

**ZONING BOARD OF ADJUSTMENTS
NOVEMBER 16, 2016
CITY HALL'S COUNCIL CHAMBERS**

<u>MEMBERS PRESENT</u>	<u>MEMBER ABSENT</u>	<u>STAFF PRESENT</u>	<u>GUESTS PRESENT</u>
Ned Sheats		Jaime Acevedo	Lionel Mascorro
Sam Rodio		Virgil Gonzalez	Cynthia Contreras
Jaime Gutierrez		Annette Zavala	Rick Gonzalez
Kathy Olivarez			Consuelo Guerra
Mike Friedrichs			Brenda Guerra

CALL TO ORDER

Chairman Ned Sheats called the meeting to order at 3:33 p.m.

CITIZENS PARTICIPATION

There was no citizen's participation.

APPROVAL OF MINUTES FOR OCTOBER 19, 2016

Chairman Sheats asked if there were any corrections to the minutes. There being none, Mr. Mike Friedrichs moved to approve the minutes as presented. Mr. Sam Rodio seconded the motion. Upon a vote, the motion was unanimously approved.

ITEM #1.1

CONSIDER A VARIANCE REQUEST TO HAVE A 2' 8" REAR BUILDING SETBACK INSTEAD OF THE REQUIRED 10' REAR BUILDING SETBACK AT 1404 SHERI LEE DR., BEING LOT 45, BARCELONA ESTATES SUBDIVISION, AS REQUESTED BY LIONEL MASCORRO

Mr. Virgil Gonzalez briefed over the write-up stating the subject site is located along the south side of Sheri Lee Drive between Don's Drive and Dora Jeanne Drive—see vicinity map. The applicant has sold his residence and in the process of selling the home discovered that a BBQ area and hot tub were constructed encroaching over the 10' rear setbacks. The applicant is seeking to keep both the BBQ area and hot tub and requires a variance to meet the required rear building setback. Staff did find permits for both the BBQ area and the pool's hot tub and in both cases contractors showed that they would be respecting the 10' rear setback. Inspections were also done and passed by the City.

There is a 10' recorded Utility Easement along the rear of the property line. The only utilities in the 10' Utility Easement at this time are cable, telephone, and electrical. However, the applicant did spot the lines prior to construction and avoided all utilities during construction.

RECOMMENDATION: Since the applicant did obtain permits and Staff inspected and passed both constructions staff does not object to the variance subject to: 1) a recorded document that the BBQ area and hot tub will perpetually remain as 'open and un-enclosed' structures, i.e., no walls, and that the City and recognized franchise holders be indemnified and held harmless to any private improvements on or over the 10' utility easement, and 2) if ever removed, the prevailing setbacks shall be complied with thereafter.

NOTE: The applicant is receptive to Staff's conditions with a recorded document, too.

NO Action Taken

ITEM #1.2

CONSIDER A VARIANCE REQUEST TO HAVE A 2' 2" REAR YARD SETBACK INSTEAD OF THE REQUIRED 10' REAR YARD SETBACK AT 403 SYCAMORE AVE., BEING LOT 75, SHARY CROSSING PHASE I SUBDIVISION, AS REQUESTED BY LUIS MARTINEZ

Mr. Virgil Gonzalez stated that the subject site is located 100' north of E. 4th Street along the west side of Sycamore Avenue—see vicinity map. The owner, Luis Martinez, desires to retain a rear enclosed patio area and is requesting a 2' 2" rear setback variance for this structure. Typical rear setbacks for this development should be 10' for an R-1 zone. Shary Crossings Phase I Subdivision has a 10' recorded Utility Easement along the rear of the property line. A permit for the patio was submitted and approved by the City. However, the permit application showed that all setbacks were being complied with. Staff did issue a stop work order when the encroachment was discovered but work was already almost completed by this time.

When viewing the aerial, a commercial development has a landscaping/drainage area and driveway directly abutting the subject site to the west, thus not affecting anyone to the rear. The owners to the sides are also not affected since the 6' side setbacks are being complied with. There are no City water, sewer, nor storm sewer lines within the easement. However, letters of 'no objection' should be provided from the city's franchise holders if ZBA may be inclined to approve this request.

RECOMMENDATION: Since a commercial development has a green area and driveway directly abutting the subject site to the west, thus not affecting anyone to the rear, staff does not object to the variance subject to: 1) a

recorded document that patio area remain perpetually as a non-living area, and that the City and recognized franchise holders be indemnified and held harmless to any private improvements on or over the 10' utility easement, and 2) if ever removed, the prevailing setbacks shall be complied with thereafter.

NOTE: The applicant is receptive to Staff's conditions with a recorded document, too.

No Action Taken

ITEM #1.3

CONSIDER A VARIANCE REQUEST TO HAVE A 3' 7" REAR YARD SETBACK INSTEAD OF THE REQUIRED 10' REAR YARD SETBACK AT 1310 PAMELA DR., BEING LOT 1, BK 3, BRYAN PARKSUBDIVISION, AS REQUESTED BY ARTHUR TIERNEY

Mr. Jaime Acevedo stated that the subject site is located at the SE corner of Bryan Road and Pamela Drive—see vicinity map. The applicant recently purchased his residence and in the process of the construction of a swimming pool and expansion of existing office room that came with his residence. However, the separate office was constructed with a 3' 7" rear setback instead of the required 10' rear setback. The applicant is seeking to expand the rear office at the 3' 7" setback and requires a variance to meet the required rear building setbacks. Since the home and office room were both constructed in the 90's, Staff did not find copies of the building permit application that was approved when home was constructed. Additionally, the abutting lot to south has the residence more than 50' away from the structure requiring the variance.

There is a 4' recorded Utility Easement along the rear of the property line so this encroaches over that easement as well. However, there are no City water, sewer, nor storm sewer lines within the easement. Letters of 'no objection' should be provided from the city's franchise holders if ZBA may be inclined to approve this request.

Since the residence measures less than 2,000 sq. ft. living, the maximum accessory building allowed is 800 sq. ft. While the existing non-conforming office measures 741 sq. ft., the applicant is proposing to add an additional 391 sq. ft. for a total of 1,132 sq. ft. exceeding the allowable square footage for an accessory building. While staff supports issuing a variance to keeping the existing office structure at 3' 7", staff cannot support adding an additional 391 sq. ft. to existing accessory building.

RECOMMENDATION: Approval of the variance subject to: 1) the office structure remaining at 741 sq. ft., 2) a recorded document that accessory

building remain perpetually as a non-living area, and that the City and recognized franchise holders be indemnified and held harmless to any private improvements on or over the 10' utility easement, and 3) if ever removed, the prevailing setbacks shall be complied with thereafter.

Chairman Sheats asked if the applicant or representative were present.

Mrs. Cynthia Contreras Attorney for the property owner Mr. Arthur Tierney and Mr. Rey Garcia the General Contractor were present.

Chairman Sheats asked if there was any public opposition to the request.

There was no response.

Mrs. Cynthia Contreras mentioned that the applicant Mr. Tierney wanted the addition to be structured and for the roof top to be even with the rest of the house.

Mr. Friedrichs mentioned that if the existing structure needed to comply with new building codes.

Mr. Acevedo mentioned that it did need to comply with new building codes that no structure is grandfathered.

Mr. Rodio mentioned if the property measured ½ an acre should they have an exception on the 800 sq. ft. accessory building ordinance.

Mr. Acevedo mentioned that it could not. The ordinance is for all lot sizes regardless of the size on an R-1 zone.

Mr. Friedrichs mentioned that there were too many discrepancies on the plan shown and the plans submitted, that maybe they needed to submit a new set of plans showing the correct information on the site plan.

Mr. Rodio mentioned if the ZBA board could over ride the City Ordinance 4044.

Mr. Acevedo mentioned that the ZBA board could not make changes to an Ordinance.

There being no further discussion, Chairman Sheats entertained a motion. Mr. Sam Rodio moved to approve the variance as presented. Mr. Mike Friedrichs seconded the motion. Upon a vote, the motion passed unanimously.

ITEM #1.4

CONSIDER A VARIANCE REQUEST TO HAVE A 10' REAR BUILDING SETBACK INSTEAD OF THE REQUIRED 15' REAR BUILDING YARD SETBACK AT 2302 MONACO DR., BEING LOT 23, MONACO SUBDIVISION, AS REQUESTED BY RICARDO GONZALEZ

Mr. Jaime Acevedo stated that the subject site is located 500' west of Shary Road along the south side of Monaco Drive—see vicinity map. The owner, Ricardo Gonzalez desires variance to construct a rear garage and is requesting to have a 10' rear setback instead of the required 15' rear setback. The applicant would like to construct a detached garage and leave some existing large trees that are in his back yard and is requesting that a reduced setback be considered. While typical rear setbacks are 10', Monaco Subdivision has a 15' recorded Utility Easement along the rear of the property line.

When viewing the aerial, Monaco Subdivision does not abut to a residential subdivision to the south. There is a one residence that sits on 10 acres that abutting the property to the south. The proposed detached garage will be over 50' away from that residence, thus not affecting anyone to the rear. The owners to the sides are also not affected since the 6' side setbacks will be complied with. There are no City water, sewer, nor storm sewer lines within the easement. However, letters of 'no objection' should be provided from the city's franchise holders if ZBA may be inclined to approve this request.

RECOMMENDATION: Since a there is a large separate of between the proposed detached garage and the abutting residence to the rear staff does not object to the variance subject to: 1) a recorded document that detached garage area remain perpetually as a non-living area, and that the City and recognized franchise holders be indemnified and held harmless to any private improvements on or over the 10' utility easement, and 2) if ever removed, the prevailing setbacks shall be complied with thereafter.

NOTE: The applicant is receptive to Staff's conditions with a recorded document, too.

Chairman Sheats asked if the applicant or representative were present.

Mr. Ricardo Gonzalez who resides at 2302 Monaco was present to address any question the board may have.

Chairman Sheats asked the applicant if he agreed with staff's recommendations.

Mr. Gonzalez stated that he agreed with staff's recommendations and didn't have any further concerns.

Chairman Sheats asked if there was any public opposition to the request.

There was no response.

There being no further discussion, Chairman Sheats entertained a motion. Mr. Sam Rodio moved to approve the variance as presented. Mr. Jaime Gutierrez seconded the motion. Upon a vote, the motion passed unanimously.

**ITEM #2.0
OTHER BUSINESS**

There was no other business.

**ITEM #3.0
ADJOURNMENT**

There being no further business, Chairman Sheats entertained a motion to adjourn. Mr. Sam Rodio moved to adjourn. Mr. Mike Friedrichs seconded the motion. Upon a vote, the meeting was adjourned at 4:49 p.m.

Ned Sheats, Chairman
Zoning Board of Adjustments