

MINUTES OF A MEETING OF THE BOARD OF ADJUSTMENT OF THE TOWN OF HIGHLAND PARK, TEXAS, HELD AT THE TOWN HALL, 4700 DREXEL DRIVE, HIGHLAND PARK, TEXAS, 75205, AT 8:30 A.M. ON WEDNESDAY, SEPTEMBER 27, 2023.

Present at the meeting were Chuck Reeder, Chair; Board Members Joan Clark, Alison Hunsicker, Robert McCulloch, and Alternates Nancy Rogers and Jim Yoder. Jim Yoder was not a voting member, and only observed the meeting. Nancy Rogers was alternate for Stacey Furst, who was not able to attend. Sarah Walsh, Town Attorney, was also present.

Chuck Reeder introduced himself, and called the meeting to order at 8:30 a.m. Hugh Pender, Director of Development Services, introduced himself and any Town staff present for the meeting.

CONSENT AGENDA

On a motion by Alison Hunsicker, seconded by Joan Clark, the Board voted unanimously to approve Item A. Prior to the vote, Mr. Reeder explained that the Board reviewed the item prior to the meeting.

- A. Consider approval of the minutes of the Board of Adjustment meeting held on June 28, 2023.*

PUBLIC HEARING - 4501 Highland Drive

A public hearing was conducted to consider a variance request from Sections 10-101 and 8-601 (1) to construct a new home that will exceed the maximum height for the C zoning district as well as within 40-feet of the rear property line on a lot located at 4501 Highland Drive. Hugh Pender, Director of Development Services, explained that Section 10-101 of the Zoning Ordinance states the maximum height for the C zoning district is two-stories not to exceed 35-feet measured to the roof ridge. Section 8-601 (1) states that structures in the rear 40-feet of the lot shall be limited to 25-feet measured to the roof ridge. Height, in the C, D, E and F zoning districts, is the vertical distance of a building as measured from the average established grade at the street line or the natural front yard ground level at the building setback whichever is higher to the roof ridge. The existing topography drops in elevation approximately 7-feet from the northwest corner to the southeast corner of the property. The property owner and builder are requesting an additional 4 feet 6 inches of allowable height due to the topography of the property to construct a new single-family home. This hearing is a continuation of the case that was tabled at the June 28 meeting.

Rusty Goff, builder, explained that the enforcement methodology of height restrictions was changed in March of 2023, and is drastically different than the previous methods. He argued that this change causes a hardship due to the natural grade of the property's topography. He noted that the request is not seeking any change in the rules, just some assistance from the Board so that the proposed home meets the current ordinances.

No letter was received in support or opposition of this request by the Town.
No one present at the meeting spoke in support or opposition of this request.

BOARD DISCUSSION - 4501 Highland Drive

Alison Hunsicker made the motion to approve the request as proposed, Robert McCulloch seconded. After Board discussion and a few questions about clarification on the motion, Ms. Hunsicker clarified her motion to “approve the request to allow for the additional 4’ 6” in plate height in the rear 40-feet of the lot and additional 10” for the roof height for the main structure as shown on plan sheet A3.00”, and all voting members unanimously approved the request.

PUBLIC HEARING - 4009 Armstrong Avenue

A public hearing was conducted to consider a variance request from Section 15-101 of the Zoning Ordinance which states no fence or wall may be erected or placed in front of the required front yard line. The property owners of 4009 Armstrong Avenue wish to re-construct the masonry wall in the front of the property which is located in front of the required front yard line. The owners John and Yuko Curtice were present. Hugh Pender, Director of Development Services, explained that the current structure is a non-conforming wall that existed prior, and both the wall and its structure needs to be replaced due to deterioration. The proposed new wall will make allowances for growth of the three competing trees in the wall footprint, the aesthetics will match the new structure on the property, and may be slightly shorter than the existing wall. In answer to questions by Ms. Clark and Ms. Rogers, placement of a new wall in compliance with ordinances will put the wall almost 40-feet back from the current wall location. This placement is also right up on the houseline. The buildable area that avoids the 100 year floodplain has been maxed out due to the unique shape and nature of the property. In response to Chairman Reeder, Mr. Pender answered that there is about 2-feet of space for greenery between the wall and the sidewalk.

Mary Ellen Cowan, Landscape Architect, spoke about the current dangers of the existing wall. She noted that structural engineers have assessed the current condition and agree that the wall cannot just be repaired, but needs to be replaced from the foundation up. The wall is over 30 years old, and had metal rods on the interior side to help stabilize sections that are leaning, and some sections have been completely rebuilt within the last few years because the structure collapsed. Ms. Cowan gave an overview of the designs showing where the trees were taken into account rather than planned removal, and how there will be greenery planted in the 2-foot section to allow vines to cover the wall face. All bamboo at the interior of the current wall is being removed. The importance of this wall is to enclose the front play space of the property for the young family.

No letter was received in support or opposition of this request by the Town.
No one present at the meeting spoke in support or opposition of this request.

BOARD DISCUSSION - 4009 Armstrong Avenue

Robert McCulloch motioned to approve the request. There was no second, and the motion failed. The property owners were advised as to how they may appeal the decision if they so wish.

PUBLIC HEARING - 4511 Highland Drive

A public hearing was conducted to consider a variance request from Section 17-102, which states appeals to the Board of Adjustment can be taken by any person aggrieved or by an officer, department or board of the municipality affected by any decision of the Administrative Officer. Hugh Pender, Director of Development Services, explained the applicant for a property at 4511 Highland Drive is appealing the decision of the Administrative Officer with respect to the definition of *cellar* which states a building story (consisting of not more than one level) with more than half of its height below the average level of the adjoining ground. A cellar shall not be counted as a story in computing building height. The property owners wish to construct a new single-family residence at 4511 Highland Drive with a one-story cellar below grade, containing two different elevations. One elevation will be 12-ft below the finished first floor and the second adjacent space will be 18-ft below, or six feet deeper. Property owner Ray Waddell was in attendance, as was his consultant, Kirk Smith.

Mr. Pender explained that while he agreed that the basement is one story, he disagreed that it is one level. He based his decision on the meaning of “level” being a flat, horizontal surface of one height measurement. Since this basement has an area that is a 12-foot elevation and a second, smaller area that is an 18-foot elevation, the basement area is not one level. It is the hope of Mr. Pender and the applicants for the Board to help clarify the definition of “level”. Ms. Hunsicker asked why the applicants did not agree to one of the alternative options for the basement level suggested by staff, and Kirk Smith, Consultant for the Property Owners, answered that the family wanted to keep the plans as is. Kirk Smith spoke to the Board about their interpretation of level being synonymous with “story” or “floor”. He explained that the current ordinance was put in place to prevent the creation of multilevel basements and cellars, and not to hinder any single story basement or cellar that may have a two slightly different elevations such as in this case. Mr. Smith expressed concern that if the Board were to uphold the decision, then it would set a strict precedent for future builds whether the level differences were five inches or five feet.

No letter was received in support of or opposition of this request by the Town. However, a letter of concern was emailed to Mr. Pender by resident Jeffery Walker, of 4509 Highland Avenue. While having no objection to his neighbor’s request or plans for a basement level, he is concerned with this practice happening in future builds across Town. He owns property in Chelsey, England, and the building/digging of deeper basements have caused a great disruption to the community.

No one present at the meeting spoke in support or opposition of this request.

BOARD DISUSSION - 4511 Highland Drive

No motion was made on the request, and the request fails. The decision of the Administrative Officer is upheld. The property owners were advised as to how they may appeal the decision if they so wish.

ADJOURNMENT

Alison Hunsicker motioned to adjourn the meeting, and Joan Clark seconded the motion. The Board voted unanimously to end the meeting, and adjourned at 9:50 a.m.

Approved on this the 11th day of October 2023.

APPROVED:



Chuck Reeder
Chair

ATTEST:



Holly Russell
Management Assistant