

MINUTES OF A MEETING OF THE BOARD OF ADJUSTMENT OF THE TOWN OF HIGHLAND PARK, TEXAS, HELD REMOTELY THROUGH VIDEO/TELECONFERENCE, ON WEDNESDAY, FEBRUARY 10, 2021, AT 8:30 A.M. TO CONSIDER A REQUEST FROM THE PROPERTY OWNER OF 4433 BORDEAUX AVENUE TO CONSTRUCT A ONE-STORY ADDITION TO THE EXISTING RESIDENCE EXTENDING INTO THE REAR YARD BEHIND THE FACE OF AN EXISTING ACCESSORY BUILDING.

Present at the meeting were: Chuck Reeder, Chairman and Board Members Joan Clark, Stacey Furst, Steve Swenson, and Alternate Board Member Cynthia Beaird. Board Member Don Snell was present in the audience.

Chairman Chuck Reeder called the meeting to order and introduced the members of the Board, Mr. Pender, and the Town's Attorney Matthew Boyle. Chairman Reeder explained the procedure the Board would follow in considering the request. He explained that for any request to be approved, an affirmative vote from at least four (4) members is required. He stated because of the COVID-19 pandemic, and social distancing orders, and in accordance with an order from the Office of the Governor issued on March 16, 2020, this meeting is being conducted and heard through a remote video/teleconference call.

Matthew Boyle, Town Attorney, described the case being considered. The property owner applied for a permit to construct a one-story addition to the existing residence. The new addition would extend into the area defined as the rear yard, behind the face of an existing accessory building. The Town Zoning Ordinance requires accessory buildings to be in the area defined as the rear yard. Granting this permit would create a non-conforming accessory building, therefore the building application was denied.

Mr. Boyle continued the presentation showing the existing survey, proposed site plan, proposed plans and elevations which highlighted the portion of the main residence that extends into the rear yard. This portion of the structure extends roughly eighteen feet (18') into the rear yard, creating a non-conforming accessory building on the property. Section 12-101 (1) of the Town's Zoning Ordinance states that detached accessory buildings shall be located in the area defined as the rear yard. The applicant is seeking a variance to construct a one-story addition to the residence which would extend past the existing accessory building into the rear yard.

Mr. Boyle stated that the requisite notice of the meeting was mailed to property owners located within two hundred feet (200') of the subject property on January 20, 2021, published in the Daily Commercial Record on February 4, 2021, and the agenda was posted on the bulletin boards at Town Hall on February 5, 2021.

Chairman Reeder asked for questions and/or comments for Mr. Boyle from the Board Members.

Steve Swenson asked what determines the rear setback.

Mr. Boyle said the accessory building determines the rear setback.

Steve Swenson asked if the proposed addition would be acceptable if the accessory building was set back further.

Mr. Boyle responded in the affirmative.

Chairman Reeder asked if there are other limitations other than the existing accessory building.

Mr. Boyle responded that the typical ten feet (10') setback applies for the main residence.

Chairman Reeder asked if the addition could go back to the setback if the accessory building was ignored.

Hugh Pender, Director of Development Services, explained that a coverage limitation also applies. Absent of the accessory building, the main residence could continue to the rear ten feet (10') setback. The rear yard is determined once a house is placed on the property. This affects where an accessory building can be built.

Chairman Reeder asked if there are any other limitations.

Mr. Pender replied that there are some height limitations, but for this case, it is the extension into the rear yard.

Steve Swenson asked how tall the wall is in the alley.

James Hallam, 4433 Bordeaux, said the wall is six feet (6') tall.

Next, Chairman Reeder asked if the applicant would like to address the Board or make a presentation.

James Hallam explained that he is a native Dallas resident, has lived in Highland Park most of his life, and is sensitive of the neighbors and neighborhood. The house he purchased was constructed in 1929 and his intent is to keep it authentic. He would like to keep the original house without compromising it. He feels that his proposal is modest, and he hopes everyone else sees it the same way. He said that Richard Davis is on the call, as well as Nik Goodnight, and Colby Craig. Neighbors were also invited to join the call.

Richard Davis, Architect, claimed that the concept of having the accessory building behind the main house is dated. He said this was practical when houses that resembled boxes were placed in the front, while accessory structures were placed in the back. The wording in this ordinance prohibits the construction of an L-shaped house. He mentioned that he has been involved in three (3) previous Board of Adjustment meetings regarding accessory buildings. Two (2) out of the three (3) variance cases were granted in his favor. They do not want a new accessory building; they are only trying to build a minor extension past the accessory building. He said that he believes the language of the ordinance is a hardship since the house was purchased with the existing accessory building. The proposed addition is one-story with nine feet (9') eaves off the ground. They are doing ten feet (10') ceiling heights with ten feet (10') high wall plates. The neighbor to the east has a two-story wing that extends to the rear. That portion of the house has windows looking down into his clients rear yard. He stated that he understands that a hardship is reason for approval. He believes his clients purchased the property with an accessory building in close proximity to the house; that is the hardship in his opinion. He finished by stating that the addition he is proposing is modest and falls into compliance other than extending behind the accessory building, and that section 12-101 (1) in the Highland Park Town Zoning Ordinance is dated and should be removed.

Mr. Hallam stated that he is sensitive to the neighborhood and construction would not last more than four months.

Chairman Reeder asked if the Board is bound by past case decisions.

Mr. Boyle stated each case is separate and heard on its own merit.

Mr. Davis stated he wanted to mention that the Board of Adjustment did give approval on accessory building variances in the past.

Chairman Reeder stated the Town Council is the body that makes the code for Highland Park and the Board of Adjustment is the body that can waive those requirements in certain circumstances.

Mr. Davis said he understands but also believes the current Zoning Ordinance should be revised.

Chairman Reeder asked if anyone on the Board had questions or comments.

Steve Swenson asked about any potential privacy issues with neighbors.

Mr. Hallam said the east side has an eight feet (8') tall fence.

Mr. Goodnight said the neighbor to the east has a driveway where the proposed addition will be.

Chairman Reeder asked if any letters of support were received to which Mr. Boyle responded in the negative.

Chairman Reeder asked if anyone in the audience or on the call would like to speak in support to the proposal.

Robert Hallam, 4437 Bordeaux, said that he is James' uncle and neighbor. He said he has no objection with the proposal and is good with it all the way.

Chairman Reeder asked if the addition is on the east side.

Mr. Davis responded in the affirmative.

Chairman Reeder asked Mr. Boyle if any correspondence had been received in opposition of this request, to which Mr. Boyle replied in the negative.

Chairman Reeder asked if anyone in the audience or on the call wanted to speak in opposition to the request.

Mark Kovac, 4425 Bordeaux, said he is not speaking in opposition, but did want to raise some concerns and issues with the proposed addition. He stated he is not a technical person but would like to know the height of the proposed roof.

Mr. Davis explained the top of the wall is ten feet (10') tall with a low pitch roof. He also said the height of the new roof will not be higher than the existing roof and it will be a small addition compared to what Mr. Kovac has constructed along that property line.

Mr. Kovac asked what the exact height of the new roof will be.

Mr. Goodnight responded seventeen feet (17').

Mr. Kovac asked if his house is out of code.

Mr. Davis said he did not imply that his house is out of code. He stated that there is a two-story wing that extends into the backyard and allows for viewing into Mr. Hallam's backyard. It may be a factor to empathize with our proposed one-story wing addition which abides by all ordinances except that it extends past the existing accessory building.

Mr. Kovac stated that he is trying to have a good relationship with his neighbor and wants to get a good understanding of the proposed addition. He said he is not thrilled with the addition but would be more acceptable of the addition if some landscape screening were included. He explained that he is been living at his house since 2012 and had to deal with a recent remodel/addition that was done at that property last year by Colby Craig. That is the construction baseline he is going off because the addition was jarring since it came much closer to his house than what was existing prior to the remodel. His immediate thought was to add magnolias to the current proposed plan. He stated he would work with Mr. Hallam around that.

Mr. Hallam responded that he absolutely could add landscape screening to the proposed addition. He said landscaping is the last part of the process, but it will not be forgotten.

Mr. Kovac said that the existing live oak should be removed along with the landscaping changes.

Mr. Hallam said that the existing live oak will not be removed because it is not in the path of construction. He stated that one live oak was recently removed and this existing one will remain.

Mr. Kovac said that he is flexible regarding the proposed landscaping.

Mr. Hallam responded that they would get to a point where it is mutually beneficial.

Chairman Reeder asked if concerns are solved by screening plants or shrubs between the proposed structure and the property line.

Mr. Kovac responded in the affirmative and said he would like the screening to extend well beyond the existing fence height.

Chairman Reeder asked if he is okay with the addition if a specific height is addressed.

Mr. Kovac responded in the affirmative and said he would be signing off the virtual meeting.

Chairman Reeder asked for additional questions and/or comments from the Board of Adjustment.

Steve Swenson stated he would be for this proposal and asked if they could approve it subject to screening.

Mr. Boyle said that it sounds like Mr. Swenson would like to motion to approve subject to landscaping.

Joan Clark explained that she thinks Mr. Hallam is more than willing to provide screening. The neighbor is expecting a specific height; tall magnolias can add up in cost.

Chairman Reeder stated that he would like to limit the proposed addition to the height and depth shown today, which is around eighteen feet (18') in depth extending into the rear yard.

Cynthia Beard asked if requiring screening sets and neighbor negotiations precedent for future variances.

Chairman Reeder claimed that variances have been approved in the past which described screening.

Mr. Hallam said he recently planted trees, but they will take a few years to develop. He stated he likes that idea of not putting a specific height requirement for the potential trees he will plant.

Mr. Pender said he would prefer more factual criteria regarding the plants to make it clearer.

Chairman Reeder said he does not recall specifying specific plants.

Steve Swenson said it usually is called out as screening.

Mr. Pender said that some flexibility can be allowed by stating a certain tree caliper and height.

Mr. Hallam said he has history with magnolias and that they get damaged easily. He would rather put a sturdier tree there that him and his neighbor Mr. Kovac can talk through.

Joan Clark stated that Mr. Hallam should be able to select the screening type since it is his property.

Mr. Boyle stated the motion to approve the variance is subject and condition to the dimensions and elevations provided in the application. The applicant will be required to install screening trees of three to four (3-4) caliper inches and eight to ten feet (8'-10') in height at installation.

On a motion by Chairman Reeder seconded by Joan Clark the Board of Adjustment voted unanimously to approve a request by James Hallam of 4433 Bordeaux Avenue to amend the Town's Zoning Ordinance to allow a variance to construct a one-story addition to the existing residence limited to the specifications, dimensions, and heights submitted at the time of application plus the addition of screening trees along the eastern property line of at least 3-4 inch caliper in diameter and 8 to 10 feet in height at the time of planting.

On a motion by Stacey Furst, seconded by Cynthia Beard, the Board of Adjustment voted unanimously to adjourn. There being no further business to come before the Board of Adjustment the meeting was adjourned at 9:42 a.m.

APPROVED on this 23rd day of July 2022.

BY:



Chuck Reeder
Chairman

ATTEST:



Hugh Pender
Director of Development Services