

City of Haltom City

SIGN BOARD OF APPEALS AND ZONING BOARD OF ADJUSTMENT

MINUTES

April 26, 2016

CALL TO ORDER

Chairman White called the meeting to order at 5:30 p.m.

ROLL CALL

PRESENT: Cotton, Eckhart, Odell, Pinkerton, Elliot-Roach, Weast, White

PRESENT ALTERNATES: None

PRESENT COUNCIL LIAISON: Watkins

ABSENT BOARD MEMBERS: Dobbs

ABSENT ALTERNATES: None

ADMINISTRATIVE STAFF PRESENT

Justin French, Director of Planning and Community Development

APPROVAL OF MINUTES

A motion was made for approval of the previous meeting minutes with correction to a date. Motion passed by a 6-0 vote.

MEETING FORMAT

Chairman White went over the meeting format. Applicants were sworn in.

CHAIRMAN WHITE OPENED THE ZONING BOARD OF ADJUSTMENT

ZBA-003-16 Application of Su Kim Nguyen requesting variances to Zoning Ordinance O-2002-032-15, Section 33.F.1.d-e regarding location of a security enclosure, Section 33.F.2.b regarding the maximum decorative fence height, and Section 23.G.1 regarding required landscaping at Lot 21, Block 21 of the G. W. Burkitt's Subdivision, locally known as 4201 E. Belknap Street.

The legal notice regarding the public hearing was published in the April 8, 2016 *Fort Worth Star Telegram*. Written notice of the variance request was mailed to eleven (11) property owners within 200' of the site on April 8, 2016. Staff received no response(s) in favor or without objection, none (0) opposed and none (0) returned to sender.

Staff presented the applicant's case to the Board.

Chairman White opened the meeting for questions of City Staff

Chairman White asked Mr. French to repeat the City staff with recommendations for the Board.

Mr. French replied that the City Engineering, Building Official, and Zoning Administrator has recommendations for the Board.

Mr. White asked Mr. French if he discussed each of the twelve recommendations with the applicant.

Mr. French replied that the applicant was provided the staff report with the list of recommended stipulations but that City staff has not discussed all in detail with the applicant.

Ms. Eckhart asked if there are plans to remove the metal pipe fence if the six-foot fence remains.

Mr. French replied that the question would be good to ask the applicant, and restated the City staff's recommendations.

Mr. Cotton asked if the proposed gates will be sliding gates.

Mr. French responded in the affirmative.

Chairman White asked the applicant to make a presentation.

Ms. Nguyen stated she is the daughter of the owner. She stated the fence construction began because the property was broken into. She said they intend to open a used car lot, and did not know they needed a permit for the fence, which is 90% completed. She requests approval in order to finish the fence, start the business, and generate income.

Chairman White opened the meeting to questions for the applicant.

Mr. White asked if the applicant has the City staff recommendations and understand them.

Ms. Nguyen replied in the affirmative to both parts of the question. Then she stated she understands part of it and needs the other part explained to her.

Mr. White stated that the applicant needs to understand the work to be done.

Ms. Nguyen stated that the portions of the six-foot decorative fence must be removed as well as the metal pipe fence.

Mr. White asked if the applicant understood the chain-link fencing and chain gates must be removed.

Ms. Nguyen replied in the affirmative and stated that the gates will be replaced with new sliding gates.

Mr. White asked if the applicant understood the extended fence post must be removed.

Mr. French directed everyone to photographs of the subject site to clarify the extended fence posts.

Mr. White stated that the Board wants the applicant to understand what the City staff wants the applicant to do.

Ms. Nguyen acknowledged that the extended fence posts must be cut down to six-feet in height. She also noted that she understands the six-foot fence at the corner must be pushed back.

Mr. White asked if the applicants understand they will have to make and install an "exit only" sign on the Higgins gate.

Ms. Nguyen replied in the affirmative.

Mr. White asked if the applicant understands that the metal pipe barrier must be removed from 25'x25' visibility triangle in the southwest corner of the property.

Ms. Nguyen replied in the affirmative.

Mr. White asked if the applicant understands the six-foot decorative fence must be pushed back outside of the visibility triangle and behind the raised planter.

Ms. Nguyen replied in the affirmative.

Mr. White asked if the applicant understands that landscape must be installed and maintained in the raised planter box in the southwest corner of the property.

Ms. Nguyen replied in the affirmative.

Mr. White asked if anyone had talked to her about the landscaping requirements.

Ms. Nguyen replied in the affirmative.

Mr. White asked if the applicant understands that if the City finds to gates on the property line cause traffic hazard then the gates must be pushed back.

Ms. Nguyen replied in the affirmative.

Mr. White asked if the applicant understands that if any fence or barrier is found to be encroaching into the public right-of-way then the fence and/or barrier must be removed at the owner's expense.

Ms. Nguyen replied in the affirmative.

Mr. White asked if the applicant understands that the metal pipe barrier within 30 feet of E. Belknap Street must be removed.

Ms. Nguyen replied in the affirmative.

Mr. White asked Mr. French to clarify the other recommendations.

Mr. French explained that the other recommendations are more restrictive and can be approved by the board in lieu of the corresponding recommendations previously mentioned.

Mr. White then asked if the applicant understands the remaining recommendations by the City staff.

Ms. Nguyen replied in the affirmative.

Ms. Eckhart asked Mr. French how much space is in between the telephone pole and the existing fence. She also asked if there is enough room for someone to get passed the telephone pole without going into the street.

Mr. French replied that in regards to a person be able to pass the telephone pole, it would depend on the person and that the pass is presently not ADA compliant. He also stated that it is approximately 4 feet from the back of curb to the fence and approximately in the center of the 4-foot parkway. Mr. French stated that this area is not an improved sidewalk and it is not presently designed or intended for pedestrian traffic.

Mr. Weast asked Mr. French to explain the relevance of any Belknap Corridor standards to this property.

Mr. French stated that the 2010 Comprehensive Land Use Plan adopted by the City Council identifies the Belknap Corridor as a special area of the City but the Zoning Overlay with enhance design standards was not adopted by City Council, so the regulations for the subject site is the same as similarly zoned properties not located in the Belknap Corridor.

Ms. Elliott-Roach stated that this was an extensive amount of work needed to be done, and asked if there would be a time frame in which it must be completed if required.

Mr. White stated he understood the work would have to be done as soon as possible.

Mr. Weast stated that his vision of the Belknap Corridor includes open space, walkable, and accessible space and comparable fencing. He also stated that even though this standard is not required by zoning he believes it should be considered.

Mr. White stated that E. Belknap Street is a busy street and it is just going to get busier. He also stated that the corner is dangerous.

Mr. Pinkerton stated that if the Board is going to approve the request he thinks the Board should stipulate that more restrictive recommendations of the City staff.

Chairman White opened the Public Hearing.

No one was present to speak.

Chairman White closed the Public Hearing.

FURTHER DISCUSSION OF THE BOARD

None.

ACTION BY THE BOARD

Mr. Weast, made the motion that the Board not approve ZBA-003-16.

Mr. French stated that as a matter of procedure a Board would typically make a motion to approve even if the maker of the motion does not vote to approve and then six votes in favor are necessary to approve the request and if six votes are not obtained then the motion fails and the request is denied unless another Board member makes a substitute motion.

Mr. White asked if Mr. French wants the Board to follow Robert's Rules of Order to the "t" because this is the second time this has been brought up. Mr. White also said they do not understand what you are saying and that he does.

Mr. Weast stated he understands he needs to make the motion to approve.

Mr. French stated that that is his recommendation and otherwise he may be unclear on how to proceed depending on the outcome of the vote with a motion to deny.

Mr. Weast stated he can make the motion to approve if the Chairman wishes.

Mr. French further explained his concerns with a motion to deny. He stated that any action by the Board has to have six votes, so if the motion to deny does not get six votes then it would be unclear if this meant the request was approved.

Mr. White stated that in such scenario the Board would re-discuss it and call for a motion a second time, which such cycle can be continued four times until upon the fifth cycle it becomes a dead motion and basically sent back to the company (City staff) and would be restudied and resubmitted to the Board back into further meeting. Mr. White stated Mr. French can take this to the City Attorney and between Councilmember Watkins and himself, one of them have had the ZBA Chair for the last 23 years. He stated what normally happened was the Board denied the motion and the Chair would have to come up with another scheme whether there are six board members present or eight present to meet City staff's criteria because in 18 years he has never been sued.

Mr. French stated he is willing to go forward with what the Board wants to do and then see the outcome and how we can work it out.

Mr. Weast rescinded his previous motion and stated he will make another motion. Mr. Weast, seconded by Mr. Pinkerton, made the motion to approve ZBA-003-16 with the applicant required to procure all necessary permits and follow all instructions by the Building Official, City Engineer, Zoning Administrator, Planning Director and permit department and with the following stipulations:

1. Chain-link fencing and chain gates along Higgins Lane and E. Belknap Street shall be removed;
2. The extended fence posts be cut down to six feet in height;
3. The owner shall make and install an "EXIT ONLY" sign at the Higgins gate;
4. The six-foot decorative fence must be relocated outside of the 25'x25' visibility triangle and behind the raised planter in the southwest corner of the property;
5. The metal pipe barrier within 30 feet of E. Belknap Street shall be removed;
6. Fences and barriers encroaching past the expansion joint of the drive approaches on Higgins Lane shall be removed or relocated back to the expansion joint (aka presumed property line);
7. Gates on Higgins Lane and E. Belknap Street must be setback 20 feet from the street frontage property lines to provide maneuvering area off the public right-of-way when approaching a closed gate, and
8. Not less than five percent of the total area of all parking spaces, aisles, and drives in the parking area shall be landscaped open space.

Ms. Elliott-Roach then asked for clarification on the motion.

Mr. White said the Board is breaking an 18-year tradition.

Mr. French clarified that the motion on the floor is to approve the requested variances with the more restrictive stipulations recommended by City staff.

Mr. White asked Mr. French if the motion was to deny what would be City staff's position.

Mr. French stated if the motion was to deny and the motion to deny was approved, then no variances would be granted and the applicant would have to remove all fence violations on the property and comply with today's fence standards which would include removing all fencing along both streets. Then any proposed six-foot decorative fencing would have to be setback 30 feet from E. Belknap Street and any proposed four-foot or shorter decorative fence with 50% transparency may be placed on the property line.

Ms. Elliott-Roach stated she understood.

Mr. White stated that if the Board had done it the other way with a vote of no then we would have to come back and do it properly by code.

Motion failed 0-6-0.

Mr. White stated that as Mr. French pointed out, the applicant will have to go back to the drawing board and bring it up to City code as City code states now.

Chairman White called for a five minute recess.

Chairman White reconvened the meeting at 6:29 pm.

Mr. Odell joined the meeting.

ZBA-004-16 Application of Cruz Burciago requesting variance to Zoning Ordinance O-2002-032-15, Section 32.B.1 regarding landscape buffering at proposed Lot 1, Block 1 of the Burciago Addition, locally known as 2813 Carson Street.

The legal notice regarding the public hearing was published in the April 8, 2016 *Fort Worth Star Telegram*. Written notice of the variance request was mailed to fourteen (14) property owners within 200' of the site on April 8, 2016. Staff had received no (0) response(s) in favor or without objection, none (0) opposed and none (0) returned to sender.

Staff presented the applicant's case to the Board.

Chairman White opened the meeting for questions of City Staff

There were no questions for City staff.

Chairman White asked the applicant to make a presentation.

James Pliska with James Pliska Consulting stated his address to be 6828 Inwood Drive, North Richland Hills and introduced himself as zoning consultant for Mr. Cruz Burciago, the property owner. He noted the letter of intent provided to the Board then stated that Mr. Burciago has hired one of the best engineers that he has seen in his 13 years in Haltom City. He stated that the property is unique in that it is a long narrow lot. Mr. Pliska stated that the City's Fire Marshall requested that the fire lane be extended into the property.

Mr. Burciago stated that all the overhead doors will be facing south.

Mr. Pliska stated that all the adjacent lots are deep lots, and Mr. Burciago does fencing and has constructed a new fence along the south property line. He also noted several mature trees to buffer the proposed expansion.

Chairman White opened the meeting to questions for the applicant.

Ms. Elliott-Roach asked if Mr. Burciago will be leaving his current location.

Mr. Pliska clarified that the plan is to keep both locations at this time.

Chairman White asked if there was anyone in the audience to speak in regards to the request.

Glenna Batchelor residing in City River Oaks stated she is in support and has known the applicant for 20 years. She stated that the building has been an eyesore and that she expects high standards from the applicant.

Chairman White closed the Public Hearing.

FURTHER DISCUSSION OF THE BOARD

Mr. White stated he has full faith in that said by Mr. Pliska.

Ms. Eckhart asked if there were any responses in favor or opposition.

Mr. White replied that no notices were returned.

ACTION BY THE BOARD

Mr. White, seconded by Mr. Pinkerton, made the motion to approve ZBA-004-16 as presented with the applicant required to procure all necessary permits and follow all instructions by the building official and permit department. Motion passed 7-0-0.

ZBA-005-16 Application of Abraham Duran requesting variance to Zoning Ordinance O-2002-032-15, Section 29.D.4 regarding maximum size of a residential detached garage at Lot 1, Block 1 of the Duran Addition, locally known as 3009 Fincher Road.

The legal notice regarding the public hearing was published in the April 8, 2016 *Fort Worth Star Telegram*. Written notice of the variance request was mailed to sixteen (16) property owners within 200' of the site on April 8, 2016. Staff had received two (2) response(s) in favor or without objection, none (0) opposed and none (0) returned to sender.

Staff presented the applicant's case to the Board.

Chairman White opened the meeting for questions of City Staff

Mr. Weast asked if the applicant knows that a grading and drainage plan is required or does the Board need to include it in the Board's motion.

Mr. French asked if the applicant has not yet submitted the grading and drainage plan and that no drainage concerns are anticipated.

Mr. Odell asked if the building will have electrical service.

Mr. French stated that the applicant will be best to address his question.

Mr. White asked Mr. French anticipates any drainage.

Mr. French replied in the negative.

Ms. Elliott-Roach asked if the building will have a gutter on it.

Mr. French stated that the applicant will be best to address his question.

Chairman White asked the applicant to make a presentation.

Mr. Duran stated he resides at 3009 Fincher Road and does not see any drainage problems but will do whatever is necessary to address drainage concerns. He also stated he intends to have the building eight feet from the north property line. Mr. Duran stated that the building will have electrical for lighting.

Chairman White opened the meeting to questions for the applicant.

Mr. Weast asked when the house was built.

Mr. Duran stated that it was completed and he moved in earlier this month.

Mr. Weast noted that the lot would have been reviewed for drainage at that time.

Ms. Eckhart asked for the purposes of the new building.

Mr. Duran stated he has a lot of tools he needs to store.

Mr. White asked if the building was for commercial purposes rather than residential storage.

Mr. Duran replied in the negative.

Chairman White asked if there was anyone in the audience to speak on the request.

Mr. Robert Vaughn residing at 6008 Fincher Road directly across from Mr. Duran's residents. He stated that he has known him for two and a half years and his property has always kept neat even during construction. He also stated that he was always conscience of his neighbors during his construction and that he has no doubt he will continue to do the same with this building.

Chairman White closed the Public Hearing.

FURTHER DISCUSSION OF THE BOARD

Mr. White stated it was a nice property.

ACTION BY THE BOARD

Mr. Weast, seconded by Ms. Eckhart, made the motion to approve ZBA-005-16 as presented with the applicant required to procure all necessary permits and follow all instructions by the building official and permit department. Motion passed 7-0-0.

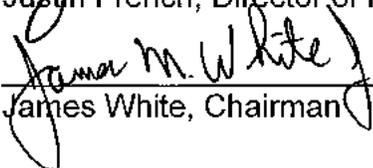
ADJOURN

There being no further business, Chairman White adjourned the meeting at 7:04 p.m.

Respectfully submitted,



Justin French, Director of Planning and Community Development



James White, Chairman