

**MINUTES  
ZONING BOARD OF ADJUSTMENT  
CITY OF RICHARDSON, TEXAS  
SEPTEMBER 21, 2016**

The Zoning Board of Adjustment met in session at 6:30 p.m. on Wednesday, September 21, 2016, in the Council Chambers, at the City Hall, 411 West Arapaho Road, Richardson, Texas.

**MEMBERS PRESENT:** Mike Walker, Chair  
Brian Shuey, Member  
Chip Pratt, Member  
John Veatch, Member  
Jason Lemons, Alternate  
Shamsul Arefin, Alternate

**MEMBER ABSENT:** Larry Menke, Vice Chair

**CITY STAFF PRESENT:** Sam Chavez, Asst. Director Development Services – Planning  
Mohamed Bireima, Planner  
Kathy Welp, Executive Secretary  
Dee Pulido, Administrative Clerk

**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 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 procedures of the Zoning Board of Adjustment.

**1. MINUTES: MAY 18, 2016**

**Motion:** Mr. Shuey made a motion to approve the minutes as presented; second by Mr. Lemons. Motion approved 5-0.

- 2. PUBLIC HEARING ON ZBA FILE V 16-10:** A request by George Krajnovic for approval of the following variance to the City of Richardson's Comprehensive Zoning Ordinance: 1) Article XVI-B, Sec. 4(a)(1) for a 15' variance to the required 40' front setback to allow for two (2) wooden pergolas. The property is located at 1402 Blake Drive.

Mr. Bireima introduced the first item noting the property was a day care facility surrounded by residential homes on the north and east, and retail development on the south and west sides. He added the applicant was requesting to add two pergolas to shade the children while they are working in the previously approved botanical garden.

Mr. Pratt asked to clarify if the applicant would be moving the wrought iron fence towards the street and Mr. Bireima replied that was correct and the new fence would be approximately 22 feet from the property line.

With no further questions for staff, the Chairman opened the public hearing and called for the applicant to step forward and give his testimony.

Mr. George Krajnovic, 2204 Cardinal Drive, Plano, Texas, reviewed the process they went through with the City to get permission for the botanical garden, which they use as part of their educational program. He added the proposed pergolas would afford the needed shade when the children were working in the garden and any concerns the Board may have about the pergolas showing over the top of the fence would be addressed by the fact there is a berm and two trees along that side of the property.

Mr. Lemons asked who would construct the pergolas.

Mr. Krajnovic replied they were receiving a grant from Whole Foods and under the terms of the grant it could be a professional construction company or a community involvement project.

Mr. Veatch commented that with the statements by the applicant and the material in the Board's packet, he felt the request was reasonable.

Mr. Shuey stated he thought the proposed pergolas would be aesthetically pleasing and would be good for the children.

Mr. Arefin asked if the item was approved and the fence was moved, would it put the children too close to the street.

Mr. Krajnovic replied the fence would be located in the area of the berm and would be approximately 22 feet from the street.

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

Mr. Shuey asked if any letters in opposition had been submitted and Mr. Bireima replied that none had been received.

Mr. Lemons said he agreed with Mr. Veatch and Mr. Shuey and thought it would be an asset to the children.

Mr. Pratt asked if the variance should be attached to the current use of the property.

Mr. Shuey said he would like to see it attached to the current use of the property.

**Motion:** Mr. Lemons made a motion to grant the requests listed in Variance 16-10 as presented and limiting the approval of those specifics presented in the case and to the current use of the property; second by Mr. Veatch. Motion approved 5-0.

3. **PUBLIC HEARING ON ZBA FILE SE 16-01:** A request by Brent Sturman for approval of a the following special exception to the City of Richardson Fence Ordinance: 1) Chapter 6, Article IV, Sec. 6-209(1), to allow an eleven (11) foot high fence long the rear property line. The property is located at 226 High Brook Drive.

Mr. Bireima stated the applicant was requesting a special exception to allow an eleven (11) foot fence along the rear property line and a portion of the side yard to provide for privacy and block the view from the two-story office development along the north side. He added the Comprehensive Zoning Ordinance (CZO) requires a minimum 150-foot setback for non-residential uses abutting residential areas and there is currently 175 feet from the office building to the subject property including the alley.

In addition, Mr. Bireima noted the City's subdivision and development code requires a 6-foot high masonry wall along the property line of a non-residential use when it abuts a residential area and there is a 6-foot high masonry wall in place.

Mr. Arefin asked if there was any other location in the city where an eleven-foot fence was built in a residential area.

Mr. Bireima replied there were some non-residential properties with taller fences or walls, but no residential properties currently have walls or fences of eleven feet.

Chairman Walker opened the public hearing and asked the applicant to step forward.

Mr. Brent Sturman, 226 High Brook Drive, Richardson, Texas, stated they had recently purchased the home in June 2016 and knew the fence needed to be replaced and thought they would ask for a taller fence to block the view from the office buildings. He added that because of grade changes between the office building and his property, the first and second floors of the office building could see directly into their home.

Mr. Shuey said he thought planting evergreen trees along the fence line in addition to a fence would have the same desired outcome as a taller fence.

Mr. Sturman replied their original intent was to plant trees in some areas, but there was not enough room to plant sufficient foliage to block the view.

Mr. Arefin asked what type of fence would be built and had the applicant taken into consideration how the wind would impact a taller fence.

Mr. Sturman said they planned a board-on-board fence with a molding on top and metal posts. He added there would be 4-foot horizontal boards along the fence to add support to the metal poles.

Mr. Veatch asked if there had been any incidents that prompted the request.

Mr. Sturman said since they had only owned the property since June 2016, he was not aware of any incidents, and acknowledged he did not know of any eleven-foot residential fences.

Mr. Shuey asked if a retaining wall could be added with an 8-foot fence on top.

Mr. Sturman replied that was part of his original request, but was told by staff that was not acceptable.

Mr. Pratt asked to confirm if the current fence was six feet and noted that two additional feet could be added and still stay within the code.

Mr. Sturman concurred that an 8-foot fence would block the view from the first story of the office building, but would not help with the view from the second story.

Mr. Arefin asked staff he could add vegetation to the top of the fence to help with screening.

Mr. Bireima replied that trees or shrubs could be planted next to an 8-foot fence that could grow taller than the fence, but the fence would have to remain at 8 feet.

Mr. Sturman acknowledged that vegetation could be planted behind the fence, but there was not enough room on the outside of the fence for plants to block the view.

Mr. Veatch asked if the applicant had taken into consideration the impact of an eleven-foot fence on the surrounding neighbors.

Mr. Sturman said he had spoken to one of his neighbors and they were curious as to the outcome of the Board's decision. He also pointed out that the only property that would really be visually impacted would be the commercial property with the office buildings.

Mr. Arefin asked the applicant if he had thought about the fact that there could be single family, two-story home behind him that could have the same views into his backyard.

Mr. Sturman said if there was a single-family property that would be different, but with an office building there are people in the building at all times of the day and night

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

Mr. Shuey thanked the applicant for his presentation and for moving into Richardson, but did not think an eleven-foot fence was not compatible with other properties throughout the city.

Mr. Arefin said he understood the need to protect their home and privacy, but felt the proposed eleven-foot fence was not acceptable.

Mr. Lemons stated the Board was charged with considering the consequences of the actions taken, whether intended or unintended, and setting precedence by allowing an eleven-foot fence could be seen as unusual. He also wanted to know what process the applicant should follow if he was to construct an eight-foot fence.

Mr. Bireima replied that the applicant would apply for a permit for an eight-foot fence, which was allowed by the code.

Mr. Arefin asked if the applicant had to request a variance to build a structure to cover or shade the pool area.

Mr. Bireima said the applicant only needed a permit from the Building Inspection Department at the City.

**Motion:** Mr. Shuey made a motion to deny the request listed in SE 16-01; second by Mr. Veatch. Motion approved 5-0.

4. **PUBLIC HEARING ON ZBA FILE SE 16-02:** A request by Josh Botts, for approval of the following special exception to the City of Richardson Fence Ordinance: 1) Chapter 6, Article IV, Sec. 6-209(4) to amend the previously granted exception to allow an eight (8) foot high fence along a side property line adjacent to a side street. The property is located at 1219 Comanche Drive.

Mr. Bireima reviewed the previous Special Exception noting a variance had been granted allowing a six-foot high fence to be located at minimum 13 feet from the property line with a 15' x 24' corner clip. He added the applicant was requesting to amend a previous Special Exception in two ways: 1) increase the height of the fence from six feet to eight feet; and 2) alter the location of the fence moving it closer to the side property line to increase the privacy and size of their yard.

With no questions for staff, Chairman Walker opened the public hearing and called for the applicant to present his case.

Mr. Josh, Botts, 1219 Comanche Drive, Richardson, Texas, stated that in 2012 a compromise had been made by the builder of their house with the adjacent property owner to limit the height of the fence as well as the location. He added that now they have been in the home for three years they have realized the shortcomings of the fence height and fence line.

Mr. Botts noted they have three small children and was concerned about privacy and safety with only a six-foot fence, and felt the current fence would not be adequate if they decided to add a pool to their yard. He also noted that another reason to move the fence line was a problem with people walking across the area outside their fence, as well as people letting their animals defecate and destroying what grass was there.

Mr. Botts concluded his presentation by stating he thought theirs was the only home in the neighborhood that had to follow such a restriction and pointed out the property across the street where the fence was within a few feet of the sidewalk.

Chairman Walker asked to confirm if it was just the builder who came before the Board previously and the applicant had not purchased the home as yet.

Mr. Botts confirmed that was correct.

Mr. Shuey asked if the house across the street had a neighboring house where the front yard was perpendicular to the neighboring side yard.

Mr. Botts replied there was an alley behind the house across the street.

Mr. Lemons asked if the applicant had reached out to the neighbors regarding his desire to move the fence.

Mr. Botts said he had reached out to all the neighbors across both streets and they were in favor of the proposal, but had not been successful in contacting the home owner to the south.

Mr. Arefin asked why the neighborhood had not wanted the home to be built and wondered if the applicant had other intentions than those he had initially agreed to when first buying the site.

Mr. Botts said he originally contacted his neighbors to get their buy-in to remove a restriction from 1966 on homes in the area limiting the height to 1.5 stories and during those conversations felt the concerns were based on tearing down an existing home and building a new bigger home that would raise the property taxes in the area.

Mr. Arefin concurred with the applicant that the style of fence did not provide much privacy, whether 6 or 8 feet, and suggested building an 8-foot board-on-board fence.

Mr. Pratt said he felt the Board and the applicant should be sensitive to the other homeowners in the area and asked how the applicant felt about separating the request into two items: 1) change the height of the fence from 6 feet to 8 feet; and 2) change the location of the fence line.

Mr. Botts said he would like to have the Board favorably consider both aspects of his request, but did not have any concerns with separating the request into two items.

Mr. Paul Rakofsky, 1209 Glen Cove Drive, Richardson, Texas, said he thought that because of the placement of Mr. Botts' home on the lot, an 8-foot fence would greatly affect the market value of his home and the home directly to the south. He added that an 8-foot fence could also have an adverse impact on traffic leaving Comanche and entering Glen Cove Drive.

Chairman Walker asked if there was a stop sign at Comanche and Glen Cove and Mr. Rakofsky replied there a sign at the southeast corner of where those streets intersect.

Mr. Pratt noted that during the original request to build the home, the Board took into consideration the line of sight for traffic and asked the speaker his thoughts on separating the request into two items.

Mr. Rakofsky said it would be more aesthetically appealing to the look of the neighborhood if the homeowner added shrubs that would grow higher than the 6 foot fence and make up the difference.

Mr. Arefin asked staff if the traffic department had reviewed the request to bring the fence out to the property line.

Mr. Bireima replied that since there was a stop sign at the intersection, the vehicle would have full line of sight in both directions.

Mr. Rakofsky disagreed and pointed out there was a curve to the road that would restrict the line of sight.

Mr. Pratt noted that in the intersection photograph there did not appear to be a stop sign.

Ms. Susan Page, 3679 Honey Creek Drive, McKinney, Texas, said she was the daughter of the elderly homeowner who lives directly south of Mr. Botts' home and acknowledged Mr. Botts' tried to contact her but did not have the correct phone number. She added that she did not think she had received notification of the requested variance from the City.

Ms. Page submitted pictures she took from her mother's window stating it was not possible to see into the windows of the Botts' home. In addition, she noted there was an 8-foot fence towards the back of the yard near the driveway on Mr. Botts' property, which had been agreed to in the original discussions.

Mr. Shuey asked if the speaker was opposed to moving the fence closer to the street or opposed to having an 8-foot fence at the current location.

Ms. Page said they would be willing to compromise, but definitely did not want the fence line moved closer to the sidewalk under any circumstances.

Mr. Lemons asked if the speaker thought if more time was available to negotiate would it be beneficial and Ms. Page said she did not think that would change her or her mother's position.

Mr. Shuey asked if the home that was torn down was facing the same direction as the new home and Ms. Page replied that it was, but there was a driveway off Glen Cove Drive that was between the two properties.

With no further comments in favor or opposed, Chairman Walker closed the public hearing.

Mr. Veatch asked for clarification on what actions the Board could take as it pertained to a compromise between what was originally proposed and what was suggested in the meeting.

Mr. Bireima replied that it was reasonable and acceptable to separate the height of the fence and its location, which could be handled in one motion.

Mr. Chavez stated the Board was being asked to grant a variance to move the fence from the current location out to the sidewalk, not the height of the fence because the height was originally a compromise to allow the fence to encroach over the building line.

Mr. Lemons asked if there was an option to table the item to give the applicant and the neighbors time to negotiate and Mr. Chavez said the item could be continued.

Chairman Walker reminded the Board about past comments regarding changes happening in Richardson and although some would like to limit those types of changes, there is always the possibility that some time in the future the house on Glen Cove Drive could be sold and torn down with a new owner building a house similar in size to Mr. Botts.

Mr. Pratt read from the requested variance noting the request already had two parts: 1) to allow an exception to allow an 8-foot high fence; and 2) allow the location to be along the side property line adjacent to the street. He thought a motion could be made to allow the 8-foot fence while disallowing the move to the property line.

Mr. Chavez replied that motion would be appropriate.

Mr. Lemons pointed out the property in question was novel and different from those in the neighborhood, and it appears that there was a compromise between the builder and neighbors to reach a compromise. He thought if there were areas for compromise the Board should allow that to happen.

Mr. Arefin reminded the Board they were not making a decision for a specific person but rather for the good of the neighborhood and the city. He also thought separating the two items was a good idea.

Mr. Lemons reiterated his position that tabling the item would allow the parties to further negotiate.

Chairman Walker pointed out that the applicant had made the effort to speak with sixty-six of his neighbors, lived in the house for four years, and there were only two neighbors speaking in opposition.

Mr. Pratt stated that because of the position of the two homes in question, an 8-foot fence would not take away any sunlight from the property.

**Motion:** Mr. Pratt made a motion stating that literal enforcement of the ordinance would result in an unnecessary hardship with respect to allowing an 8-foot exception to the 6-foot fence height; however, a motion is made to deny the request to allow the placement of the fence along the property line; second by Mr. Veatch. Approved 4-1 with Mr. Shuey opposed.

There being no further business, the meeting was adjourned at 8:08 p.m.

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Mike Walker, Chairman  
Zoning Board of Adjustment