

**ZONING BOARD OF ADJUSTMENT  
MEETING MINUTES  
Tuesday, June 15, 2021**

**Members Present:**

Ed Freiberg .....Chairman  
Tiffany Bell ..... Vice Chairman  
Isaac T. Henry III.....Member  
Linn Cardner..... Member  
J. David Derosier ..... Member  
Keith Longlois.....Alternate Member

**Members Absent:**

Mark Ferrell.....Alternate Member

**Council Members Present:**

David Bailey

**Staff Present:**

Kelvin Knauf, Director of Planning & Community Development  
Wendy Lloyd, Planning Secretary  
Jay Trahan, Assistant City Manager & EDC Director

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

**CITIZEN COMMENTS**

Chairman Freiberg asked for any comments. None were made.

**REGULAR BUSINESS - MEETING MINUTES**

Chairman Freiberg asked for motion to approve the May 18, 2021, meeting minutes

Member Henry motioned to approve

Member Cardner 2<sup>nd</sup>

**Vote: 5 - 0**

**Motion Carries**

**PUBLIC HEARING**

***Case No. 21:08.*** Conduct a public hearing on a request from Brizo Construction, LLC on behalf of Estell Williams for a zoning variance to the side yard setback requirements on Lot 56' X 140' Tract 5, Part of D, Block G-12, Sheldon Addition also known as 1112 D 8<sup>th</sup> Street.

Chairman Freiberg opened the public hearing at 5:31 p.m.

Mr. Knauf stated this is another house that was damaged from the storms, and they are eligible for a new house from the General Land Office. As you're aware the General Land Office has a set number of housing styles to choose from and the one that's been chosen for this property is actually wider than what the side yard setbacks allow. The side yard setbacks are 15 feet in this zoning district. It's zoned R-2. In order to accommodate the house, they will need a setback requirement of a foot and half on one side and then 9 feet on the west side. A handicap ramp will be on the west side of the house. We have Russell Miller with Brizo Construction here.

**Russell Miller – Brizo Construction – Houston, TX:** Mr. Miller stated the plans we get, I can't change. The GLO gives us the plans. This is the property here and you can see the existing house. It's pretty close to the side setbacks anyway. My contention is this is basically all I can do to fit this house on this piece of property. Without that, if I can't put that on the property, this is the smallest house there is. There is a 2 bedroom house that is 28 foot wide with a 6 foot ramp on one side of it because the entire property that I'm building in this area like 34 feet wide. It's a 50 foot lot so with the 15 foot setbacks on each side that puts me down to 20 foot building area on this piece of property. I've got the site plan with me where the proposed new house is going to go.

Chairman Freiberg stated it was mentioned somewhere in this write up where there are 5 different plans to go on. Is that correct? Mr. Miller stated the GLO has 5 different plans and the GLO approves a 5 bedroom, 4 bedroom, 3 bedroom or 2 bedroom and they have separate plans for each one of those. The one that they chose is 2 bedrooms so there's actually 3 sets of plans for a 2 bedroom house. This is the narrowest one. It's 28 foot wide. All the rest are 32 or 34 feet wide. So, this is my only option for this house. Chairman Freiberg stated I ask that partly because it educates us. Mr. Miller stated sure, and I brought a site map if anybody wants to look at it. Mr. Knauf stated I will make some copies of it.

Chairman Freiberg stated letters were sent out to people within 300 feet of the house, correct. Mr. Knauf stated yes. Chairman Freiberg stated any response. Mr. Knauf stated I had 1 call with questions about it, but they did not oppose it.

**Estelle Williams – 1112 D 8<sup>th</sup> Street, Orange, TX:** Ms. Williams stated I did speak with Wayne Sparrow who is the only person that it is going to effect on the east side. On the west side is a huge vacant lot. It's been sold and resold and no one keeps it up except for my family has kept it up through 2020 until Hurricane Laura. It damaged the house, so it was unlivable. I spoke to Wayne Sparrow, and he said that he had called asking questions and had no objection.

Chairman Freiberg asked for any other discussion. None was made.

Chairman Freiberg closed the public hearing at 5:38 p.m.

## **DISCUSSION/ACTION**

***Case No. 21:08. Consider a request from Brizo Construction, LLC on behalf of Estell Williams for a zoning variance to the side yard setback requirements on Lot 56' X 140' Tract 5, Part of D, Block G-12, Sheldon Addition also known as 1112 D 8<sup>th</sup> Street.***

Member Henry stated I don't oppose it.

Member Derosier stated I went down there and it's an interesting configuration of 5 houses, all the same number just a different letter. Looking there on that picture to the immediate left of the house is the empty lot that was mentioned and next to that today is another GLO house that's already there. I think we've been through the GLO issues and I'm not sure, but we've approved I think all of them. I don't see a problem with it. It fits with the neighborhood and it's going to be an improvement to what's there.

Chairman Freiberg stated I think they're proposing to improve the setbacks. Mr. Knauf stated to change the setback requirements yes. Chairman Freiberg stated what they are doing, would that have taken care of this one. Mr. Knauf stated yes.

Member Henry motioned to approve variance request

Vice Chair Bell 2<sup>nd</sup>

**Vote: 5 - 0**

**Motion Carries**

### **PUBLIC HEARING**

**Case No. 21:09. Conduct a public hearing on a request from Donald Daniel for a zoning variance to the opaqueness and height requirements for a fence in the front yard at Lot 3 and South 15' of Lot 2, Block 3, Belmont Park Addition also known as #3 Lutch Circle B.**

Chairman Freiberg opened the public hearing at 5:41 p.m.

Mr. Knauf stated Mr. Daniel has built a fence as you can see up here in his front yard. It's forward of the front wall of the house. His fence is more than 4 feet tall and it's also an opaque fence, in other words, you can't see through it. The zoning ordinance requires that fences in the front yard not be any taller than 4 feet tall and must be 50 percent see-through such as a picket fence or rot iron fence or chain link fence. Mr. Daniel has applied for a variance to allow him to keep the fence that he has already constructed. He did not get a permit before constructing it.

**Donald Daniel – 2205 Sunset Oaks, Orange, TX:** Mr. Daniels stated first of all I wasn't aware of the zoning deal. I talked to the lady here. She come out and looked at it before I done it and she said as long as you were 20 feet from the middle of the road going back, it was okay. That was the day before we put the fence up but the reason the fence is up is because the neighbor, and it's been going on for 20 years and if you check the police records it will show you but for whatever reason this guy gets on his lawnmower that blows grass on the driveway. You can see how my son keeps the yard. That was the only way to keep him from getting in trouble or me from getting in trouble. We are trying to keep the peace. Just look at the police records, it will back up everything that I'm saying. So, the day the fence was constructed, we had 3 officers out there and they witnessed him burning the string and setting his fence on fire. They ended up calling the fire marshal and tried to give him a citation but that's the main reason the fence is like it is to try to keep from getting in trouble. There's been numerous complaints, and nothing has been done.

Chairman Freiberg stated letters have been submitted. Mr. Knauf stated yes, and I got 1 phone call and they opposed.

**Mike Eddleman – 1 Lutcher Circle B, Orange, TX:** Mr. Eddleman stated I am the neighbor that he talks about. I own lot number 1 and lot number 2. Mr. Daniel fails to recall that there was a fence here and a tree about in this location and he took them down and cut the tree down while I was at work offshore and not at home and my wife was gone to California to visit her mother who was very sick. All these flowers, that's all in the last couple of days in the last week. He had the property surveyed due to some other issues. They had a little orange flag right here. I went and I lined up with a string from the corner of where the fence was to his and I put a t post beyond that. On the day that he's talking about, that they were installing the stuff, I came out there to question them about the location of the post because they removed my marker and my string. So, the lady across the street which this picture doesn't show has a fence that's similar to this. Mr. Zeto, which probably the older people in town remember, was a construction individual and he built these houses. The son lives here, the house on the next over from me was Mr. Zeto and the son lived here. That's why I think there's an extra lot difference between the houses. Now this is an ongoing problem with him and he's talking about blowing grass and that and his son comes over and assaults me twice. The police have been called about it and they don't do nothing about it. As far as the fence goes, the height is a problem because you can't see what's going on, on this side. The people that were in the house over here had pictures of the son, junior, stalking around with a gun at night and the lady probably one of the phone calls you had she saw them over here doing the same thing. Member Henry stated sir, we are talking about the property. Mr. Eddleman stated yeah I'm talking about the fence too. The height and not being able to see through it provides stuff for these people to do stuff over on this side that you can't monitor. The police can't see down here to see what crime is going on in 3 houses because of the way that fence is constructed. If Mr. Daniel would have gone and talked to the inspector and got the proper permit beforehand which you have to submit a drawing and they have to be written off and be okayed, then he would have known that. Also, he fails to get permits quite often. The most recent one is he had a roof put on for 2 years and there's no record of him having a permit for that roof. So, this is a continued thing. He does what he wants and then tried to bully the other people.

Vice Chair Bell stated, Mr. Daniel, I know you had said you had spoke to the lady who came out and told you. Do you remember her name or phone number? Mr. Daniels stated the lady that is here, Sgt. Bernard.

Member Henry stated did you have the property surveyed by a professional survey company. Mr. Daniel stated yes it was surveyed and actually he put, well we put the fence from here to here and he put the fence from here to here and you can't see it on the drawing but there's a cement slab that's on my property and we've been trying to get somebody to say okay this is on your property and I've been told that I can take a saw and cut that off, the cement part off. But there again to keep down confusion I wanted to do it the legal way and if anybody come and look at that you can see where it is on my property.

**Yolanda Daniel – 2205 Sunset Oaks, Orange, TX:** Mrs. Daniel stated this is my son and his wife, they live on our property. We paid last year, \$700 or \$800 for the property to be surveyed by a company out of Bridge City. I don't remember their name. Mr. Daniel stated Anderson Surveyors. Mrs. Daniel stated we can produce those documents. His fence and his makeshift cement block there are on our property, and we haven't proceeded forward because we are trying to error on the side of the law and to keep the peace and keep confusion down. So, we come to

code enforcement, and they said they were sending Mr. Eddleman a registered letter and he has 30 days to get it surveyed, the same way we did, and we will go from there if they are not alike or whatever the procedure is. You can see, he's talking about us not getting permits but he's made a makeshift driveway in his thing, and we have had the police out there because he wants to be irate when people park there and it's not a driveway. It's not a legal driveway and so we are trying to keep the peace. We are not trying to be out of compliance. All of this is about keeping the peace because he picks at my son, and he picked at us when we lived there, and it's been going on 20 some years. We're just trying to put an end to it without anybody getting hurt. We are just trying to keep the peace. We mind our own business. If you pull police records, it's been going on for 20 some odd years and we've had them out there several times in the 2 years that they've lived there.

Member Henry stated as far as that other property goes, you've had your surveys and obviously they've told you he's got to produce a survey. If the survey says the same thing and it shows to be on your property, then it's on your property. That's something you can get here. If it's got to be done that way, then do it that way.

Mr. Eddleman stated well first of all of they're trying to keep the peace you don't come into my yard and my house and assault me. Member Henry stated we are not here talking about that. We are here talking about Case No. 21:09 regarding the fence. So, we're not going to keep going back and forth pointing the finger at each other. We are here to discuss this. This is the fence that we're discussing. Nothing else needs to be said. You come here, they said you need to get a survey done, get a survey done and then from there if it shows the same exact thing then you produce both your surveys to this department and they will make the determination and say hey it is actually on their property, then they can do what they want to do with it. End of story. That's all we have to deal with. We are here to discuss this so no more back and forth he said versus she said. Mr. Eddleman stated well they took the fence down and now they want to put one up that they didn't get the thing before and all I'm saying is if you do it the proper way, we wouldn't even be here. Now as far as the little piece of concrete on the other little deal, if he wants to cut it off, cut it off. I don't care. I didn't form it up.

Chairman Freiberg closed the public hearing at 5:53 p.m.

## **DISCUSSION/ACTION**

***Case No. 21:09. Consider a request a request from Donald Daniel for a zoning variance to the opaqueness and height requirements for a fence in the front yard at Lot 3 and South 15' of Lot 2, Block 3, Belmont Park Addition also known as #3 Lutcher Circle B.***

Chairman Freiberg asked for any thoughts.

Member Derosier stated it's interesting that there are lots of different fences out there right and the end of that street. In the back there's a privacy fence like those. Directly across the street is a 4 foot chain link fence. My concern is whether it be ignorance or whatever, but a permit was not solicited and if it had been then it would have been identified that it's not a legal fence. Although I hear all of the other issues being tossed around, I think it was done improperly regardless of what their circumstances are and I'm not in favor of it.

Chairman Freiberg stated my feeling is it has got to be a 4 foot fence and it's got to be see through. Member Cardner stated well what about taking a plank out every other one. Chairman Freiberg stated I mean that's what I'm saying if it can be adjusted I think I would accept that.

Vice Chair Bell stated I don't know witnessing what I have witnessed, I'm for the fence staying the way it is because if I personally put myself in the situation and I was having issue with the neighbors constantly going back and forth, this would be the easiest for me that way I don't have to see you and you don't have to see me. All you're doing is seeing me as we pass by in vehicles. For me to keep it down because I do know they have been in this neighborhood for a while and the only reason is because we all went to school, her daughter went to school with me. This house has been in this neighborhood for a while or this family. I just don't think by them taking it down or taking a post out is going to make the situation better. I get the point that he didn't get the permit and maybe I'm too lenient, but I do remember how many other people who do things because they feel like it's my property and I pay taxes on it, and they are just not thinking that it's something that I would necessarily have to get a permit for. But I feel like he did the best that he could because he contacted whoever he said, Sgt. Bernard. They came out and explained it and so I get that he tried to do something, and he talked to that Sergeant and basically he is going off of what that sergeant said. Now if he would have said some name and Ms. Wendy couldn't back it up like I'm not sure who you are speaking of then it would probably be a situation. I probably would do the same thing. Honestly, I think with the fence issue I don't see it any better but it's their home and they've been there, and they passed it down to their son. I'm in favor for leaving it as-is with the extra conversation that we did hear about you getting it surveyed and like he said once they come back with the answer then you go and do what you need to do and then it's up to him and his timeframe to do what he needs to do and if it's something again that we need hear on another issue then we will handle it accordingly.

Member Henry stated I'm with Tiffany. Member Cardner stated I am too. Chairman Freiberg stated legally we might be do it by the book but that might not be the right decision.

Member Cardner stated let me ask a question. If this okay to leave the fence but the gentleman back there has to get the survey so that we know. Mr. Eddleman stated I'm fine with their survey. That's why I said I didn't form the concrete up. I think it's maybe a couple inches, kind of a weird shape there but they had already poured the concrete when I saw it and if they want to cut it off, that's fine with me. Member Cardner stated well so you are not going to do a survey. Mr. Eddleman stated no, the people that did the survey, I'm quite sure that it wasn't somebody fly by night, so I'm good with that. Like I said going on about this much concrete is one thing but as far as the rest of it, the only reason, I'm not opposed to the fence. I'm opposed to the way it's constructed. If they'd had come asked me, Donald, Sr, we may not have always gotten along but when we've had issues we talked to one another. Junior not so and that's probably the problem but as far as being what it needs to be legally, that's the main reason I'm here. That's the other people that I talked to; I think Terrie thought this meeting was another night, so I don't know why she didn't really show up. She was the one that originally called the code enforcement. The police said that they had permission for the permit and come to find out they didn't file for a permit until Monday after the fact.

Member Henry stated did you send any flyers out Kelvin? Mr. Knauf stated flyers, you mean letters. Member Henry stated yes. Mr. Knauf stated yes to people within 300 feet. Mr. Eddleman stated I got one. Member Henry stated and how many did you get back. Mr. Knauf

stated none that were returned and that 1 phone call.

Vice Chair Bell stated one more thing. I just think that I know it's a hard situation and I'm only speaking from the outside of it but as adults we all got to come to some type of understanding and we all need to learn how to respect each other whether it's over there on your street or whether it is here. We all have to respect each other and as long as both of you all are going to be living in those properties, somebody is going to have to give, and I don't know what it is, but you all are going to have to learn how to live together on 2 different properties and respect each other. Mr. Eddleman stated yeah you talk to one another; you don't make threats. Vice Chair Bell stated and I'm not there so I can't speak on that but I'm just saying they are not going nowhere, and you are not going nowhere. There's just got to be some type of agreement or understanding to where you can make the peace because whatever issues you all have, I don't know but it could possibly bleed over to the other neighbors and other potential people that want to come in that neighborhood. Mr. Eddleman stated the other people that I talked to; they aren't in favor of it. There's only 3 actual people that own the properties that live there. I'm one and the lady across the street, Ms. Cleveland, and Laura Washington. Everybody else is a rent house. Vice Chair Bell stated and I'm not trying to open up the issue bigger, I'm just trying to say that as adults we have got to learn how to get along.

Vice Chair Bell motioned to approve variance request  
Member Henry 2<sup>nd</sup>

**Vote: 4 - 1**

**Motion Carries**

Member Henry motioned to adjourn  
Vice Chair Bell 2<sup>nd</sup>

**Chairman Freiberg adjourned the meeting at 6:05 p.m.**