

**MINUTES
ZONING BOARD OF ADJUSTMENT
CITY OF RICHARDSON, TEXAS
APRIL 20, 2016**

The Zoning Board of Adjustment met in session at 6:30 p.m. on Wednesday, April 20, 2016, 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
Chip Pratt, Member
John Veatch, Member
Jason Lemons, Alternate

MEMBERS ABSENT: Shamsul Arefin, Alternate

CITY STAFF PRESENT: Mohamed Bireima, Planner
Sam Chavez, Asst. Director Development Services
Dana Slechta, Administrative Secretary

Opening comments: Chairman Walker introduced City staff and explained the staff serves in an advisory capacity and does not influence any decisions the Board might make. Mr. Walker summarized the function, rules, and appeal procedure of the Zoning Board of Adjustment.

1. MINUTES: FEBRUARY 17, 2016

Motion: Mr. Veatch made a motion to approve the minutes from February 17, 2016 as presented; second by Mr. Shuey. Motion approved 5-0.

2. PUBLIC HEARING ON ZBA FILE V 16-03: A request by Jeff Stegich for approval of the following variance to the City of Richardson Comprehensive Zoning Ordinance: Article IV, Sec. 4(g), to amend a 4' variance to the 25' rear setback approved in 1986 by removing the condition prohibiting a driveway in the front yard. The property is located at 2401 Grandview Drive.

Mr. Bireima stated Variance 16-03 was a request by Jeff Stegich to remove the condition prohibiting a driveway in the front yard which was attached to a previously granted variance allowing a 4-foot variance to the required 25-foot rear setback for a rear-entry garage. Property owners within 200 feet of the subject property were mailed a notice of the public hearing as required by State Law. To date, no correspondence has been received regarding this request.

Mr. Bireima stated the subject home was built in 1968. The property received approval of a 4-foot variance to the required 25-foot rear setback in 1986 which allowed a rear entry garage to be built 4-foot into the rear setback. The board attached a condition that required the existing driveway on Grandview Drive to be removed. The rear-entry garage was constructed at that time and the driveway in the front yard was removed.

The applicant was requesting to amend the previous variance to remove the condition to allow for the construction of a driveway for a front entry one-car garage to be built on the east side of the house and to use shrubs to screen the parking pad from street view.

Mr. Bireima cited zoning regulations allow a driveway to be constructed in the front yard in conjunction with a front-entry garage; however, due to the previous condition from 1986, staff felt amending the variance was necessary prior to issuing a permit for the front entry garage.

Mr. Bireima concluded his presentation by stating a physical hardship does not exist.

With no further questions of staff, Mr. Walker opened the public meeting.

Mr. Brian Karch, 2401 Grandview Drive, stated they purchased the property in the second half of 2015 and was unaware of the variance that was obtained by the former owner and the serious problems this had created. The applicant stated they are a family of five with three elementary school aged children and two large vehicles. The current driveway is too short, making it difficult to maneuver or park two large vehicles in this area. Therefore, one vehicle was parked in the street, which caused concern for his children's safety when entering and exiting the vehicle. Mr. Karch stated the driveway would allow for him to move the vehicle from the street and provide more safety in loading and unloading his children and the garage would provide security and protection for the vehicle.

Mr. Walker asked the board if they had any question for the applicant.

Mr. Pratt asked the applicant if he had researched or was aware of the deed restrictions that prohibits a front-entry garage in the development, and asked city staff to address the board's role in respect to enforcing a deed restriction.

Mr. Karch replied he was not aware of the issue or what the deed restrictions were in the area and would need to ask Mr. Stegich since he was the contractor.

Mr. Chavez stated the city does not enforce deed restrictions as it represents an agreement between the HOA and the property owners.

Mr. Veatch asked the applicant if he had received any written approval from the neighbors.

Mr. Karch stated he had not received written approval, but the neighbors did receive the notification and were in favor of the construction.

Mr. Shuey asked why the driveway was not extended around to the north side of the street.

Mr. Karch replied they wanted to be able to turn around and allow for more vehicles in the driveway when their children reached driving age.

Mr. Pratt asked why the driveway did not extend back to the existing garage.

Mr. Karch replied that there was a bedroom on the ground floor where the proposed garage was going to be built, and they would need to allow for a window on that side.

Mr. Shuey asked if the chimney would be left in place.

Mr. Karch replied that the chimney would be removed because the house has two fireplaces.

Mr. Shuey asked if the roof line would match the same as the existing garage.

Mr. Karch replied he has not seen the actual drawing of the roof line, but that the house was a two-story structure.

Mr. Walker clarified whether the height of the garage would match the height of the roof.

Mr. Karch said that a second story may be built over the garage to extend a living space.

Mr. Pratt asked the applicant if there was brick available to match the current masonry.

Mr. Karch replied that matching brick was available.

Mr. Veatch asked if City staff would provide some insight regarding the deed restriction and if there would be any ramifications if the board was to grant the variance.

Mr. Chavez stated the Board was at no risk. The Board was only considering whether or not to remove the prohibition for a driveway from the previously approved variance. If the Board approves or denies the deletion of the language from the previous variance, the applicant still has to go through Building Inspections for a building permit. If the request met all of the zoning criteria, then a permit would be issued. At that point, it would be up to the property owners in the neighborhood to seek legal action for the violation of a deed restriction, if so desired.

Mr. Shuey asked staff if there were minutes from 1986 that may have discussed the decision to allow the setback variance and to require the removal of the garage and driveway.

Mr. Bireima replied the City has only records for the actions of the meeting from 1986, but no minutes were available.

Mr. Jeff Stegich, 413 Fall Creek, Richardson, TX, stated there have been two (2) remodels and four (4) new homes which were recently built in the neighborhood with front entry garages. Planning did not have an issue with front entry garages.

Mr. Veatch asked if there were any deed restrictions on any of those properties.

Mr. Stegich stated one of the properties was only a block away from Mr. Karch's property and he did not know of any issues with deed restrictions.

Mr. Veatch asked Mr. Stegich if he was aware of the deed restriction on the subject property.

Mr. Stegich replied that there was a deed restriction at one point, but it was never enforced.

Mr. Walker asked if there was anyone in attendance who would like to speak in favor or opposition, and there were none. Mr. Walker closed the public hearing

Mr. Veatch pointed out the request presented was to remove the driveway prohibition not to determine if the homeowner was in violation of the deed restrictions.

Board members discussed concerns about deed restriction, enforcement, landscaping, building materials and the design of the driveway.

Motion: Mr. Veatch made a motion to grant the request on Variance 16-03 as presented, limited to those specifics the applicant presented in the case; Second by Mr. Shuey. The motion failed 3-2 with Mr. Menke and Mr. Pratt in opposition

Board members continued to discuss options with City staff and confirmed the request was to amend the condition in the previous variance which would allow a driveway in the front yard.

Mr. Pratt asked City staff to confirm as Board members; they do not have purview to enforce deed restriction and it would be a civil matter between the homeowner and the HOA.

Mr. Chavez confirmed Mr. Pratt's statement.

Mr. Chavez pointed out that prior to an amendment in 1988 when garages were being converted to living space; it was found, based on public input that the driveways should be removed. This led to the current ordinance requirement for the removal of a driveway from the front yard if it does not lead to a garage.

Motion: Mr. Veatch made a motion to grant the request on V 16-02 as presented, limited to those specifics the applicant presented in the case; second by Mr. Shuey. The motion was approved 4-1, with Mr. Menke in opposition.

There being no further business, the meeting was adjourned at 7:32 p.m.

Mike Walker, Chairman
Zoning Board of Adjustment