

ZONING BOARD OF ADJUSTMENTS
March 16, 2011
City Hall's Council Chambers

<u>MEMBERS PRESENT</u>	<u>MEMBER ABSENT</u>	<u>STAFF PRESENT</u>	<u>GUEST PRESENT</u>
Kathy Olivarez	Danny Tijerina	Bobby Salinas	Jose R. Ornelas
Jon Lown	Raul Sesin	Julio Cerda	Jose Alaniz
Ned Sheats		Annette Zavala	
Keri Aman			
Jorge Garcia			

CALL TO ORDER

Chairwoman Olivarez called the meeting to order at 4:31 p.m.

CITIZENS PARTICIPATION

The audience remained un-responsive.

APPROVAL OF MINUTES FOR JANUARY 19, 2011

Chairwoman Olivarez asked if there were any corrections to the minutes. Mr. Sheats moved to approve the minutes as presented. Mr. Lown seconded the motion. Upon a vote, the motion passed unanimously.

ITEM #1.1

CONSIDER A VARIANCE REQUEST TO HAVE A 1' REAR YARD SETBACK INSTEAD OF THE REQUIRED 10' REAR YARD SETBACK; AND TO HAVE A 1' SIDE YARD SETBACK INSTEAD OF THE REQUIRED 6' SIDE YARD SETBACK AT REDSTONE SUBDIVISION, BEING LOT 29, AS REQUESTED BY MR JOSE RODOLFO ORNELAS

Mr. Salinas mentioned that the site was located at the SW area of Driftwood and Sonora Ave., there are two setback variances for ZBA to review. Variance No. 1: On the west side of the lot, the applicant built a storage room leaving a 1' along the rear where a 4' is required, and a 1' to the side where a 6' is required. Variance No. 2: On the east side of the lot, the applicant built an addition to the home leaving a 6' setback along the rear of the property where 10' is required, and a 5' setback along the side where 6' is required. Both structures were built without first obtaining building permits. The applicant did finally apply for a building permit, however was denied due to the setback violations.

Variance No. 1: The Zoning Code allows accessory structures to be 4' to the rear lot line. As we've seen in various other cases where a temporary accessory structure has been placed within the rear setback and / or within a

utility easement, we've required the owners to either move the structure to meet minimum building setbacks or remove the structure. The home's configuration to the regular R-1 lot leaves only 10' to the rear of the lot so there's no leeway to relocate the shed.

Variance No. 2: 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 using either fire wall requirements or increasing the side setback to the adjoining neighbor. Also, ZBA has approved side setback variances using Sharyland Plantation as an example because they successfully use 5' side setbacks in similar residentially sized lots. However, ZBA has been firm on rear setback requirements, especially those with utility easements. Also, the City Council has stated to staff that they do not wish to allow permanent buildings within Public U.E.s. Staff's Recommendation to Variance No. 1: is to remove storage room, and for Variance No. 2: Staff does not object to the 5' side setback so long as the owner fire-rates the walls and roof to be approved by the building inspector however, due to the public utility easement and the Council's firm direction regarding the coverage of U.E.s, the rear setback requirements of the 10' must be met., this means that approximately 4' needs to be cut / shaved off from the non-confronting addition plus execute a Hold Harmless Agreement since the City was not afforded the opportunity to inspect the structure.

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. Ornelas was present to answer any questions the board might have.

Mr. Ornelas mentioned that he was not aware that he needed a permit and that he was willing to move the storage shed, but wanted to keep the addition had built.

Chairwoman Olivarez mentioned that they needed to obtain permits for any type of construction, and that would have warned them from building on the utility easement.

Mr. Ornelas mentioned that the only lines running under the structure are the cable and the phone lines.

Chairwoman Olivarez replied that if the utility companies had to go in there they would tear down the structure at their expense and that they need to respect the utility easements.

There being no further discussion, Chairwoman Olivarez entertained a motion. Mr. Sheats moved to approve the variance request as recommended by staff with the 1st variance of the side setback to be denied and remove the storage room 2nd variance request to be approved with the following the side setback to be 5' so long the owner fire-rates the walls and roof to be approved by the building inspector However, due to the public utility easement and the Council's firm direction regarding the coverage of U.E's, the rear setback requirement of 10' must be met, this means that approximately 4' needs to be cut/ shaved off from the non-conforming addition plus execute a Hold Harmless Agreement. Mr. Garcia seconded the motion. Upon a vote, the motion passed

ITEM #1.2

CONSIDER A VARIANCE REQUEST TO HAVE A 10' FRONT SETACK INSTEAD OF THE REQUIRED 20' FRONT SETBACK; AT MAYBERRY GARDEN SUBDIVISION, BEING LOT 19, AS REQUESTED BY LYS CONSTRUCTION

Mr. Salinas mentioned that the vacant site was located at the SW corner of Francisco and Ramirez Ln., two minor residential streets. This irregular lot measures 96.36' on the north side, 140.00' on the west side, 52.79' on the south side, and 146.62' on the east side. Notice the 20' utility easement located on the west side of the property. This lot is the only one with a 20' easement. A new residence is proposed with both the front door and garage door facing Francisco Ave. If the house fronts Francisco, then the minimum 20' front setback is imposed. They are proposing a 10' front setback and though entitled to a 10' corner setback on Ramirez Ln., they'd rather have a 20' corner setback to keep the neighborhood's house aligned. As seen in the challenging site plan, the home is off of the 20' u.e. and their garage complies to the 18' garage door setback, though the lot is irregularly shaped with specified features. Below are several similar requests where a 10' front setback was granted on a corner lot at an intersection of two minor residential streets and where special features or lot circumstances were evident.

SIMILAR REQUESTS

DATE	LOT	ADDRESS	ACTION
7/5/05	LOT 4, BLK. 2 Browning	1114 Reynosa	APPROVED: 10' Front SB to Typical Corner Side Instead of 20'
10/19/05	Lot 36, Bougainvillea Est.	900 West "E"	APPROVED: (Same as above)
3/7/06	Lot 103,	600 Alma	APPROVED: (Same as above)

9/17/08	Bougainvillea Est. Lot 168, Aladdin Villas	519 Saturn	APPROVED: (Same as above)
3/24/10	Lot 199, Aladdin Villas	1418 Leo	APPROVED: (Same as above)

Recommendation: No objection due to:

1) Precedence; 2) Unique lot in platted shape (all four sides are different); 3) Unique in a massive 20' easement where it's lot width is 52' (at short end); 4) If approved, a 20' corner setback on Ramirez will align structural unity at Mayberry Gardens.

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. Alaniz, the contractor, mentioned that the reason they were requesting the variance was a main sewer line and a electrical transformer were located in front of the lot, therefore, they made the house plans fit the lot respecting all utility easements setbacks and to make it uniform with the other homes around them.

There being no further discussion, Chairwoman Olivarez entertained a motion. Mr. Garcia moved to approve the variance request as recommended by staff. Mr. Sheats seconded the motion. Upon a vote, the motion passed.

ITEM #1.3

CONSIDER A VARIANCE REQUEST TO HAVE A 10' GARAGE SETACK INSTEAD OF THE REQUIRED 18' GARAGE SETBACK; AT VILLA ESCONDIDA SUBDIVISION, BEING LOT 20, AS REQUESTED BY LAURO GARZA

Mr. Salinas mentioned that the vacant site was located on the NW corner of Pecan St. and Reynosa St. This corner lot measures 67' x 110' and there are no unique lot features as to location or orientation. The applicant desires to build a new home with a 10' garage door setback, where all others are compliant to the minimum 18'.

Section 1.17 (2) Powers of Board of Adjustments: 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 this 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.

Again, all homes built within Villa Escondida have either met or have exceeded the garage setback requirement. This site is vacant there is nothing impeding them to re-design it to meet the 18' garage door setback.

One of the primary intents of the 18' garage setback is to have cars parked where the public ROW/Sidewalks will not be impeded. For example, if the garage is ever converted into a living area (perhaps by others), the parked cars will remain 'off' the sidewalk area. Staff Recommended: denial due to, the structure's design; can obviously be modified to meet the 18' garage setback. the lot is not unique; it's vacant. Identical lots have complied with the City's regulations at Villa Escondida.

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.

City Manager Julio Cerda was present representing the applicant.

Mr. Cerda mentioned that the wife of the owner wanted a bigger green area and the house meets the required setback, but intends to have a smaller garage setback.

Chairwoman Olivarez asked if the houses would be off line, and that she had a problem with this item, since the previous had to cut half of the building structure, and the other item made the house plans to meet required setbacks.

Mr. Cerda mentioned that they were not building on any utility setbacks, and that Pecan Street carried 10 cars at the most per day, and that the street would not be widened any more in the near future, and they would ask the owner to perpetually keep it as a garage.

Chairwoman Olivarez asked that if a car parked there with another park behind them, would they be any visibility issues?

Mr. Cerda mentioned that at his house he has a 13' garage setback but he also has the alley to back into and all of his guests or friends never park on the driveway, they park on the street.

Mr. Sheats mentioned that he also had a 20' alley in the back and that it was not the same thing.

Mr. Lown mentioned that they could re-design the home and have a drive way on Reynosa.

There being no further discussion, Chairwoman Olivarez entertained a motion. Mr. Lown moved to deny the variance request as recommended Mr. Sheats seconded the motion.

**ITEM #2.0
OTHER BUSINESS**

There was no other business

**ITEM #3.0
ADJOURNMENT**

There being no further business, Chairwoman Olivarez entertained a motion to adjourn. Mr. Garcia moved to adjourn. Mr. Sheats seconded the motion. Upon a vote, the motion passed unanimously at 4:51 p.m.

Kathy Olivarez, Chairwoman
Zoning Board of Adjustments