

MINUTES

ZONING BOARD OF ADJUSTMENT REGULAR MEETING OF APRIL 11, 2017

The Zoning Board of Adjustment of the City of Lancaster, Texas, met in a Regular Session in the Council Chambers of City Hall on April 11, 2017 at 7:00 p.m. with a quorum present to-wit:

Board Members Present

Chair Deborah Taylor
Margaret Brooks
Sherri Williams
Syrinithnia Mann
John G Thomas
Alternate Lawrence Smith Alternate

City Staff:

Bester Munyaradzi, Senior Planner
Kelley Frazier, Development Coordinator
Robert E. Hagar, City Attorney

Call to order

Chair Taylor called the meeting to order at 6:29 p.m. on April 11, 2017.

Consent Agenda:

Chair Taylor read the consent agenda.

1. **Consider approval of minutes from the Board of Adjustment Meeting held on November 8, 2016.**

MOTION: Boardmember Mann made a motion, and seconded by Boardmember Johnson to approve consent item 1. The vote was cast 5 for, 0 against [Smith absent].

PUBLIC HEARING:

2. **ZBA17-01 Conduct a public hearing and consider a request for a Variance to reduce the required setbacks on an existing building located at 1557 E. Springcrest Circle.**

City Attorney Hager read the item into the record and swore all speakers in prior to providing any testimony.

Senior Planner Munyaradzi shared that item 2 is a request for a variance to reduce required setbacks on an existing building located at 1557 E Springcrest Circle. The Spring Valley Subdivision plat has 50 foot front 10 foot side and rear yards. The new house encroaches on both the sides and front setbacks according to the plat of record for this property. As such, the applicant is seeking a variance from the required 50 foot front and 10 foot side setback requirements. She shared that the site plan submitted for the building permit met the 50 foot front 10 foot side and rear yards plat requirement. However, the variance request does not meet the required criteria within Article 14.210(d) of the Lancaster Development Code. As such, staff recommends denial of the request as it does not meet variance criteria.

City Attorney Hager presented four (4) exhibits to Senior Planner Munyaradzi to identify the exhibits for the record. Senior Planner Munyaradzi identified Exhibit One (1) as the title survey, as the house, as it is built; Exhibit two (2) as the City approved site plan; Exhibit three (3) as the

building permit application for the subject property; and Exhibit four (4) as the Contractor's Registration Form for the City of Lancaster for the contractor.

Boardmember Brooks inquired from staff clarification on what was approved and what was constructed. Senior Planner Munyaradzi shared that what was constructed did not reflect what was approved by the City of Lancaster Building Official.

Boardmember Mann asked what the required and actual setbacks are. Senior Planner Munyaradzi shared that the front setback is 35 feet which is 15 feet less than the required setback and the side setback is 9.9 feet on one side and 8.9 on the other versus the required 10 foot side yard setback.

Chair Taylor opened the public hearing.

Applicant Montes shared that he received a document from the City stating that the front setback on this property is 35 feet not 50 feet. The form board survey was approved along with all the other inspections that were approved for the subject property.

Boardmember Mann asked the applicant why there was a difference in what was submitted to Building Inspections for approval versus what was actually constructed. Applicant Montes stated that he was informed that construction could be up to 35 feet from the property line. He inquired as to whether or not the applicant received anything in writing indicating the house could be built at 35 feet. Applicant Montes shared that he did not receive anything in writing.

Ben Yates, representative for Designated Title, shared that the company is not comfortable issuing a policy without the variance to the setback regulations. Respectfully, he is requesting that the variance is approved, as submitted, so the buyers may proceed with the purchase of the property.

City Attorney Hager stated that the reason for this variance is that at some point this property was platted with setbacks, since then the zoning ordinance has been amended to allow for 30 foot setbacks. However the plat has never been amended, so the plat supersedes the zoning ordinance.

Jasmine Strickland shared that when she appeared to sign the paperwork, Title Company indicated that there was a small issue with the survey and it would be resolved. The issue wasn't resolved and her family had to extend their lease.

Boardmember Thomas inquired from applicant the total number of homes in the neighborhood that are built at 30-35 feet for the front yard setbacks. Applicant Montes indicated two homes in which one of the homes was constructed by him.

Boardmember Thomas asked of the City Attorney if the Board approves the variance would that change the zoning to allow 35 feet and if it would it amend the plat. City Attorney Hager stated that it would not amend the plat.

Mr. Yates inquired if the board does not approve the variance requested would replatting the property resolve the issue. City Attorney Hager stated that replatting would be an option to resolve the issue.

Boardmember Mann inquired the responsibilities of the contractor in order to compliant with the regulations. City Attorney Hager indicated that the board must review the hardship in this case in which the hardship in this case is a self-imposed hardship. The law states that the City has no

right to supersede the regulations that are required; therefore, if this variance isn't granted then the subject property would have to be demolished and constructed according to the regulations. However, he stated that he will issue an order based on how the Board rules on item 2 which will be forwarded to the title company so that the title policy may be issued and all subsequent purchasers would be aware of how this issue was resolved for the future.

Applicant Montes asked if the variance is granted would a replat be required. City Attorney Hager stated that no replat would be required if the variance is granted.

Boardmember Thomas asked if the Board does issue the variance will the Title Company issue a clear title policy on this home. Mr. Yates shared after legal reviews; they would issue a clear title policy. However, if the City were to come back and state that the garage had to be removed that we would no longer insure that garage as a part of this property.

MOTION: Boardmember Brooks made a motion and seconded by Boardmember Williams to close the public hearing. The vote was cast 5 for, and 0 against [Smith absent].

City Attorney Hager directed the Board that their motion will need to be to either approve or deny the request for a variance to reduce the required front 1'3" and a 3" side yard setback and a 15' front yard setback on an existing building located at 1557 East Springcrest Circle, Lancaster, TX, Lot 1B Block A of the Spring Valley Subdivision.

MOTION: Boardmember Thomas made a motion and seconded by Chair Taylor to approve item 2 as stated by City Attorney Hager. The vote was cast 4 for, and 1 against [Boardmember Mann].

City Attorney Hager indicated he would prepare the order granting the variance.

MOTION: Boardmember Williams made a motion and seconded by Boardmember Mann to adjourn the meeting. The vote was cast 5 for, and 0 against.

The meeting was adjourned at 7:22 p.m.

ATTEST:

APPROVED:

Kelley Frazier, Development Coordinator

Deborah Taylor, Chair