

MINUTES
ZONING BOARD OF ADJUSTMENT
CITY OF RICHARDSON, TEXAS
SEPTEMBER 18, 2013

The Zoning Board of Adjustment met in session at 6:30 p.m. on Wednesday, September 18, 2013 in the Council Chambers, at the City Hall, 411 West Arapaho Road, Richardson, Texas.

MEMBERS PRESENT: Mike Walker, Chair
Larry Menke, Vice Chair
John Veatch, Member
Brian Shuey, Member
Shamsul Arefin, Alternate
Jason Lemons, Alternate

MEMBERS ABSENT: Chip Pratt, Member

CITY STAFF PRESENT: Chris Shacklett, Senior Planner
Cindy Wilson, Administrative Secretary

Mike Walker, Chairman, introduced Chris Shacklett, Senior Planner; and Cindy Wilson, Administrative Secretary, explaining that the City staff serves in an advisory capacity and does not influence any decisions the Board might make. Walker summarized the function, rules, and appeal procedure of the Zoning Board of Adjustment. Walker noted that six members are present and voting will be conducted with Arefin voting in items 1 and 3 and Lemons voting in items 2. Walker added four (4) of the five (5) members present must vote in favor for a request to be approved.

MINUTES:

The Zoning Board of Adjustment minutes of the August 21, 2013 meeting were approved on a motion by Veatch; second by Arefin and a vote of 5-0.

PUBLIC HEARING ON ZBA FILE V 13-11, a request Gavin Essary for approval of the following variance to the City of Richardson Comprehensive Zoning Ordinance: 1) Article VII, Sec. 2(b)(2) for a variance to allow a 100% non-masonry accessory building in excess of 150 square feet at 747 Newberry Drive.

Shacklett commented that the home located on the subject property was constructed in 1957. Shacklett continued that the applicant purchased the home in 2011 and has been remodeling the home since that time. The applicant has stated that during the renovation phase of the project, approximately 110 square feet of additional living space was added to the home. Shacklett added that during the time of remodel, the applicant found out the original brick was no longer available. The applicant had the existing brick removed, cleaned and preserved for later use on the addition. Shacklett reported the applicant now desires to construct a detached woodworking shop at the rear of the property.

Shacklett referred to The Comprehensive Zoning Ordinance that requires accessory buildings in excess of 150 square feet to utilize a minimum of 35% masonry construction. Shacklett stated the applicant is proposing a workshop that is approximately 300 square feet. In addition to the enclosed workshop, an unenclosed, covered parking space will be created. A floor plan was provided for Board Members. Shacklett added that the applicant desires to construct a workshop that is 100% non-masonry for two (2) reasons. First, the proposed workshop, located at the rear of the property, is adjacent to the attached garage, which is currently clad with wood siding on the three (3) sides not adjoining the house. The applicant feels it would be more appropriate to construct a workshop that is aesthetically compatible with the existing structures on the lot. Since the brick used on the home is no longer available (applicant's statement provides brick manufacturer letters supporting this) and the adjacent garage is clad with wood siding, the applicant feels the most appropriate material to use on the workshop is siding.

Secondly, Shacklett continued, the applicant desires to use non-masonry materials due to the workshop's proximity to the rear property line. Shacklett explained that as proposed, the inside dimension is just under fifteen (15) feet which the applicant states is a minimum dimension necessary to adequately position a table saw. Shacklett reported that the applicant states the addition of masonry materials would increase the exterior dimension of the structure, thereby reducing the overall interior dimensions. Shacklett added that the applicant has also stated that if masonry materials were used, they would likely be located on the bottom third of the structure which would not be visible since the structure is located behind a 7-foot privacy fence.

Shacklett informed the Board the applicant has stated the hardship is related to the decreased interior dimension that would be created if 35% masonry construction were required. Further, the applicant feels the requirement for masonry materials would result in an accessory structure that is incompatible with the existing architectural character of the overall property. Shacklett further explained the applicant also states if the interior dimensions were preserved and masonry materials were added to the structure, a rear setback variance would be necessary.

Shacklett delivered the staff technical recommendation in case V 13-11 by stating that 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. Although the proposed accessory building is non-masonry, the applicant's proposal is in response to providing an architecturally compatible building with the existing adjacent structure.

With no questions for staff, Chairman Walker opened the public hearing.

Gavin Essary, 747 Newberry, Richardson, Texas 75080 came forward to present his case. Essary reported that 2.5 years ago he and his wife looked for a new home and found Richardson. Essary stated he and his wife have always wanted a workshop and talked with the City at that time about any restrictions to accessory buildings to be used for workshops. Essary continued that they purchased a home and began a three phase plan to renovate the

property. The first portion was the interior. The second part involved the exterior; outdoor living space, and landscaping. The final phase is the workshop and they hope to complete the project this fall.

Walker asked if the Essarys might turn their woodworking hobby into a home business.

Essary stated workworking is purely a hobby and he plans to keep it that way.

Shuey asked the applicant to provide information about the space above the parking pergola.

Essary stated that the pergola is cedar stained to go with their outdoor kitchen and in an attempt to tie everything together they chose to leave the space open. Essary continued that there will be no roof line, false ceiling or joist, just open space and no opportunity up there for storage.

Lemons asked the applicant about heating or air conditioning for the space.

Essary responded that their plan is to open windows and no other plans have been made at this time. Essary stated there is electricity for that area, but no plumbing and no heating or air conditioning has been requested.

No further comments were made in favor or in opposition and Walker closed the public hearing and invited comments from the Board Members.

Shuey questioned Shacklett about an approximately 1-foot encroachment into the front setback. Shuey stated he wanted to confirm that approving this request would not violate anything else.

Shacklett stated that approval of this request would not result in any violations and explained that this is a detached structure so it does not involve expanding a non-conforming structure.

Veatch expressed that the applicant made a very good case for the variance he is requesting and the request is aided by the fact that matching brick is no longer made. Veatch commended Essary on doing a lot of homework and working to see that his home is in conformance with the other properties in the area.

Veatch made a motion to grant item number V 13-11 as presented, limited to those specifics the applicant presented in the case. The motion was seconded by Menke and approved 5-0.

PUBLIC HEARING ON ZBA FILE V 13-12, a request by Louis T. Broughton for approval of the following variance to the City of Richardson Comprehensive Zoning Ordinance: 1) Article VII, Sec. 4(e)(1) for an 11-foot variance to the platted 30-foot front setback along Woodland Way for the existing structure at 831 Wisteria Way.

Shacklett informed the Board that the existing home was constructed in 1960 and is located at the southeast corner of Wisteria Way and Woodland Way. Shacklett explained that the existing home faces Wisteria Way, and the homes to the south of the subject property face west onto Woodland Way. Shacklett continued that the property was platted with a 30-foot setback along Woodland Way in lieu of a 20-foot setback, which is typical for corner lots, to create a uniform building line. On a close look, it appears the home was originally constructed with an approximate 11-foot encroachment into the 30-foot setback along Woodland Way.

Shacklett noted that the applicant is proposing to construct an addition on the back of the home that will conform to all setback requirements. Shacklett explained when the applicant's plans were submitted for review, the permit application was denied due to the existing 11-foot encroachment. Shacklett reported the City's Comprehensive Zoning Ordinance contains a Non-Conforming Uses section that does not allow a non-conforming structure to be expanded, and without a variance to the front setback requirement, no additions or expansions to the existing structure would be allowed. Shacklett advised the Board there was no correspondence in this case.

Shacklett delivered the staff technical recommendation in case V 13-12 by stating that based on the information provided by the applicant, and applicable codes and ordinances, it is staff's opinion that since the home was originally constructed with an 11-foot encroachment into the platted front setback, that a hardship exists because no additions or expansions can be permitted even if the addition or expansion conforms to all of the regulations in the Comprehensive Zoning Ordinance.

Shacklett continued that without a variance, the structure will remain non-conforming until such time as the portion of the home that encroaches into the front setback is removed or the structure is demolished and reconstructed.

With no questions for staff, Chairman Walker opened the public hearing.

Louis T. Broughton, 6237 Berwyn Lane, Dallas, Texas 75214, came forward to present the case. Broughton stated he sees this as an extreme hardship because no taxable square footage can be added to the property. Broughton added that the property appraisal could be devalued because of it would have to be sold with an encumbrance.

Arefin questioned Broughton as to when the property was purchased.

Broughton responded that the property was purchased in 2009. Broughton continued that the encroachment was not picked up by the surveyor involved. Broughton added that Mr. Albert purchased the property in 2009 thinking that it conformed.

Paul Albert, 831 Wisteria Way, Richardson, Texas 75080 came forward to speak in favor of the case. Albert stated that he wants to add on to the property to increase the size for a larger family. Albert added that he would like to stay in Richardson.

No further comments were made in favor or in opposition. Walker closed the public hearing and invited comments from the Board Members.

Menke commented that this appears to be a reasonable request and the situation is beyond the homeowner's control.

Shuey agreed the encroachment would have to be disclosed as it has been made known.

Lemons added that we do want to promote improvement.

Lemons made a motion to grant item number V 13-12 as presented, limited to those specifics the applicant presented in the case. The motion was seconded by Veatch and approved 5-0.

PUBLIC HEARING ON ZBA FILE SE 13-01, a request by Brian Gross for approval of the following special exception to the City of Richardson Code of Ordinances: 1) Chapter 6, Article IV, Sec. 6-209(3) to allow a 6-foot fence to be located between the front property line and front wall of a building at 420 Bedford Drive.

Shacklett reported that the applicant is requesting a special exception to the City's Fence Ordinance (Chapter 6 of the Code of Ordinances) to allow a fence greater than three (3) feet in height to be built in the front yard. Shacklett clarified the subject home along with several homes on Bedford Drive was constructed with 6-foot fences that extended past the front of the home (approximately four (4) feet for the subject home) and enclosed a patio on the front of the home that leads into a bedroom. Shacklett noted that prior to permit submittal, the applicant removed the fence and brick columns stating the columns had become unstable and were a safety hazard.

Shacklett stated the applicant would have been allowed to repair the fence/columns without having to request a special exception; however, to be classified as "repair", a maximum of 25% of the fence per year can be replaced. In addition, Shacklett noted the applicant is also requesting to extend the fence to the east property line which would require a special exception regardless of whether the existing portion of the fence were being "repaired" or "replaced".

Shacklett specified the applicant's request would not extend the fence any further into the front yard than it was previously located; however, an additional four (4) lineal feet of fence would be located in the front yard. Shacklett explained front setback regulations regarding this block allow for the projection of appendages five (5) feet into the front setback; however, appendages are typically limited to projections such as unenclosed porches, fireplaces or bay windows, but not fences. Shacklett indicated at the time of its

construction, the fence may have been deemed to have been an “appendage” due to its limited location. Shacklett noted that photos were provided that show the subject area prior to the fence removal and the current state where the patio and doors to the bedroom are unenclosed.

Shacklett delivered the staff technical recommendation in case SE 13-01 by stating that based on the information provided by the applicant, and applicable codes and ordinances, it is staff’s opinion that the request is not contrary to public convenience.

Shacklett informed Board Members that one letter of opposition was received in this case; however, it appears the letter is from a property owner with the same situation and his concern was not related to the real request.

Menke asked where this new addition would extend in relation to the previous structure.

Shacklett explained that the fence would be no closer to the front property line.

With no further questions for staff, Chairman Walker opened the public hearing.

Brian Gross, 420 Bedford Drive, Richardson, Texas 75080 came forward to present his case. Gross explained he spoke with the Maples at 427 Bedford Drive. Gross reported that they thought he was going to enclose the entire front yard and they are not in opposition. Gross also noted he had spoken with the McMillians at 417 Bedford Drive and they do not oppose the request.

No further comments were made in favor or in opposition. Walker closed the public hearing and invited comments from the Board Members.

Veatch noted that it seemed the plan is to restore what had been and it is not out of line.

Menke asked if the motion should include a “foot limitation.”

Arefin remarked that it is good to specify our motions.

Arefin made a motion to grant item number SE 13-01 with a condition allowing the fence to extend no further than five (5) feet past the front of the house. The motion was seconded by Shuey and approved 5-0.

There being no further business, the meeting was adjourned at 7:25 p.m.

Larry Menke, Vice Chairman
Zoning Board of Adjustment