

MINUTES
Monday, January 7, 2019 Regular Meeting
Board of Adjustment
City of Lago Vista

Council Liaison Tim Collins called the meeting to order at 3:07 P.M. in the Council Chambers, City Hall, located at 5803 Thunderbird St., in Lago Vista, Texas. Members present were Howard Hoover, Jim Cason, Freth Carrol, Jimmie Guy, Lynda Aird, Jeff Cannon and Paul Prince. Development Services Director Roy Jambor and Administrative Assistant Alice Drake were also present. Erin Selvera, City Attorney was absent.

Citizen Comments for Non-Hearing Related Items

There were no public comments.

BUSINESS ITEMS

1. Comments from the Council Liaison

Tim Collins went over the meeting procedures with members of the Board.

2. Election of Officers

On a motion by Jim Cason, seconded by Lynda Aird, Freth Carrol was nominated for Chair. The Board voted all in favor to elect Freth Carrol as Chair.

On a motion by Freth Carrol, seconded by Jim Cason, Paul Prince was nominated for Vice-Chair. The Board voted all in favor to elect Paul Prince as Vice-Chair.

Roy discussed the duties of the Chair and Vice-Chair.

CONSENT AGENDA

3. Consideration of the Following Minutes:

A. September 10, 2018, Regular Meeting

On a motion by Jim Cason, seconded by Paul Prince, the Board voted all in favor to approve the minutes for September 10, 2018.

PUBLIC HEARING AND ACTION

4. 18-1366-ZON-VAR: Application for a variance granting relief from the requirements of Section 22 of Chapter 14 of the Lago Vista Code of Ordinances to allow construction of an eight-foot wood privacy fence along a portion of the rear boundary of the property at 21900 Redbird Drive (Highland Lake Estates, Section 33, Lot 33178A).

A. Staff Presentation

Roy spoke about a new proposed ordinance which will require a maximum two-foot of foundation exposure from the grade. He explained that the applicant is asking for an additional two feet of fence. He reported that in other jurisdictions, eight feet is allowed by right, with taller fences commonly being used around pools. He said that the only aspect of the fence that is troublesome was simply an oversight. He reported that the portion located in the side yard of the corner lot will be a wrought iron fence. He clarified that the front yard is actually 15 feet deep all the way across the lot which means that the wood fence extending all the way to the front property line from the side property line is problematic. He said that the 15 feet of fence where it turns the corner needs to be made of something that is more transparent. He noted that the first thing being constructed on the house next door is the garage. He said that they called it to their attention, even though there isn't much they can do about it. He explained that he didn't want the Board to be burdened with determining what would look best for the applicant. He said he brought that to their attention and

he assumes that they discussed it. He said that they will probably have a discussion about how they will address the issue soon.

Roy and the Board discussed the specifics of the fence type and its placement on the lot. He explained a non-sight obstructive fence is needed at the corner.

Howard asked if they can see through the fence, then what does the 8-foot fence do for the property? Roy replied that the fence screens the house next door. He explained that a 6-foot fence would not completely block it because of the topography of the lot. He said that they are asking for additional height so that they can't see the extended foundation next door. Roy explained that he is currently working on a new ordinance so that foundations can't be built too high.

Roy and the Board discussed the fence types and heights that could be used for the corner of the lot.

B. Applicant Presentation and Discussion

The applicant stated that they have two options to fix the issue. He mentioned that he was having a hard time finding where the 15-foot setback starts. Roy explained that it starts at the property line. The applicant replied that he knows that there is a peg, but he didn't know where it was located. Roy stated that it should be an iron pin and a metal detector is usually used by the contractor/surveyor to locate it. The applicant asked if the pin was roughly located 5 feet from the street. Roy replied, yes, and that the contractor building the house next door most likely found the pin because they probably used it to establish the location of the foundation on the lot.

Jim Cason reported that he noticed that there was a wooden stake with a pink flag on it where the pin was located. He said that he thinks that this is where the pin is located. He said that if you look on the other side of the new property, there is another wooden stake with a pink flag on it, which probably indicates the property line.

Jim asked if the fire hydrant is on the property. Roy stated that it is probably located in the easement. Jim asked if they could fence in the fire hydrant. The applicant reported that they will not be fencing it in.

The applicant stated that they measured from the edge of the driveway, assuming that it was a straight line, and started the measurement from there and went 20 feet in, considering the 5-foot easement, which marks the 15-foot setback. He said that at that point they are at the corner and will turn and start the wood fence. He said to keep it all symmetrical they were hoping that they could do an 8-foot fence since it will be coming down the hill from where the street is to keep it square. He mentioned that they are not losing much yard in the process and might have to do a wrought iron fence at the top, but if they come in 15 feet to keep it the same, then they can tie it back into the house. Roy responded that it's feasible and that the Board has the ability to give them the right to put an 8-foot fence where the wooden fence is located and to replace it however they want it. He reported that the Board can impose conditions, but the advertisement was broad enough to cover everything.

Howard asked if the fence will be moved back 15 feet. Roy replied that it sounds like what they prefer to do is to pull the fence back 15 feet and make it all wood.

Freth asked how this will affect the new house being constructed next door. Roy responded that there will be a new ordinance soon that introduces a concept called a "reverse corner lot" which means if the side yard is someone's front yard, then they have to comply with the requirements of the front yard. He said that if this ordinance is passed, then the new setback would be 25 feet instead of 15 feet. Roy reported that there were many lots in the city that have this issue, where the side yard is adjacent to someone's front yard. He said that if both adjacent homes have the same side yard, it

could remain 15 feet, only if it's nobody else's front yard. He said that if the corner lot side yard is adjacent to anyone else's front yard, then you have to respect the requirements of the front yard. He said that basically, you have two front yards instead of one.

Roy and the Board discussed the details of the proposed ordinance. Roy reported that it's important since some streets in the city will be widened in the future. He said that this enables you to have a little additional safety margin in case the street is ever widened.

Paul asked how often a variance is granted for an 8-foot fence. Roy stated that most requests are granted and that in most jurisdictions you don't have to go before a board to get an 8-foot fence since it's by right, but you do if you are requesting a 10-foot fence. He stated that it's common for people with a rear yard patio to extend the fence to 8 feet for that portion of the yard to give them privacy from their neighbors and then drop the fence line down again.

Jim asked if it's customary to grant the variance without a hardship or reason for it. Roy stated that in other jurisdictions, 8-feet is not considered but in Lago Vista, it requires a hardship. Roy reported that what's listed on the application is not in the ordinance and it doesn't seem to match up. He said that in this instance that it seems to refer to something that is out of the applicant's control, that they were not in control of the unfinished foundation wall next door. He explained that all they are trying to do is to respond to that issue, which in his opinion meets the first criteria.

Howard mentioned that 8 feet is high for a fence. The applicant clarified the details of the existing fence with the Board and what is being requested on the application, in which three sections of the fence will be 8 feet tall. Roy stated that the fence location would conform with the ordinance and the height is the only issue. Paul mentioned that the problem is the side fence. The applicant explained that their bedroom window faces the side where the new house is being constructed, which is why they want an 8-foot fence on the side. The Board asked the applicant if the main issue is privacy or if it's the tall foundation under construction next door. The applicant stated that it is both issues. Howard asked if they would accept a 6-foot side fence and an 8-foot back fence. The applicant stated that this was acceptable. Roy suggested that the Board can make conditions for the variance in their motion.

The Board and the applicant discussed privacy issues and acceptable fence heights and the location of it on the property. The applicant stated that most of their rear windows face the property under construction and that privacy is needed.

Roy mentioned that the fence drops down to 6 feet where the garage next door is located.

Freth asked the applicant to clarify their request. The applicant responded that starting from the existing fence that is between the new property and their lot, it will be 8 feet up until the 25-foot setback. From the 25-foot setback, it will stagger down to a six-foot fence all the way to the 15-foot setback line. It will stay 6 feet high along Truman and then it will turn, as indicated, and it will be a 6-foot wood fence reaching to the house, which will enclose it and then there will be a 5-foot wrought iron fence on the other side between the existing fence and the garage to enclose the backyard. Paul clarified that with that plan, everything meets existing ordinances, except the proposed 8-foot fence from the back corner of the lot to the 25-foot setback.

E. Decision

On a motion by Jim Cason, seconded by Lynda Aird, the Board voted 6-1 to grant a variance to install an 8-foot fence from the northern most corner of the property to the 25-foot setback off of Truman. (Freth Carrol opposed.)

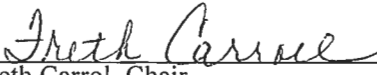
FUTURE AGENDA ITEMS

Roy discussed revising the fence ordinance with the Board, stating that it will be amended in the near future and make their recommendations for the revisions. Freth stated that the setback for the front yard needs to be addressed. Roy replied that this will be corrected in the new ordinance. Roy mentioned that the Council told him that the reverse corner lot ordinance should be introduced first before making the revisions to the fence ordinance. Roy mentioned that when the ordinance is changed, that there will be many nonconforming fences in the city. Roy said that most corner lots in other jurisdictions are larger than the standard lot, which provides more room. He reported that corner lots in the city were not platted in the same manner.

Roy stated that the Building Committee will now hear appeals and variances from Chapter 3 and the name was changed to the Building Standards Commission. Roy clarified that the Board hears Chapter 14 appeals and variances.

ADJOURNMENT

On a motion by Freth Carrol, seconded by Jim Cason, the Board voted unanimously to adjourn at 3:56 P.M.



Freth Carrol, Chair



Alice Drake, Administrative Assistant

On a motion by Howard Hoover, seconded by Lynda Aird, the foregoing instrument was passed and approved this 11th Day of March, 2019.