

**MINUTES
ZONING BOARD OF ADJUSTMENT
CITY OF RICHARDSON, TEXAS
FEBRUARY 19, 2014**

The Zoning Board of Adjustment met in session at 6:30 p.m. on Thursday, February 19, 2014 in the Council Chambers, at the City Hall, 411 West Arapaho Road, Richardson, Texas.

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

MEMBERS ABSENT: Chip Pratt, Member
John Veatch, 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 two members are absent and all those present will be voting. 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 January 15, 2014 meeting were approved as presented on a motion by Menke; second by Arefin and a vote of 5-0.

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

Shacklett stated 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. Shacklett continued the associated farm is now developed as part of the Canyon Creek neighborhood, platted as Canyon Park Estates Second Section. Shacklett added in 1991, a 0.065-acre tract of the site was sold to the owners

of Lot 17, Block E. Shacklett pointed out the sale of this tract was done by metes and bounds and was not subdivided by a plat as required by the City. Shacklett explained the current owners purchased the property in 1998 (It did not include the 0.065-acre tract). Shacklett reported that 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.

Shacklett explained that the homeowners plan to subdivide the lot into two (2) lots. It was noted by Shacklett that the Proposed Lot 1 would remain as shown on the site plan and would be sold, but that the owners plan to construct a new home on Proposed Lot 2, which they would occupy. Shacklett commented that 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. Shacklett added that 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.

Shacklett stated that 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). Shacklett noted that prior to the changes in 2008; all single-family residential lots were required to have a 7-foot side yard setback regardless of lot width. Shacklett stated that considering the applicant is subdividing the existing tract, the new lots are subject to the new setback requirements.

Variance Request:

Lot 2

Shacklett informed the Board that the existing windmill was constructed in 1939 along with the original home. Shacklett added at the time of construction, the windmill was located approximately 17-18 feet from the side property line. Shacklett explained that 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. Shacklett added that 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 current location. Shacklett reported that the applicant intends to incorporate the windmill and windmill house into the design of the new home. Shacklett noted the owners do not want to modify the structure because of its historic nature, and because it is still functional and provides water for landscape irrigation.

Shacklett identified 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. Shacklett reported the proposed lot narrows substantially toward the rear of the lot. Shacklett noted the applicant has proposed Lot 2 at a width just fewer than 120 feet to allow for 10-foot yard side setbacks instead of 15-foot side yard setbacks. Shacklett pointed out 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 from the proposed property line. Shacklett added 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

Shacklett stated 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. Shacklett indicated the patio cover adjacent to the pool becomes non-conforming as to its location with the proposed platting of the new property line. Shacklett explained if the proposed property line were moved more than nine (9) 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.

Shacklett reported 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. Shacklett commented the applicants have stated the windmill is non-conforming today and platting the tract into two (2) lots will not make the structure more non-conforming. Additionally, Shacklett stated it is their desire to incorporate the windmill into the design of the new house and retain it for its historic value.

Shacklett cited 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. Shacklett reported 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.

Shacklett stated that 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. Shacklett added that it appears the other two (2) variance requests are self-imposed due to the creation of two (2) lots.

Shacklett stated there was one letter in opposition from the resident at 308 Arborcrest who is not in favor of the right angle lot line variance or the split of the historic windmill and home.

Shacklett concluded his presentation by stating that based on the information provided by the applicant, and applicable codes and ordinances, it is staff's opinion that the hardship appears to be self-imposed.

Shacklett confirmed Shuey's statement regarding the variance being solely for the current location of the structures. Shacklett added that this variance is specific to the windmill and the pool patio cover only. Shacklett stressed that any future rebuilding on the site would be allowed only on the exact spot with no allowance for expansion.

Mabel Simpson, 316 Ridgeview, Richardson, Texas came forward to present her case. Simpson commented she is not in favor of the windmill going away. Simpson added that she wants to move into a smaller property next door. Simpson stated their plans will incorporate the windmill into their single-story design.

Simpson responded to Menke that their new single story home will be no larger than 3,500 square feet. Simpson continued saying their purpose is to downsize; Simpson added that they have preventive maintenance done for all their property regularly.

Menke asked about the possibility of adding to the variance a one-story structure restriction. Simpson offered that she would hesitate to hinder the sale of the property by adding restrictions regarding the height of the structure.

Arefin asked how storm water drainage would be managed.

Shacklett stated that all aspects of the project will be required to meet regulations.

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

Menke mentioned his concern regarding a structure over one-story in height and added he could see it both ways.

Walker and Lemons agreed that because this is an entirely new building they see no issues in the near future. They added that this is a desirable area and there is no doubt that the new structure will be outstanding.

Arefin stated his agreement.

With no other comments or questions, Chairman Hand called for a motion.

Menke made a motion to grant item number V 14-04 (1) as presented, limited to those specifics the applicant presented in the case. The motion was seconded by Arefin and approved 5-0.

- 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;

Lemons made a motion to grant item number V 14-04 as presented, limited to those specifics the applicant presented in the case. The motion was seconded by Shuey and approved 5-0.

- 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;

Shuey made a motion to grant item number V 14-04 as presented, limited to those specifics the applicant presented in the case. The motion was seconded by Lemons and approved 5-0.

- 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.

There being no further business, the meeting was adjourned at 7:05 p.m.

Mike Walker, Chairman
Zoning Board of Adjustment