Completed Application Form
- ▶ Completed Board of Adjustment Variance Checklist
- ▶ Building Permit Denial Letter
- ▶ Applicant's Statement (Completely describe the variance you are requesting and give the reason for the hardship and justification for the variance.)
- ▶ Twelve (12) copies of reproducible plans to support the application (fold if 24" x 36").
- ▶ Filing fee = \$250.00

Board of Adjustment Variance Checklist

City of Richardson, Texas

Does a hardship exist? If so, explain below.

Yes No

See Exhibit A

Will literal enforcement of the ordinance result in an unnecessary hardship?
If so, explain below.

Yes No

See Exhibit A

Is the condition unique to the property requesting the variance and not common to other properties in the area? If so, explain below.

Yes No

The property has never been platted, and the subdivision was all around the land, and this lot is one of the most unique in Rich.

Is the need for the variance created by the applicant? If so, explain below.

Yes No

All Three Variances are to allow the Applicants to build a single story home in their neighborhood to occupy as their residence.

Is the hardship only financial? If so, explain below.

Yes No

There are many historical features of the existing lot and it is the desire to incorporate the historical elements into the new lot.

Will granting of the variance be contrary to the public's interests and will it impact the public health, safety, and welfare? If so, explain below.

Yes No

EXHIBIT A to VARIANCE APPLICATION

Three Variances are being requested identified as follows:

- A: 9 foot variance to 10 foot setback of side lot lines for Lot 2, where Windmill house exists
- B: 3 foot variance to 10 foot setback of side lot lines for Lot 2, on East Boundary of new lot line
- C: 6 foot variance to 15 foot setback of side lot lines for Lot 1, where the large Patio Cover exists, which will include the roof overhang less than 12"

Does a Hardship Exist?

A: The windmill exists and was in compliance until 1991, when the applicant's predecessor in title conveyed to the owners' of Lot 17, the adjacent back yard to the Applicant's side yard. Neither the applicant nor Lot 17 owners today, were in title and resulted in an illegal subdivision by those prior owners (and certainly unintentional). This is to bring that into compliance under the current standards within the City. The hardship is both the historic nature of the Windmill house and the fact that vesting of the title has occurred prior in time.

B: With the location of the windmill house, a new single story home will be constructed on the new Lot 2, which will incorporate the historic elements with the new structure and due to the necessity making adjustments to the rear of the lot, the house will need to be moved east closer to the East line of the property to incorporate the windmill house into the ranch type development, as the windmill house is permanent foundation with working well enclosed.

C: The patio structure is also permanent and in order to make the lot more symmetrical the variance is requested with 10 foot off of the narrow back portion of the new Lot 2, if the 7' set back under B cannot be accomplished, maybe we can narrow the Variance in c to 7 and accomplish the same goal, so that no permanent structure which incorporate the historical elements has to be torn down.

Literal Enforcement results in unnecessary hardship:

A: This windmill house would have to be torn down, and that would be unnecessary as it is a functioning water well that irrigates the property, on property that has never been platted.

B: Due to the lot drawn, retaining all elements of the original Farm house and patio structures, the rear of the lot becomes very narrow, and 10' feet on one side and 15' on the Lot 1 side, would incur an encroachment of the other concrete pad, where the water tower originally was. Also, would like for the lot to be wider; however, literal enforcement of 15' setback side lines literal enforcement, would make the viability of the lot more difficult for single story single residence.

C: The patio structure would have to be torn down to obtain a workable solution to Lot 2, if literally enforce, and this is unique as it has never been platted.

Simpsons are seeking to have the 1.2 acre single family residence divided into two separate single family lots called the "Old Hasford Farm".

1939:

The residence is the original farm house of Mr. and Mrs. Hasford, who owned the farm plus the acreage which is now known as the Canyon Creek neighborhood. The home was sold from the Hasfords to William Herbert Hunt Trust Estate and Nelson Bunker Hunt Trust Estate, and the Hunt Trusts collectively platted all the land surrounding the Simpson tract in 1967 and 1973 into Canyon Park Estates Second Section excluding the Old Hasford Farm, now known as the Simpson tract, see plat attached as Exhibit "A".

1978:

Sheldon and Glenda Harrison purchased the Old Hasford Farm.

1991:

The Harrisons, (Grantor to Simpsons), sold .065 acres to Jon Banniser, the owner of Lot 17, Block E of Canyon Park Estates, Second Section, see Exhibit "B", the tract which is adjacent to the Simpson tract, on the side yard behind the windmill house. When the .065 acre tract sale occurred, there was no subdivision requested from the City, or request to add this small piece to Lot 17 Block E of Canyon Park Estates, Second Section.

All subsequent sales of Lot 17 Block E of Canyon Park Estates, Second Section, have two tracts described, Tract I, (being Lot 17 Block E) and Tract II (being the .065 acre tract description by metes and bounds), see Exhibit "C", the deed from Jon Bannister to Mr. Whitwell.

When the sale of .065 acre tract occurred, the fence was installed within 1.2 feet from the historic windmill house and has remained ever since installation, making the windmill house out of compliance with the current City code for setbacks.

1998:

The Simpsons purchased the Old Hasford Farm on July 31, 1998, see attached Exhibit "D". Nothing was disclosed as to the non compliant set back with regard to the fence and the historic windmill house. When the Simpsons made the improvements to the house, and installed the fence, the portion behind the windmill house was put in the exact same spot as the old fence, as indicated on the fence permit, granted by the City.

2014:

The Simpsons wish to subdivide the Old Hasford Farm into two adjacent tracts of land to build another single family residence. In making the application, the Simpsons' want to bring the lots into compliance with regard to those things identified herein that existed prior in time to their ownership, including the set back from the property line of the historic windmill house (Variance requested), and the side lot lines of the new lot requested which will not be configured at right angles to the tangent street lines due to the preservation of the historic windmill house and the covered patio by the pool, which are both either original structures or improved structures of the Old Hasford Farm, (Variance requested), as well as the side lot lines which are at different angles to the rear of the new tract. Also all garage entries on the north side of Ridgeview Drive between

Ridgeview Circle and Overcreek are front entry, and Simpsons will request the new tract to have rear entry to the alley.

The variances are requested as follows:

1. Side lot lines for single family residential lots to be configured at right angles to tangent street lines.
2. Set back between structure and property line – Windmill house
3. Rear access for garage entry to alley

It would create a hardship to tear down the historic structures to bring this tract into compliance, as the Old Hasford Farm owner's constructed the Windmill and the windmill house, and the original covered patio by the pool in 1939. It is the goal to incorporate the historic elements of the original Old Hasford Farm into the new home anticipated on the new tract.

The boundaries anticipated are as shown on the photograph, and the survey, with the Variances indicated on the west and east boundary lines, which are not perpendicular and the windmill house proximity to the fence. It is also the goal to have the .065 acre tract approved as compliant, and part of the Lot 17 of Canyon Park Estates, Second Section.

On the east side of the new tract, the new side lot line will be 10 feet behind the existing rock column structures on each patio cover, which 10' measurement includes the roof overhang which is approximately 12", as shown on the description of the survey notes.

The requests for the variances for the requested platted tract are to bring the tract into compliance while preserving the historic elements of the land, with the windmill house and the improved covered patio by the pool. The windmill is a working windmill maintained by the owners which is used to irrigate the tract, and will continue to be operational. The original patio cover by the pool has been dramatically improved enhancing the original farm house, as per the original permit issued by the City when improvements were made. If the variances were not granted, the windmill house and the covered patio by the pool would have to be torn down and not to mention the challenges to the warranties of title that were given to the Neighbors by their predecessors in title for the small illegally platted portion of the side lot sold. Without this variance the neighbors would be left with a non conforming yard that they had nothing to do with, which is a hardship in itself.

The neighbors adjacent to the Simpson tract are in agreement with the variances requested. The new tract as shown on the survey description is to maximize the area of the lot eligible to construct a single family residence that ties into the windmill house and the Old Hasford Farm house historic elements.

EXHIBITS ATTACHED:

- A Canyon Park Estates Second Section Plat
- B Conveyance Deed for .065 Acres in 1991 (side yard of Simpson Tract)
- C Conveyance Deed for Lot 17 Canyon Park Estates Second Section & .065 Acres as one residence
- D Conveyance Deed to Simpsons
- E Central Appraisal District Collin County EXCEL, for #1 Ridgeview Circle (Devoe's), Lot 17 Block E Canyon Park Estates Second Section

#2 Ridgeview Circle
315 Lookout Drive
F Various shots of layout of new lot