

MINUTES OF THE REGULAR
MEETING ZONING BOARD OF
ADJUSTMENT

August 31, 2020

A. CALL TO ORDER

A regular meeting of the City of Keller Zoning Board of Adjustment was called to order by Chairman Gilpin at 7:00 PM. Board member Robin Burrill was absent. The following members were present:

Michael Gilpin

Rodger Ehrlish

Bonnie Bueter

Michael McClement

Bill Schlegel

Staff present was Matt Cyr, Planner I; Julie Smith, Community Development Director (CDD), Amy Botcher, Planning Technician.

Regular Meeting 7:00 P.M.

A. CALL TO ORDER- CHAIRMAN GILPIN

A regular meeting of the City of Keller Zoning Board of Adjustment was called to order by Chairman Gilpin at 7:00 PM.

B. PLEDGE OF ALLEGIANCE

Board member McClement led the Pledge of Allegiance to the United States Flag and the Pledge to the Texas Flag.

C. NEW BUSINESS

1. Consider approval of the minutes of the ZBA Meeting on June 1, 2020.

Board member McClement moved to approve the minutes as written. Board member Rodger seconded, and the motion carried unanimously.

2. PUBLIC HEARING: Consider an application requesting a variance to Section 8.11 (I) (1) of the Unified Development Code (UDC). The Applicant is requesting a variance to allow wooden slats on an existing drive gate. The property is located on .20-acres, situated approximately 200 feet southwest of the Bear Creek Parkway and Eagle Trail intersection, being Lot 14, Block B, of the Hidden Lakes Addition, zoned Single-Family 8,400 square-foot lots (SF-8.4), and addressed as 601 Eagle Court. Tabitha & Justin Richter, Owner/Applicant.

Planner Cyr gave a presentation to the Board that the existing gate was constructed in the mid-1990s and was currently legal-nonconforming. The gate was also located adjacent to a masonry Landscape Screening Wall along Bear Creek Parkway and was approximately twenty-five feet away from the curb.

He said the Applicant was requesting to add cedar wood slats to the existing gate for additional privacy for a new pool in lieu of the required open-faced material. (Because the drive-gate was located in front of the main structure, they were required by code to have an open-style material.)

Planner Cyr stated the home was built on a cul-de-sac (an irregularly shaped lot) and given the angle and open section of the landscape screening wall, people driving or walking in the neighborhood as well as those driving or walking along Bear Creek Parkway would be able to see into the backyard where the pool would be built. Given the unusual physical circumstances surrounding that particular lot and the obvious need for privacy, staff had no objections to the request.

Chairman Gilpin asked if the Applicant had anything to add.

The Applicant stated that the location of the garage was also part of what caused the need for this request along with privacy for the pool.

Chairperson Gilpin asked the Applicant if there was an easement or green space in between the driveway and the pool.

The Applicant responded that, yes, there was approximately 10 feet.

Board member Bonnie Bueter asked if there were other similar fences in the neighborhood.

CDC Smith stated there had been previous variances granted for residences with pools to add wooden slats.

Board member Bueter asked the Applicant how much of the pool would be seen if not putting up wood slats.

The Applicant responded the whole pool would have been able to be seen.

Chairperson Gilpin questioned if putting up a secondary fence would work better.

Board member Bonnie Bueter asked Staff what made this particular lot an irregular shaped lot.

Planner Cyr stated the shape of the lot was due to being a cul-de-sac lot which was somewhat pie shaped.

CDC Smith explained that any lot that was not primarily rectangular or square was considered irregularly shaped.

Board member McClement stated it did not seem that the HOA had much concern with this request. He asked the Applicant if the picture in the presentation was an accurate depiction of what they planned to build. He noted he was unfamiliar with wrought iron fencing that would accommodate wooden slats.

The Applicant responded that they had contacted several different companies to verify the wooden slats could be added to the wrought iron gate and frame.

Board member McClement stated he did not have any hesitation about approving the request.

Board member Bill Schlegel said he could understand this request from a privacy standpoint, but had some concern about what this type of fence would look like after several years.

Chairperson Gilpin opened the Public Hearing.

No person offered any comments in favor or opposition.

Board member Bueter moved to close the Public Hearing. Board member Schlegel seconded, and the motion carried unanimously.

Board member Bueter stated she did not understand how “privacy” was a part of the 4 options for consideration of this item.

CDC Smith responded that this case was not only a case for privacy. The gate had been on site for a long time and would be of grandfathered status if the Applicant were simply replacing the gate. She also noted there is a certain expectation of privacy in someone’s backyard.

Board member Bueter questioned the validity of privacy being an expectation in someone’s backyard. She stated that neither the enjoyment of a property or privacy should be considered.

CDC Smith stated that this could in fact could be a practical difficulty. She said there have been cases in districts where they could only have wrought-iron fencing. In this particular case, because of the property’s location to a major thoroughfare, the irregular shape of the lot, and that people would be able to see into their backyard, would all create a practical difficulty.

Board member Ehrlich asked if there had been cases similar to this in the past.

CDC Smith stated that there had been cases presented and variances granted for similar

properties in the past. She said the lot shape was causing the hardship and the location of the garage. She noted there were multiple applications in this specific case that would be cause for a variance.

Chairperson Gilpin stated he was disinclined to grant this request solely because Staff had made a mistake. However, he was willing to grant the request due to the UDC change that occurred during the building process.

Board member McClement thanked the Applicant for their work on the presentation.

Board member Bueter stated the Applicant having an irregular lot shape was an issue they could not help.

Chairperson Gilpin moved to approve the variance request to allow wooden slats on an existing drive gate. Board member McClement seconded, and the motion carried unanimously.

3. PUBLIC HEARING: Consider an application requesting a variance to Section 8.11 (l)(2)(a) (3) of the Unified Development Code (UDC). The Applicant is requesting a variance to construct a drive gate with a 35-foot setback in lieu of the required 50-foot setback. The property is located on 2.33-acres, situated approximately 650 feet southeast of the Mount Gilead and Edgemere Drive intersection, being Lot 3, Block 1, of the Overton Estates Addition, zoned Single-Family 36,000 square-foot lots (SF-36), and addressed as 790 Mount Gilead. Troy Ragle, Owner/Applicant. (ZBA-20-0007)

Planner Cyr stated the Applicant had submitted building plans in 2019 that had included the location of the circle drive and a gate located thirty-five feet from Mount Gilead Road. He said the house, driveway, and the entire site were designed to accommodate a thirty-five foot setback for the gate. After this submittal, the minimum depth for drive gates was increased to 50 feet to accommodate horse trailers, fire apparatus, and other similar vehicles without blocking the street.

Planner Cyr explained that during the home construction, the circle drive and drive access were poured. He said the homeowner then applied for a fence permit with the drive gate at the

base of the circle (35-feet from Mount Gilead Road). He noted the new 50' setback would put the gate in the middle of the "O"-shaped driveway.

Mr. Cyr said the Applicant proposed the drive-gate to be constructed 35-feet from Mount Gilead Road in lieu of the required 50' setback. He stated the Applicant proposed to meet all other UDC requirements. He noted that with the prior approval of the building permit and oversight of the setback of the gate. Staff had no objections to the request.

Board member Ehrlich asked Staff to confirm that when the original permit was approved, it was for 25 feet and now the UDC required fifty feet for the drive gate setback.

Planner Cyr confirmed this was true.

Board member Bueter asked if the street would be blocked by fire trucks if the setback was to be approved at 35 feet.

CDC Smith acknowledged the trucks would be in the street if approved at a 35-foot setback. However, she stated the flatwork was poured in the past on the approval of 25-foot setback and the homes on either side had similar setbacks.

Board member McClement stated he drove past the property and felt this was a viable variance.

Board member Schlegal agreed with Board member McClement.

Chairperson Gilpin opened the Public Hearing.

Board member Bueter moved to close the Public Hearing. Board member Schlegal seconded, and the motion carried unanimously.

Chairperson Bueter moved to approve the variance request to construct a drive gate with a 35-foot setback in lieu of the required 50-foot setback. Board member Schlegal seconded, and the motion carried unanimously.

E. ADJOURN

Board member Ehrlish moved to adjourn at 7:36 PM. Board member Bueter seconded the motion. The motion passed unanimously.