

MINUTES OF A MEETING OF THE BOARD OF ADJUSTMENT OF THE TOWN OF HIGHLAND PARK, TEXAS, HELD AT TOWN HALL, 4700 DREXEL DRIVE ON WEDNESDAY, NOVEMBER 9, 2022, AT 8:30 A.M. TO CONSIDER A VARIANCE REQUEST FROM SECTION 13-103(d) OF THE TOWN'S ZONING ORDINANCE TO CONSTRUCT A PORTION OF A SWIMMING POOL IN THE FRONT HALF OF THE LOT LOCATED AT 3801 MAPLEWOOD AVENUE.

Present at the meeting were: Interim Chair Stacey Furst and Board Members, Joan Clark, Alison Hunsicker, Robert McCulloch, Jim Yoder, and Alternate Board Member Nancy Rogers. Absent and excused was Chairman Chuck Reeder.

Interim Chair Furst called the meeting to order and introduced Town staff, Hugh Pender, Director of Development Services. Interim Chair Furst proceeded to explain the procedure the Board will follow in considering the request. Also present from Town Staff were Serena Palomino, Permit Technician, and Matthew Boyle, Town Attorney.

Madam Chair Furst appointed alternate Board Member Yoder to serve for this meeting.

There was a brief recess due to technological difficulties and the meeting resumed at 8:43 AM.

Mr. Pender presented the case via PowerPoint presentation. The applicant's request, application, survey, site plan with mid-point lot line, proposed renderings, the previous proposed site plan and the two-hundred-foot (200') buffer map were displayed and explained. The applicant and consultant were in attendance.

Interim Chair Furst requested that the applicant present their case.

Kirk Smith, 981 County Rd. 4918, stated he is representing the homeowner and mentioned that the General Contractor and Architects were in attendance as well. Mr. Smith explained the new proposed pool plan, the importance and intent with preserving the three (3) existing oak trees, proposed masonry wall, the Board's jurisdiction and regulations regarding approving cases with conditions, the added changes to the site plan due to concerns from the last meeting on Sept. 14th, factors and definition of setting precedents, photos of the lot, site plan with the mid-point lot line, illustration 9 (nine) from the Town Zoning Ordinance, the definition of side yard in the Town Zoning Ordinance, and definition of court yard in the Town Zoning Ordinance.

Board Member Yoder questioned if the proposed fountain location is compliant with the Town Ordinances. Mr. Smith confirmed.

Board Member Yoder clarified that the request is regarding the depth and use. Mr. Smith confirmed.

Interim Chair Furst questioned the depth of the pool encroaching the front half of the lot. Mr. Smith replied eight feet (8').

Board Member Yoder questioned if the entrance into the pool is located on the South side and the depth of this entrance. Mr. Smith confirmed the South side is the entrance of the pool and it is three feet (3') deep.

Board Member Clark expressed her concern that the proposed fence will indeed be a masonry wall. Mr. Smith suggested this could certainly be a condition with the Board's approval.

Board Member Yoder questioned if the shallow end could be swapped to the North side instead. Mr. Smith replied that this design would not allow for the existing oak tree to remain.

Interim Chair Furst asked if there were any further questions/concerns for the applicant.

Sarah Ketterer, applicant and homeowner of 3801 Maplewood expressed the lap pool and preservation of the oak trees are both extremely important to her and her family. She shared her gratitude for her neighbors along this block and would like to make them proud as well.

With no further questions from the Board, Interim Chair Furst questioned if letters in support were received. Mr. Pender confirmed none were received in addition to the last meeting.

Interim Chair Furst questioned if letters in opposition were received. Mr. Pender confirmed none were received.

Interim Chair Furst asked if there was anyone in attendance that would like to speak in opposition.

With no one else to speak, Interim Chair Furst closed the public hearing and opened the discussion amongst the Board members.

Board Member Hunsicker expressed her concerns that this request is not to relieve the homeowner from a property hardship but merely a lack of design element and the saving of the three (3) existing oak trees is not within their purview. She agrees that the masonry walls should certainly be a condition and the combined, corner lot does make this a unique property.

Matthew Boyle, Town Attorney, explained the definition and examples of what is considered a property hardship, in this case the oak trees, combined lot and corner lot.

Board Member Clark expressed that the proposed pool side yard setback is a positive for the surrounding neighbors. She shared that much effort has been made in a tasteful way.

Member Hunsicker created a motion, seconded by Member Clark, to approve this request with the following conditions: the construction of an eight foot (8') tall masonry fence. The motion passed unanimously.

MINUTES OF A MEETING OF THE BOARD OF ADJUSTMENT OF THE TOWN OF HIGHLAND PARK, TEXAS, HELD AT TOWN HALL, 4700 DREXEL DRIVE ON WEDNESDAY, NOVEMBER 9, 2022, AT 8:30 A.M. TO CONSIDER A VARIANCE REQUEST FROM SECTION 10-102(4) OF THE TOWN'S ZONING ORDINANCE TO CONSTRUCT CHIMNEYS WITH A HEIGHT GREATER THAN THE 55 FEET MAXIMUM ON A NEW HOMME LOCATED AT 4500 PRESTON ROAD.

Mr. Pender presented the case via PowerPoint presentation. The applicant's request, application, site plan, survey, proposed renderings, elevation plan, two-hundred-foot (200') buffer map, and summary of the request were displayed and explained.

Member McCulloch questioned if staff had a rendering of the proposed chimneys from the surrounding neighbor's view. Mr. Pender stated the elevations/renderings the only provided plans from the applicant.

Interim Chair Furst asked the applicant to present their case.

Kirk Smith, 981 County Rd. 4918, stated that he is representing the homeowners as they are out of the country at this time. The architects were in attendance as well. Mr. Smith explained and displayed the following via PowerPoint presentation; Board of Adjustment jurisdiction regarding special exceptions, unique features of this lot, proposed site plan of the chimney's and their setbacks, elevation plans, renderings, photos of the current construction of the masonry fence (approved by the Board in 2020), and summary of the request.

Member Clark asked for clarification on the applicant's request. Mr. Smith stated that based on staff's interpretation of the Ordinance, the chimneys exceed the allowable height, and the applicant is requesting a 61 foot 2 ½ inch chimney height.

Interim Chair Furst questioned if letters in support were received. Mr. Pender replied that along with the response packets dispersed to members, he received direct responses from Tracy & Aaron Kozmetsky, Gene & Jerry Jones and Lorie & Jerry Jones Jr.

Interim Chair Furst questioned if there was anyone in attendance that would like to speak in favor.

With no one to speak, Interim Chair Furst questioned if letters in opposition were received. Mr. Pender answered no letters were received.

Interim Chair Furst questioned if there was anyone in attendance that would like to speak in opposition.

With no one to speak, she closed the public hearing and opened for discussion amongst the Board members.

Member Hunsicker asked for confirmation that the request is to approve the 61 foot 2 ½ inch chimney height. Mr. Pender confirmed.

Member Yoder questioned if the garage space could be proportionally considered to the average roof height of this block. Mr. Pender replied that there is no governor on the maximum ridge height and minimum plate height, therefore there is no need to consider lower accessory uses into average roof heights.

Member Clark questioned if the proposed chimney design is due to the architectural style. Mr. Smith confirmed.

Member Hunsicker created a motion, seconded by Member Clark, to approve this request with the following condition: this approval is subject to the life of this structure. The motion passed unanimously.

MINUTES OF A MEETING OF THE BOARD OF ADJUSTMENT OF THE TOWN OF HIGHLAND PARK, TEXAS, HELD AT TOWN HALL, 4700 DREXEL DRIVE ON WEDNESDAY, NOVEMBER 9, 2022, AT 8:30 A.M. TO CONSIDER A VARIANCE REQUEST FROM SECTION 8-501 OF THE TOWN'S ZONING ORDINANCE TO CONSTRUCT A PORTION OF A RESIDENCE INTO THE REQUIRED SIDE YARD SETBACK LOCATED AT 4669 EDMONDSON.

Mr. Pender read aloud the request and displayed a PowerPoint presentation. The application, survey, the existing proposed plan, the amended proposed plan, current construction photos, timeline history of this case, two-hundred-foot (200') buffer map and summary of the request. The applicant and consultant were present at the meeting.

Interim Chair Furst requested that the applicant present their case.

Dallas Cothrum, consultant and homeowner of 6700 Golf Drive, presented his case via PowerPoint presentation. Mr. Cothrum mentioned that a similar case occurred in the 1990's and the Town was responsible for the construction expense. The history timeline, the eight-foot (8') setback for this lot compared to the five-foot (5') setback for smaller lots on this block, the amended proposed plan, the Town Ordinance definition of appeals to the Board of Adjustment, willing conditions the applicant would agree to (no second floor addition above the encroachment, no openings/windows on the encroachment, HVAC equipment will not be located facing the Western property line, enhanced landscaping/trees along the Western property line, permit existing brick wall and fence to remain), The Town Ordinance definition of variance, construction costs (spent to date, cost to demolish and build back and total project cost), the Town Ordinance of the Board of Adjustment jurisdiction, summary of the Board of Adjustment per Texas Local Government Code Standards, a map of the 4600 block of Edmondson Avenue highlighting the lots with the five-foot (5') side setback (22 out of 27), photo of 4672 Edmondson's lot with a five-foot (5') side setback, email from Harold Montgomery dated 11/10/2021, photo of current fence, dated survey previously showing the demolished, nonconforming storage shed and greenhouse, Google map view of all support letters from the previous and current cases. Mr. Cothrum mentioned the Town's Ordinance is difficult compared to other Cities. He understands the Town has great staff and made an honest mistake, however the homeowners should not be at fault.

Interim Chair Furst asked if any Board Members had any questions.

With no questions, Interim Chair Furst asked if staff received any letters of support for this case. Mr. Pender confirmed and stated they have been dispersed to all members.

Interim Chair Furst asked if there were anyone in attendance who would like to speak in favor.

Natalie Bloomingdale, applicant and homeowner of 4669 Edmondson, explained the history from the initial case in October of 2021 to date. She feels that the amended plan with listed conditions is a compromise for all parties and they are too far in construction to demolish and re-start. She appreciates the amount of support from majority of their neighbors on this block.

John Zogg, 4672 Edmondson, thanked the Board for their service. Mr. Zogg has great experience with zoning issues and neighborhood conflicts and feels that the conditions listed are powerful and great for this block. He believes this proposal will aid street parking issues and his front yard view as he is the most impacted neighbor.

William Chaffe, 4660 Edmondson, thanked the Board for their service. Mr. Chaffee expressed that the amended plan with conditions are fair and a major improvement to the neighborhood. He is grateful that the homeowners are choosing to preserve the original home.

Mersina Stubbs, 4618 Edmondson, shared her own experience with a Board of Adjustment case that was denied. She is in support of this request due to preserving the 1940's original home and aiding street parking.

With no one else to speak, Interim Chair Furst questioned if letters in opposition were received.

Mr. Pender confirmed one response email was received and read aloud. The email response was from Stephen Casey at 5715 Bordeaux Avenue.

Interim Chair Furst questioned if there was anyone in attendance that would like to speak in opposition.

David Toomey, 4657 Edmondson, expressed that this block feels divided due to this tension of this case. Mr. Toomey explained his journey to gather information, which included, contacting Town staff on the error of the Zoning Ordinance interpretation, receiving a quote from a General Contractor he is familiar with of \$20,000.00 and receiving a quote from the applicant of \$100,000.00 dated November 4, 2022. Based on his factual research, he is in opposition of this request.

Susan Toomey, 4657 Edmondson, explained that her and Mr. Toomey previously resided at 4344 Beverly Drive, with a small garage as it was built in the 1940's. Therefore, she drove a minivan with sliding doors so she can load/unload her children's car seats. Four (4) years ago, the Tommey's were denied a variance by the Board and were frustrated, but they respected their decision and proposed a code compliant plan. Mrs. Toomey feels as if the Montgomery's are being attacked for the previous case denials. She is not in support of this case due to the second story addition. She hopes the Board's decision for this case will help aid the tension on this block.

Casey Montgomery, 4675 Edmondson, expressed that due to the Board's decision not being accepted, this case has dragged on and escalated for fourteen (14) months. She expressed her conflicts with James Bloomingdale immediately after the prior meeting and emails that were sent blaming herself and her husband as the reason for the Board's denial decision. She asks that the Board uphold the Town's building code and make this the final decision. She thanked the Board for their time and service.

Member Clark questioned what the exact hardship is for her and her husband. Mrs. Montgomery responded that the setback of constructed structure is currently five feet (5') from the Montgomery's fence line and she is concerned that the second-story addition is encroaching too close to their lot and too large.

Member Clark clarified that that addition behind the garage is what is being amended to the required side setback for this case.

Harold Montgomery, 4675 Edmondson, asked staff to display the amended proposed site plan. Mr. Montgomery's stated the peak height of the addition is currently about thirteen feet (13') or fourteen feet (14') in height and the second floor is about halfway above the garage. He believes the structure is too close and intrusive to their view and diminishes their property value. Per the previous homeowner, the previous garage housed two (2) vehicles for many years. He believes the encroachment allows a slippery slope to diminish setbacks and undermines the neighborhood integrity. The Zoning Ordinance applies to the proportion of the lot, including this larger lot. For these reasons, Mr. Montgomery does not support this request and believes the Town should uphold their decision and not set a precedent.

Mr. Cothrum clarified that the only request is for the encroachment on the garage only. The general contractor is in attendance to address any questions. The setback issue could have been addressed during framing stage, however, the structure is too far along with construction. Mr. Cothrum stated that the second-story addition that is half-way above the garage is allowed per the Town's Zoning Ordinance. The request has been amended to the one-story garage only with suggested conditions. Mr. Cothrum dismissed the quote for demolition cost of \$20,000.00 and read aloud the Texas Local Government Code, as previously presented. He believes that the homeowners are not at fault in this situation and re-iterated that majority of the neighbors are in support of the amended plan with conditions.

Interim Chair Furst, opened the discussion amongst the Board.

Member Clark asked for confirmation from the Town Attorney that when the Board rules on a variance, it does not set a precedent. Mr. Boyle confirmed that this is correct.

Member Clark expressed that due to the loss of time from this unfortunate mistake, the cost for demolishing the portion of violation definitely exceeds more than twenty-thousand dollars (\$20,000.00).

Member Yoder explained that the applicant presented the cost as the demolishing and re-building cost.

Mr. Cothrum confirmed and mentioned no other costs throughout the duration of this project was included.

Interim Chair Furst asked for staff to display the amended site plan. She questioned if the area shaded in blue is what will be demolished and will conform to the required side yard setback. Mr. Cothrum confirmed.

Interim Chair Furst asked for confirmation that no windows will be installed in the bathroom. Mr. Cothrum confirmed.

Interim Chair Furst asked for confirmation that the second-floor addition is not being extended further to the West side. Mr. Cothrum confirmed, and they are also willing to make this a condition.

Interim Chair Furst questioned what is the roof line height of the second-floor addition that is halfway above the garage within the required side yard setback. Randy Clowdus, Randy Clowdus Construction, responded a five-foot (5') roof that will slope down. No one in attendance had the elevation plan that displayed the sloped roof.

Member Yoder questioned what was existing prior to the start of this construction project. Mrs. Bloomingdale responded a one and a half (1.5') car garage with a brick storage facility on the West side (about 6'-8'). Mr. Pender displayed the existing site plan.

Interim Chair Furst stated that based on these confirmations, this request indeed differs from the previous requests.

With no further discussion, Interim Chair Furst closed the discussion amongst the Board members.

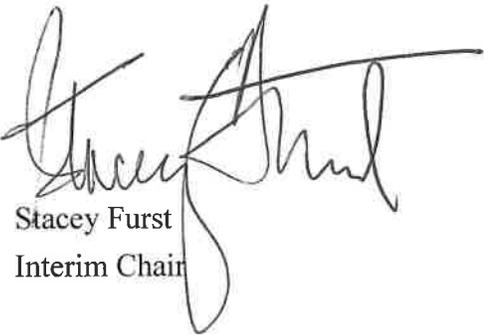
Member Clark created a motion, seconded by Member McCulloch, to approve this request with the following conditions: no second-floor addition over western most garage bay, single story garage bay shall have a hip style roof not exceeding 5 feet from the top plate, no openings/windows on the western side, HVAC equipment will not be located along the

Western property line, enhanced landscaping/trees along the Western property line proposed and permit existing brick wall and fence to remain. The motion passed unanimously.

There being no further business to come before the Board the meeting was adjourned at 10:44 AM.

APPROVED on this ____ day of _____ 2022.

BY:



Stacey Furst
Interim Chair

ATTEST:

Hugh Pender
Director of Development Services