

**ZONING BOARD OF ADJUSTMENTS  
OCTOBER 21, 2015  
CITY HALL'S COUNCIL CHAMBERS**

**MEMBERS PRESENT**

Ned Sheats  
Kathy Olivarez  
Sam Rodio  
Raul Sesin

**MEMBER ABSENT**

Mike Friedrichs

**STAFF PRESENT**

Daniel Tijerina  
Jaime Acevedo  
Annette Zavala

**GUEST PRESENT**

Maria Toro  
Jose Rodriguez  
Santos Rodriguez  
Isael Posadas

**CALL TO ORDER**

Chairman Sheats called the meeting to order at 4:37 p.m.

**CITIZENS PARTICIPATION**

Chairman Ned Sheats asked if there was any citizen's participation.

There was none.

**APPROVAL OF MINUTES FOR MAY 20, 2015**

Chairman Sheats entertained a motion to approve the minutes as noted with corrections. Mr. Sam Rodio moved to approve the minutes as corrected. Mr. Sesin seconded the motion. Upon a vote, the motion passed unanimously.

**ITEM #1.1**

**CONSIDER A VARIANCE REQUEST TO HAVE A 5' SIDE SETBACK ON BOTH SIDES OF THE PROPERTY INSTEAD OF THE REQUIRED 6' SETBACK AT 709 N. GLASSCOCK ROAD, BEING LOT 22, HORSESHOE SUBDIVISION, AS REQUESTED BY MRS. MARIA TORO**

Mr. Jaime Acevedo went over the write-up stating that the site is located near the Horseshoe Circle Glasscock intersection the site is approximately measures 40' frontage to Horseshoe Circle by a 114' depth (4,560 sq. ft.). In speaking with the applicant, it was learned that her mother lived at this location for over 5 years in similar double wide mobile home owned by the property owner. Mrs. Toro has purchased a similar double wide mobile home that measures 30' x 48' wide and is requesting that it be permitted with 5' setback. A typical mobile home is between 14' – 16' wide and would leave between 13- 12' as a side setback, if placed on this lot. However, being that Mrs. Toro is requesting a side building setback of 5'. Being zoned r-4, the typical side setbacks are 6'. The intent of this setback is to allow a "fire" clearance from one residence to another. International Fire Code (ICC) and the Uniform Fire Code (NFPA), both adopted by Texas Local Government Code, require a 10' minimum building separation from one structure to another. Since the more stringent local codes supersede, a variance is required to allow Mrs. Toro to move-in her mobile home.

**RECOMMENDATION:** Staff Recommends Denial

Chairman Ned Sheats asked if there was any opposition.

The audiences remain unresponsive

Chairman Ned Sheats asked if the applicant or representative were present.

Mr. Rodriguez, General Manager for Palm Harbor Homes was present to answer any questions the board might have, they sold the house to Mrs. Toro. He mentioned that it was the owner's responsibility to find out if the mobile home could be placed at the location, and her understanding was that there was a 5' side setback. The mobile home is 30' ft., wide and this is the only mobile home that qualifies for a housing program the applicant qualified for, typical mobile homes are 28' wide, when they applied for the permit to move it they realized they needed a side setback.

Chairman Sheats mentioned that he has a problem with the mobile home; he mentioned that in the area it shows all single wide mobile homes, and if at one time they had a double wide and we measured the site and it fits a 28', and the issue is that it will be too close to each other and is a fire safety issue.

Mr. Sesin asked if they had a permit, and mentioned that the structure was bought before obtaining the permit.

Mr. Rodriguez mentioned that they tried getting the permit and were advised of the setbacks, based on the 5' side setback they thought was required. He mentioned that all mobile home parks have a standard 5' side setback.

Mr. Sesin mentioned that they should have pulled a permit first before doing a transaction, and verifies setbacks and that a 5' setback is not a typical side setback in a mobile home park. He stated that his seen a few mobile home subdivisions and they all have a 6' side setback.

Mr. Tijerina mentioned that it was zoned R-4 and they required a 6' side setback.

Mr. Rodriguez also mentioned that the property next to the lot where they want to place the mobile home has a porch that is encroaching on to the setback.

Mr. Acevedo mentioned that they had noted the issue and will take a address it.

There being no further discussion, Chairman Sheats entertained a motion. Mr. Sam Rodio moved to "Deny" the variance request as recommended by staff. Mr. Raul Sesin seconded the motion. Upon a vote, the motion to deny passed unanimously.

**ITEM #1.2**

**CONSIDER A VARIANCE REQUEST TO HAVE A 8' SIDE SETBACK INSTEAD OF THE REQUIRED 15' SIDE SETBACK, AT 916 W. EXPRESSWAY 83, LOT 1, CAR MART SUBDIVISION, AS REQUESTED BY MR. ISAEL POSADAS**

Mr. Acevedo mentioned that the site is located at the north side of U.S. Expressway 83 frontage corridor between Holland Avenue and Los Ebanos Road. Currently, Lot 1 is being used as a car lot and has a portable building as their sales office. The applicant would like to construct a site built sales office and is seeking a variance to have an 8' side setback where a 15' side setback is required. Staff calls your attention to the site which shows a 973 sq. ft. structure depicting an 8' side setback from the lot line. Being zoned C-3, side setbacks are typically ½ the height of the building or 0' if fire rated. However, Lot 1 has a 15' utility easement / side setback.

**Section 1.17 (2) Powers of board of adjustment:** The board shall have the power to authorize upon appeal in specific cases such variances from the terms of this ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship, and so that the spirit of this ordinance shall be observed and substantial justice done. Such variances from the strict application of the terms of this ordinance must be in harmony with its purpose and intent, and shall be authorized only when the board is satisfied that the applicant has proven the following conditions exist: (f) that the variance will not merely serve as a convenience to the applicant.

Staff Recommendation: Staff recommends denial due to 1) the applicants request is for new construction where the building can be shifted to meet setbacks, and 2) Approval of this variance request will set precedence for other requests.

Chairman Ned Sheats asked if there was any opposition.

The audience remained unresponsive

Chairman Ned Sheats asked if the applicant or representative were present Mr. Isael Posadas was present to answer any questions the board might have.

Mr. Posadas from SDI Engineering is representing the owner Jesus Sanchez from Car Mart Auto Sales, the structure was built back in 2012, and they did obtain a permit with the encroachment the concrete, and the permit was approved showing the 15' encroachment on to the utility easement, because there are not any utilities one the 15' utility easement, there are utility lines running on the rear of the property.

Mr. Acevedo mentioned that they were advised that there were some sewer lines running through the 15' utility easement.

Mr. Posadas mentioned that they have a letter from CFW and should be recorded with the plat, there are poles but they are private, they ran the lines on the rear of the

property, on the east side of the alley the sewer lines run through there. They were advised that they need to apply for a variance and that's what they did.

Mr. Sesin mentioned that if they had notes on that issue.

Mr. Tijerina mentioned that if it's on the plat it still shows a 15' utility easement.

Chairman Sheats mentioned why not shift the building and make it fit there.

Mr. Posadas mentioned that the building would actually be aligned with the concrete on the east side, and it would benefit the owner, when they did the subdivision it was a very difficult subdivision because of all the setbacks and they are still honoring the rear setbacks. And also, CFW was very cooperative with them and it was a very tough property to develop and they are trying to make use of this lot. This not a regular mobile home, it's a commercial grade building and they want to move into a permanent structure.

Mrs. Olivarez mentioned why they wanted to move the portable building.

Mr. Acevedo mentioned that they were planning on building a new building and removing the portable building. He mentioned that there were easements all around the property.

Chairman Sheats mentioned that they are not there to make exceptions for anyone, when there are other ways of doing it. This would cause people to say you did it for them so why not us.

Mr. Posadas mentioned that the building could be moved but they want a permanent structure. Although they meet all the commercial requirements, in this case they need the variance since it the 15' easement is in place.

Mr. Sesin asked, what was the purpose of the 15' easement, and if council would have the authority to abandon the easement.

Mr. Tijerina mentioned that the easement is there for any utilities, whether it would be water, storm, and sewer, and that staff would have to check with the City Attorney on the abandonment. He also mentioned that the issue was the 15' easement and that was the item presented and if it had any utilities or not, that was not the issue it's a recorded plat note, unless they re-plat the subdivision.

There being no further discussion, Chairman Sheats entertained a motion. Mr. Sam Rodio moved to "Deny" the variance request as recommended by staff. Vice Chairman Raul Sesin seconded the motion. Upon a vote, the motion to Deny passed unanimously.

**ITEM #2.0  
OTHER BUSINESS**

Mr. Raul Sestin mentioned that he would no longer be serving on the ZBA board; he mentioned that his daughter was not born yet when he started serving the board and she was 19 years old, and he also served on the P&Z Board, and it had been a pleasure to have served.

**ITEM #3.0  
ADJOURNMENT**

There being no further business, Chairman Ned Sheats entertained a motion to adjourn. Mr. Sam Rodio moved to adjourn. Mr. Raul Sestin seconded the motion. Upon a vote, the motion passed unanimously at 5:05 p.m.

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Ned Sheats, Chairman  
Zoning Board of Adjustments