

State of Texas
County of Denton
City of Lake Dallas

The Board of Adjustments of the City of Lake Dallas met July 14, 2014 at 7:30 p.m. in the Lake Dallas City Hall located at 212 Main Street, Lake Dallas, Texas with notice of the meeting posted as required by Title 5, Chapter 551.041 of the Texas Government Code.

1. Roll Call

Members Present: Steven Bertrand, Cindy Nelson, Terry Tuck, Carol Ann Connors

Staff Present: Community Development Director Char DuPree and Planning and Zoning Secretary Khara Sherrill

2. Consideration and Action on approval of Minutes for the June 3, 2014 meeting.

Motion to approve the minutes for June 3, 2014 was made by Carol Ann Connors; second by Cindy Nelson.

Ayes: Steven Bertrand, Terry Tuck, Cindy Nelson, Carol Ann Connors

Noes: None

3. Public Hearing to hear an appeal regarding the revocation of a Certificate of Occupancy for Jen's Hand Me Ups, requested by the property owner, Jennifer Thrailkill, for the property located at 130 W. Hundley Drive, Lake Dallas, Texas.

Jennifer Thrailkill, the owner of Jen's Hand Me Ups and who resides at 203 Shady Oaks Cir, Shady Shores, TX was the first to speak regarding the appeal. She feels that at no time has her business been unsafe, unhealthy or in slum conditions. She admitted it is crowded but so are most second hand stores. She makes sure her employees clean the store every day. She stated her real estate agent came to the City before she bought the property inquiring about changes she can make to the building. To her knowledge, she was allowed to make these changes without a permit. She realizes the pictures look bad but she has to go through the items she receives at the back of the building. Many items are just left at the back of the building and she has no idea where they come from and fifty percent of them are donated to several different organizations. She tried to put up a fence but was told she couldn't. This store was her mother's dream for her before she passed away. She has done all the work herself with the help of friends because she cannot afford professional contractors to do the work.

The second person to speak was Debra Marsh of 30 Hickory Hills Blvd in Hickory Creek, TX. She moved to the area four years ago and fell in love with Jen's store because it was affordable for her family. She started doing consignments with her and now the little money that she was making is gone. The community benefits from this store and she doesn't understand why it was shut down. Jennifer Thrailkill gives back so much to this community and she should be allowed to open the store again. The pole sign in the front was there for the previous owner and she didn't alter it in anyway so she shouldn't be forced to remove it.

Joe Thrailkill, spouse to Jennifer, spoke next. He explained what he believes the code states regarding the pole sign. He doesn't think they should have been cited for trash and debris since the debris outside is actually merchandise or donations. He was told they could alter the inside of the building and he feels that the city is picking and choosing what they want from the City Code.

Morgan Arivett of 300 Shahan Ln, Shady Shores, TX came up next to speak. All the items that are outside are items that people leave for her during the weekend. Ms. Thrailkill is always at the business working. She wanted the Board to know that those people at the nearby daycare for the mentally disabled come to the store once or twice a day and love the store.

Brandy Arivett of 300 Shahan Ln said she is disabled and this is where they have been shopping for her family. The shop like this is needed since we have a large amount of low income people that live in the area. Jennifer Thrailkill does not sell bad stuff. The items she sells are clean as opposed to other consignment shops and she hopes the Board reconsiders closing the shop.

Steve Thompson of 5313 Countess Ct Lake Dallas, TX spoke briefly. He said he didn't plan on speaking but wanted to reiterate what others have said that he loves the shop and goes there periodically and hopes the business will stay open.

Cindi Freeman of 3517 Riverview Dr in Corinth, TX came up next. She met Jennifer when her business started out of her house, and now, her having her own business. She was with her when her mother passed and this was truly a dream of her moms. She was nice enough to give her daughter a job to help pay for extra things. She also goes out of her way to help people and this town needs another inexpensive place for people to shop.

Jimmy Teague of 206 Shady Oaks Cir, Shady Shores, TX was the last one to speak on Jennifer Thrailkill's behalf. He is the neighbor of Jennifer Thrailkill. She helped him get stuff after his ex-wife took everything from him. He has helped her in doing some of the work in the store and feels it is a safe building. He misses the store and the community needs it.

Public Hearing was closed.

4. Consideration and Action to hear an appeal regarding the revocation of a Certificate of Occupancy for Jen's Hand Me Ups, requested by the property owner, Jennifer Thrailkill, for the property located at 130 W. Hundley Drive, Lake Dallas, Texas.

Char Dupree, Community Development Director, came forward and was sworn in by Chairperson Steven Bertrand. She gave a presentation regarding the history of Jennifer Thrailkill's business and the ongoing issues.

She realizes to the average person these may not look like legitimate violations but the City and State has to abide by the International Building Code, Mechanical Code, Plumbing Code and Fire Code. She explained how the city uses a third party company, Bureau Veritas, for inspections.

Ms. DuPree explained the history and code regarding the pole sign in the front of the building. The code was changed in 2006 regarding pole signs being prohibited. If the sign is not utilized for more than 12 months the pole sign must be removed. Terry Tuck asked if Ms. Thrailkill was told to remove the pole sign before she started using it and Ms. DuPree answered yes she was requested to remove it before it was utilized. The citations were issued for trash and debris and also for erecting a sign without a permit, which is the sign attached to the front of the building. She was never cited for not removing the pole sign.

Ms. DuPree summarized the building inspectors report. Ms. Thrailkill moved a wall and

altered the electrical and plumbing. It is not that she cannot do these things but that she didn't get a permit and did not use a licensed contractor. Ms DuPree referenced pictures which showed what she had done in the building and the various violations. She appears to have removed a bathroom.

The City does not want to put her out of business but Ms. Thrailkill must get the building back up to code. She must have permits and get a licensed contractor to do the work. Once the building permits are issued, fees paid, the building is up to code, and she removes the pole sign, her Certificate of Occupancy can be reinstated. The City has an obligation to Ms. Thrailkill's customers and others in the city for her building to be safe and it is Ms. DuPree's job to enforce these regulations set forth by the City and building code.

Steve Bertrand went over the fact that the building was safe at some point. The layout of the building was not conducive to her business so they wanted to change it. The problem is not that they made changes but the process they went about making them. Carol Ann Connors asked if any work had been done since the business was closed and Ms Thrailkill advised it has but did not apply for permits. She was under the impression that she needed permits if she was changing any load bearing walls. The Fire Marshall wanted her to change a few things and she said she complied with them.

Jennifer Thrailkill asked why other businesses such as the Property Shop and Nana's Café have not had to remove their pole signs. Char DuPree answered it was because both have always been in use and Jennifer Thrailkill's location has been vacant for five years and if she wanted to use the pole sign she would need a variance.

The main problem is she cannot afford the permits unless her business is open. She also did not think she could get a permit while her certificate was revoked. Mr. Thrailkill showed the Board a copy of the code regarding pole signs. Most of the Board members present felt he was reading the code incorrectly and that the pole sign is in fact prohibited. Char DuPree referred to where the code explains legal non conforming use and explained what is allowed and what is not, in the grandfather clause.

Steven Bertrand asked what options she would have to keep the outside clean. She said the pictures do not depict what it actually looks like when the business closes. It is neat and orderly. Currently there is very little outside. Char DuPree advised she did inspect the property before the meeting. There are things beside the rubbermaid shed outside and a trailer in the parking lot but it is the cleanest it has been in a long time. Nothing is allowed in the exterior of the property except the shed. There is a fire lane in the back of the building and a metal fencing on the west side of the building. The back side of the building could be lined with several rubbermaid storage buildings. A fence could be built, with a permit, from the back side of the building to the fire lane which is around 3 feet. The main issue with the fence option is it cannot take up any parking spots. The fence plans Ms. Thrailkill initially submitted took up two parking spots so it was denied. Char DuPree has allowed her park her trailer in one parking spot.

Char DuPree stated she has not been inside the location since May. Jennifer Thrailkill has stated she has completely redone the store. She did address the exposed wiring and exposed installation. But the fact is she has not gotten any permits. Jennifer Thrailkill said she cannot afford permits or to hire a licensed contractor. Steve Bertrand asked Char DuPree what she thought the permits would cost. She answered she wouldn't know without an accurate valuation of the work already completed. Carol Ann Connors said she shouldn't have started the process without first going through the City. Ms. Thrailkill said she thought she had and that structurally meant the outside of the building and nothing inside. Char DuPree stated if she waived the requirements she puts the city at risk and Carol Ann Connors answered it also sets a precedent for other businesses.

Steve Bertrand asked Ms DuPree what it cost for Bureau Veritas to come out and she

answered it is around \$80. The inspection completed earlier by the inspector was paid by the city. Bureau Veritas can do another inspection but the city cannot absorb that cost. If they come out again and say the building is up to code we still have the issues regarding nonpayment of permits and not using licensed contractors. The Board requested Char DuPree check with the City Attorney to see if the city would be released from liability if they issued permits for work already completed by those that are not licensed contractors. The inspection is supposed to be done based on a set of plans but in this instance it could be done based on his previous report. If it is deemed safe for her to reopen she must keep in compliance. The Board would meet again in three to four weeks for an update. A reasonable drawing of what has been done in the building and an accurate as possible value of the work that has been done must be turned into Community Development.

Someone in the audience asked if in the next meeting there will be a public hearing and they said no, the public hearing is over.

Someone else in the audience said they wanted her to stop putting her trash in their dumpster. The board said this is not the right time to discuss this issue and it should have been brought up during the public hearing. Steve Bertrand stated he understood their frustration that someone is using their dumpster but he has no proof if it is actually Jennifer Thrailkill or not.

Motion to table the consideration and action regarding the Certificate of Occupancy for Jen's Handmeups until the business owner submits plans for the work that has already been done, the permit fees can be calculated and a follow-up building inspection has been conducted. Once these items have been completed the Board will meet to decide on this issue.

Ayes: Steven Bertrand, Terry Tuck, Cindy Nelson, Carol Ann Connors

Noes: None

Motion Passed

5. Adjournment

Chairperson Bertrand Adjourned the meeting.

The meeting was adjourned at 9:15 PM.



Khara Sherrill, Planning and Zoning Secretary



Steven Bertrand, Chair