

Minutes for Zoning Board of Adjustment – August 3, 2017

**MINUTES
REGULAR MEETING OF THE
ZONING BOARD OF ADJUSTMENT, CITY OF HIGHLAND VILLAGE, TEXAS
HELD IN THE MUNICIPAL COMPLEX, 1000 HIGHLAND VILLAGE ROAD
THURSDAY, AUGUST 3, 2017 AT 7:00 P.M.**

1. Call to Order/Roll Call.

Chairman Jim Archibald called the meeting to order at 7:00 p.m.

Roll Call

Present:	Jim Archibald	Chairman
	Richard Metivier	Board Member
	Darrah Torres	Board Member
	Thomas Peck	Board Member
	Christian Hart	Alternate Board Member
	Richard Holderby	Alternate Board Member
	David Smith	Alternate Board Member
Absent:	Andrew Prychodko	Vice Chairman
Staff Members:	Billy Spencer	Building Official
	Autumn Aman	Community Development Coordinator
	Sasha Torres	Community Services Assistant

2. Consider Approval of the Minutes from the Special Meeting of the Zoning Board of Adjustment held on November 17, 2016.

Board Member Richard Metivier made a motion to approve the minutes as written; Board Member Darrah Torres seconded the motion.

Motion passed (5-0)

3. Visitor Comments.

There were no visitor comments.

4. Conduct Public Hearing and Review and Consider a variance request to the City of Highland Village Comprehensive Zoning Ordinance, Section 19.4.B.3, as submitted by Anthony Salter, property owner. The property is located at 914 Summertrail Court, Lot 31, Block E, Rolling Hills Estates.

Building Official Billy Spencer addressed the Board stating that the applicant, Toni Salter, property owner of 914 Summertrail Ct., had submitted a variance request to allow for an attached patio cover to be constructed with an encroachment of 8.25 feet into the required rear yard setback. He continued that the Comprehensive Zoning Ordinance Section 19.4.B.3 reads

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in relevant part as follows: Minimum rear yard: The minimum rear yard shall be (20') twenty feet if adjacent to an alley; (15') fifteen feet if no alley exists. Mr. Spencer stated there is no alley associated with the said property and a copy of the survey and associated documentation had been included in the packets. Mr. Spencer stated that Mr. Salter would address his needs as submitted. Mr. Spencer continued going over the options and results, he stated that based on the information provided, another option would be to construct the attached patio cover on the pool side of the property in compliance with the Comprehensive Zoning Ordinance. He stated that the Board should review the pictures, survey and other documents included in the packets and determine whether or not the request satisfies the criteria for granting a variance as set forth in Sections 9.5.A and 9.5.B of the Comprehensive Zoning Ordinance, which read as follows:

9.5 Variances:

A. In order to grant a variance from these zoning regulations, the ZBA must make written findings that an undue hardship exists, using the following criteria:

- 1. That literal enforcement of the controls will create an unnecessary hardship or practical difficulty in the development of the affected property;*
- 2. That the situation causing the hardship or difficulty is neither self-imposed nor generally affecting all or most properties in the same zoning district;*
- 3. That the relief sought will not injure the permitted use of adjacent conforming property; and*
- 4. That the granting of a variance will be in harmony with the spirit and purpose of these regulations.*

B. A variance shall not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss, nor shall it permit any person a privilege in developing a parcel of land not permitted by this ordinance to other parcels of land in the particular zoning district. No variance may be granted which results in undue hardship on another parcel of land.

Building Official Spencer recommended that the Board review the Zoning Ordinance, the applicant's submittal including the survey, pictures and other information provided by the applicant, consider other options for the location of the patio cover compliant with the Comprehensive Zoning Ordinance and make a determination as to whether or not the owner of the property has met the burden of proof by presenting facts which justify the granting of the variance requested by having satisfied all criteria that must be satisfied before the request may be granted.

Chairman Archibald asked Building Official to explain why the ordinances are written with required setbacks.

Building Official Spencer responded that setbacks are set by City Council. He continued that different subdivisions may have different setback requirements. When a developer comes in to develop a subdivision, setbacks are determined at that time.

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Board Member Metivier questioned if the existing concrete pad located in back of the house was encroaching on the rear yard setback.

Building Official Spencer responded that it was not an encroachment due to it being flatwork, it was not a violation.

Board Member Peck questioned what was behind the fence at the back of the property.

Building Official Spencer responded that it was the city trail.

Alternate Member Richard Holderby questioned Building Official Spencer if he was aware of any exceptions in the past that may be similar to the request.

Building Official Spencer responded that all situations are different.

Board Member Peck questioned Mr. Salter on how long he had been living in the house.

Mr. Salter, property owner of 914 Summertrail Ct., addressed the Board stating he is the original owner and has been in the house since the house was built in 2001.

Board Member Peck questioned if the fence in the year of the yard was a solid wood fence.

Mr. Salter stated that it was a (6') six foot board on board fence.

Mr. Salter continued that he was requesting the variance because he had an irregular shaped lot; the patio has been there since the house was built. He stated the house was positioned as far forward as possible on the (30') thirty foot building line requirement by the builder and in order to construct a patio cover on his irregular shaped lot and meet the (15') fifteen foot setback it would result in a very minimal size patio cover that would practically be unusable due to the depth of the cover and rear door entry into the house. He stated there is a challenge with the setback and a hardship because of the depth, just a small corner would be encroaching. He continued that behind his fence is a (20') twenty foot city trail and he was not at anyone's property line.

Chairman Archibald questioned if the proposed patio cover would have a solid roof.

Mr. Salter stated that the patio cover would have the same pitch as the house and would tie into the existing structure, having the same shingles, gutter, and paint.

The Board Members, Mr. Salter, and the General Contractor Mr. Kevin Kopf, 3204 Westfield Ave, Ft. Worth, Texas continued discussing a possible location by the pool equipment and how Mr. Salter explained that it would not be a functional space; it would be a non-useable space, the location of the rear door, the construction option of building the patio cover with a diagonal edge other than straight edge so that it would not encroach the rear yard setback, what the distance would be between the rear fence and roof line of the proposed cover, and how many columns would be needed to hold up the patio cover if they were to leave out the area that would be encroaching over the rear yard setback.

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Chairman Archibald opened the Public Hearing at 7:21 p.m.

Chairman Archibald read an email that Building Official Spencer had received from Mr. Steve James, 907 Summertrail Ct., Highland Village. The email read as follows; “My wife and I will be unable to attend the hearing this coming Thursday regarding the Zoning request for 914 Summertrail Ct. We live at 907 Summertrail Ct., adjacent to Toni’s property. He has showed us and explained the plans for the patio cover. We don’t have any objections to what he’s planning and would encourage the city to approve the request.”

Mr. Russell Seay, 912 Summertrail Ct., stated that he had no objections to the patio cover. He fully approves and supports his application. He stated he might want to consider something like this in the future.

Mr. Allen Gessel, 814 Shady Meadow Dr., stated that he had reviewed the plans and had no objections to the request; however, his only concern was to make sure the project would not be adding any additional light pollution to a problem that already existed.

Chairman Archibald closed the Public Hearing at 7:26 p.m.

Discussion continued on the roof line height and how it would be tied into the existing roof.

Board Member Christian Hart commented that with the layout of the property, the size of yard and various alternate places available, the request is more of a want than a need. The other additional consideration, from hearing from adjacent property owners, the citizens do use the city trail.

Board Member Metivier commented how the request is a little more unique than those in the past due to the existing pad was not encroaching the rear yard setback that much.

Board Member Peck questioned Building Official Spencer if the setbacks for a pergola differ from that of a patio cover.

Building Official Spencer stated that the same setbacks would apply.

Board Member Metivier commented how they would not be enclosing the sides; it would just be a patio cover with open sides.

Board Member Metivier and Building Official Spencer discuss nonconforming structures and how the city does not have a grandfathering clause.

The Board as a whole went through the Variance Findings Flow Chart discussing the following along with the Boards findings:

1. Is the request for a variance owing to special condition inherent in the property itself? Findings (Yes) due to the odd shape of the lot.
2. Is the condition one unique to the property requesting the variance? Findings (No) there are several other properties that are similar, not unique to the property.

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3. Is the condition self-imposed or self-created? Findings (Yes).

Board Member Metivier made a motion to deny the request. Board Member Peck seconded the motion.

(Motion to Deny 5-0)

5. Receive Status Reports on Various Projects

- Future P&Z Meetings

There was no other business.

6. Adjournment.

Meeting adjourned at 7:47 p.m.

Autumn Aman
Community Development Coordinator

Chairman
Zoning Board of Adjustment