

**ZONING BOARD OF ADJUSTMENTS
SEPTEMBER 19, 2012
CITY HALL'S COUNCIL CHAMBERS**

<u>MEMBERS PRESENT</u>	<u>MEMBERS ABSENT</u>	<u>STAFF PRESENT</u>	<u>GUESTS PRESENT</u>
Kathy Olivarez	Jorge Garcia	Bobby Salinas	Oscar Aguilar
Raul Sesin	Jon Lown	Sergio Zavala	George Rodriguez
Danny Tijerina		Annette Zavala	Roel Reyna
Mike Friedrichs			
Ned Sheats			

CALL TO ORDER

Chairwoman Olivarez called the meeting to order at 4:35 p.m.

CITIZENS PARTICIPATION

Chairwoman Olivarez asked if there was anyone in the audience that had anything to present or express that was not on the agenda. The audience remained un-responsive.

APPROVAL OF MINUTES FOR AUGUST 15, 2012

Chairwoman Olivarez asked if there were any corrections to the minutes. There being none, Mr. Sheats moved to approve the minutes as presented. Mr. Sesin seconded the motion. Upon a vote, the motion passed unanimously.

ITEM #1.1

CONSIDER A VARIANCE REQUEST TO HAVE A 0' SIDE SETBACK INSTEAD OF THE REQUIRED 6' SIDE SETBACK AT 3414 N. BRYAN RD., BEING THE SW 1.00 AC. FOR H/S – N 224.05' – 944.40' OUT OF LOT 29-11, WEST ADDITION TO SHARYLAND SUBDIVISION, AS REQUESTED BY MRS. MARIA ELIA AGUILAR

Chairwoman Olivarez entertained a motion to remove the item from the table. Mr. Sheats moved to remove the item from the table. Mr. Sesin seconded the motion. Upon a vote, the motion passed unanimously.

Mr. Salinas explained that the subject property is ¼ mile north of 2 Mile Rd. along the east side of Bryan Rd., the total lot measures approximately 224.05' x 944.40' where the home is located on the westernmost part of the acreage and there are no unique lot features as to location or orientation. There are no easements running along the northern property line. ZBA saw this item 8-15-12, where the owner built a new 33' x 36.6' game room

without a building permit and submitted a plan using a block fence as the buildings wall. The roof is made of wood and is not considered a fire-rated wall. At the 8-15-12 meeting, ZBA tabled the item and asked the owner to submit a letter from a structural engineer stating that the structure was built properly and would withstand 110 mph winds. There was also a question on how the roof structure was going to be fire walled. On 8-30-12 Staff received a letter from BIG Engineering, stating that that the structure in compliance with building code and windstorm design. We will have a building inspector present at the meeting to answer any building questions.

Review Comments: The primary intent of the side setback is to have a fire separation between structures. Article XIII, Section 1.59, 3d states: "Side yard setback requirements may be increased where necessary to provide a minimum of 12 feet between structures on abutting lots where a firewall is not provided..." ZBA has approved previous side setback variances in the past using either a fire wall requirement or increasing the side setback to the adjoining neighbor. The neighbor's home is approximately 75' from the property line, thus would be able to meet the side setback increased to 12', if the neighbor agrees to sign a property encumbrance agreement. Staff also received a letter from the adjoining neighbor stating that he did not have an issue with the new structure being built within the side setback.

Staff 1ST recommendation: Denial; not unique; self-inflicted; property's been annexed since 2008 and, if in the County's jurisdiction, a building permit would still be mandated with a similar side yard setback.

Recommendation: If ZBA is inclined to approve the variance, the following conditions should apply: Reconstruct the roof to be a 'true' fire wall and install rain gutters along the north property line to be approved by the City Inspector; 2.) Signing and recording a property encumbrance document that would require the setback to be met, if the structure is removed and would require the minimum setback to the adjoining property to be no less than 12' Neighbor would have to agree with the property encumbrance.

Chairwoman Olivarez asked if there was any public opposition to the request.

The audience remained un-responsive.

Chairwoman Olivarez asked if the applicant or representative were present

Mr. Oscar Aguilar was present

Mr. Roel Reyna the neighbor, who lives at 3422 N. Bryan Rd., was in favor of the variance.

Mr. Sesin mentioned that the reason they asked for him to be present was because of the side setback that the City requires, and he would have to be 12' from the property line if in the future he would decide to build and would have to sign an encumbrance letter that he is in the understanding of the variance.

He mentioned that there was a 15' utility easement and there for he could not build on that side even if he wanted, the easement is recorded on the warranty deed of the owner.

Mr. Sesin asked if he had made a complaint.

Mr. Reyna replied that he had not made any complaints.

Mr. Sheats wanted to know if the building met code.

Mr. Joe Hernandez City Inspector mentioned that he had inspected the room and it did meet City codes, he had inspected the beams and they did meet the required 30" and the back wall was with cement and it has the 2 x 4's around the walls.

Mr. Sesin mentioned that the engineer dropped off the letter and was not able to attend the meeting.

Mr. Salinas replied that the letter was dropped off and the engineer that it did meet windstorm requirements, but Mr. Rene Barrera did not attend the meeting sealed it.

Mr. Sesin stated that the engineer and the City Inspector both agree that the room is in compliance, and the room is a play room and he does not see any thing wrong with the structure and would like to see an encumbrance document signed by the applicant just in case they sell at a later time.

Mr. Friedrichs asked the City Inspector if the roof was tied down to the foundation.

Mr. Hernandez mentioned that the roof was properly tied down.

Mr. Sheats mentioned if they would require a firewall.

Mr. Sesin mentioned that the firewall was done when two structures are adjacent to each other and in this case they have a 15' utility easement. He stated that he didn't see anything wrong the building and an engineer signed the letter.

Mr. Salinas mentioned that they would require for the owner to sign the Hold Harmless documents.

Mr. Friedrichs wanted to know when the fence was build, and if they had a patio done before the structure was built there.

Mr. Aguilar mentioned it was built a year ago and the foundation was there already.

There being no further discussion, Chairwoman Olivarez entertained a motion. Mr. Sheats moved to approve the variance request. Mr. Sestin seconded the motion. Upon a vote, the motion passed unanimously.

**ITEM #2.0
OTHER BUSINESS**

**ITEM #3.0
ADJOURNMENT**

There being no further business, Chairwoman Olivarez entertained a motion to adjourn. Mr. Lown moved to adjourn. Mr. Garcia seconded the motion. Upon a call for a vote, the motion passed unanimously at 4:49 p.m.

Chairwoman Olivarez
Zoning Board of Adjustments