

**ZONING BOARD OF ADJUSTMENTS  
MARCH 21, 2012  
CITY HALL'S COUNCIL CHAMBERS**

**MEMBERS PRESENT**

Kathy Olivarez  
Jon Lown  
Jorge Garcia  
Danny Tijerina

**MEMBERS ABSENT**

Keri Amen  
Raul Sesin  
1 VACANCY

**STAFF PRESENT**

Bobby Salinas  
Sergio Zavala  
Nelda Marks  
Annette Zavala

**GUESTS PRESENT**

Ben Wohlers  
Rosario M. Hickle  
Allen Hielkemea  
Thelma Van Gelder  
Lester & Peggy Cruse  
Dan & Shirley Sharp  
Arthur & Patricia Lopez  
Louis & Dick Cook  
Masa & John Bunting  
Harry Robyn  
Al & Patty Redland  
Lyle Ridenour  
Al Geld  
Clayton Rosenthal  
Elaine Dehn  
Larry Ostadorf  
Arturo & Linda Sanchez  
Catherine Hull  
Norman Anderson  
Vernon & Beverly McCord  
Clov Hull  
Melanie Valley

**CALL TO ORDER**

Chairwoman Olivarez called the meeting to order at 4:32 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.

Mr. Bobby Salinas advised the board that someone in the audience was recording the audio of the meeting, and via counsel from the City Attorney's Office, staff was instructed to publicly announce this.

**APPROVAL OF MINUTES FOR JANUARY 25, 2012**

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

**ITEM #1.1**

**CONSIDER A VARIANCE REQUEST TO HAVE A 2' FRONT YARD BUILDING SETBACK INSTEAD OF THE REQUIRED 15' FRONT YARD BUILDING SETBACK, BEING LOT 8, BLOCK F, LEMON TREE ESTATES SUBDIVISION, AS REQUESTED BY MR. VERNON McCORD**

Mr. Salinas stated that the site was at Lemon Tree Estates development. The specific mobile home lot has dimensions of 43.33' x 101'. Viewing the recorded plat, almost all the lots in Block B, C, D, & F are the same size as Mr. McCord's. This reflects that the lot is not unique but is uniform to many others and conventional in configuration. The R-4 front building setback via the 1981 Zoning Ordinance reflects that mobile home lots have a minimum 15' front building setback. Mr. McCord has built a carport-type awning with no permit that's way beyond the minimum 15' front setback resulting in a 2' front setback. Some City subdivisions have internal Architectural Control Committees (ACCs) that inform their residents to secure building permits. LTE used to have an active ACC but seems to have been phased out.

Regardless, the residual effects of such a long ACC history still permeates through LTE to give the City firm confidence that property owners know that they are supposed to apply for permits prior to any construction such as carports. As much as possible, the setback should be complied with especially since there are many mobile home lots that are voluntarily complying to this city code. The Lot is not unique but is regular in shape and size to dozens of others in LTE. Also, the non-permitted carport was self-inflicted and should not be justified to induce a variance. Staff's recommendation was denial.

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

Mrs. Patricia Redland owner of lot G-14 mentioned that at the time of the renovation to the property, Mr. McCord "was informed of the regulations and the zoning requirements", and they do have an active ACC. The Chairman was in the audience also, and had a letter opposing the variance. Mrs. Redland concluded that several neighbors were in objection, and the variance should not be granted.

Chairwoman Olivarez asked if the applicant or representative were present

Mrs. Beverly McCord, the applicant, noted that the notice that was mailed out with the 2' setback was incorrect, and that they have an 8' setback, and were 7' from the street. She said that they had left the contractor "in charge" when they left and thought he had obtained all the proper permits.

They found they were not in compliance when they received the letter from the City.

Chairwoman Olivarez asked if the measurements were correct and how was it determined that it had a 2' front setback.

Mr. Salinas explained that the exhibit showed the correct measurements being 5' of City R.O.W. plus 2' from the property line equating to the 7' the owners measured from the street.

Mr. Tijerina mentioned that there were two more letters in opposing the variance.

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

#### **ITEM #1.2**

#### **CONSIDER A VARIANCE REQUEST TO HAVE A 1' CORNER SIDE YARD BUILDING SETBACK INSTEAD OF THE REQUIRED 15' CORNER SIDE YARD SETBACK, AT 1413 MELINDA DRIVE, BEING LOT 20, PAMELA HEIGHTS SUBDIVISION, AS REQUESTED BY MR. KARL J. HICKLE**

Mr. Salinas stated that the site was located at the southwest corner of Pamela and Melinda Drive. The subject site is approximately 88' x 140' (minus a radius ROW) to equate to 12, 271.71 square feet. The lot is conventional in shape and exceeds the typical R-1 requisites (min. for R-1 corner lots is 7000 sq. ft.). As seen on the subdivision plat, Lot 20 is identical to other corner lots and there were no unique characteristic that differentiates it from other corner lots. Since Pamela Drive is a collector street, it induced a 15' corner side yard setback and is reflected on the recorded plat. Such a 15' setback is mandated via Section 1.59-3 (f) being, "Side yard setbacks for all residential uses shall be increased as follows when lots are adjacent to the following street classification; Collector streets- 15' side yard setback; minor arterials streets-20' side yard setback (15' setback when buffered).

In regard to the 10' x 16' portable building, the owner instigated the construction, which was halted pending the outcome of this hearing. The photographs show the intense encroachment only 1' away from the corner side boundary where under normal circumstances, at least a 10' corner setback is required on minor residential streets. We've included an aerial photo of the site's rear area where it seems that there is sufficient room to place a storage shed (though it may need to be slightly reduced). The facts are as follows: the lot is conventional (or 'not unique') to other corner lots at

Pamela heights, which are all complying to code; the current location of partial construction was self-inflicted where no permit has been issued; the recorded plat clearly showed the mandated 15' corner setback to Pamela; and if awarded, precedence may be set in allowing similar portable buildings within the corner setback area. Staff recommendation was denial; must relocate shed to alternate site on Lot's rear yard meeting all prevailing setbacks.

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

Chairwoman Olivarez asked if the applicant or representative were present.

Mrs. Rosario Hickle, the applicant, said that they had planned to build it in the rear of the lot but when it rains her back yard would have 1' of water that accumulates in that corner, and that's the reason they wanted to place it next to the house. She also mentioned that across the street, there was another storage shed next to the fence.

Chairwoman Olivarez asked the staff if they were aware of the situation Mrs. Hickle had mentioned.

Mr. Bobby Salinas replied that the owner of the house across the street was also alerted of the violation & was undergoing the standard enforcement process.

There being no further discussion, Chairwoman Olivarez entertained a motion. Mr. Tijerina moved to deny the variance request as recommended by staff. Mr. Lown seconded the motion. Upon a vote, the motion passed unanimously.

### **ITEM #1.3**

#### **CONSIDER A VARIANCE REQUEST TO HAVE AN 8' FRONT YARD BUILDING SETBACK INSTEAD OF THE REQUIRED 15' FRONT YARD SETBACK, BEING LOT 105, TROPICAL VALLEY ACRES SUBDIVISION, AS REQUESTED BY MR. LESTER CRUSE**

Mr. Salinas stated that the site is located at Tropical Valley Acres. The specific lot is predominantly conventional though not quite rectangular, i.e., front is 41.35', rear is 42.09', sides are 99.85', and 99.84' respectively. The recoded plat includes the building setbacks as follows: Front - 15', Rear - 5', Sides (Internal) - 6', Sides (Corner) - 10'.

On the subject request, the carport structure was (re) built without a building permit thus there was measure of being self-inflicted. There is an elongated driveway along the northern portion of the lot where the owner's

car can park comfortably though the support column is 6.5' over the front setback. The column could be relocated to the 15' setback & then perhaps braced at a 45-degree angle to salvage as much of the roof overhang as possible. The other shorter carport is also substantially in violation over the setback to salvage the roof overhang unless a steel I-beam support column is used to meet the 15' setback. Staff showed an exhibit of a carport with an I-beam. One of the primary intents of the Zoning Ordinance is to respect whatever structure may have been grandfathered when the 1981 code was established, and leave them as legal non-conformities. However, if a heavy wind topples a carport, for example, then a phasing-in process is legally expected to thus start the slow process of setback compliance within the neighborhood.

Staff's recommendation was denial due to: the lot is substantially conventional; can still salvage most of the roof overhang on the primary carport with the support column relocated; on the southern 'carport' component, the 15' setback must be met by 1) either removing the shorter carport or 2) place a steel I-beam at the 25' setback to thus support the aluminum metal roof overhang.

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

Chairwoman Olivarez asked if the applicant or representative were present

Mr. Lester Cruse, the applicant, said that they did replace the carport, and he can move it if they require him, but would rather leave it 'as is'. He mentioned that down the street there were a few more like his.

Chairwoman Olivarez said that if he placed an I-beam, he could keep the carport 'as is'.

Mr. Salinas showed an exhibit of a carport with the I-beam.

There being no further discussion, Chairwoman Olivarez entertained a motion. Mr. Lown moved to deny the variance request as recommended by staff. Mr. Tijerina seconded the motion. Upon a called vote, the motion to deny the variance was unanimously approved.

**ITEM #1.4**

**CONSIDER A VARIANCE REQUEST TO HAVE A 2' TO 5.5' FRONT YARD BUILDING SETBACK INSTEAD OF THE REQUIRED 15' FRONT YARD SETBACK, BEING LOT 19, TROPICAL VALLEY ACRES SUBDIVISION, AS REQUESTED BY MR. BENEDICT WOHLERS**

Mr. Salinas stated that the site is located at Tropical Valley Acres. The specific lot is predominantly conventional though not quite rectangular, i.e., front is 43', rear is 43.35', sides are 90.55' and 90.52' respectively. The recorded plat included the building setbacks as follows: Front – 15', Rear – 5', Sides (Internal) – 6', Sides (Corner) – 10'. On the subject request, we understand that the carport structure was (re) built without a building permit thus there is a measure of the situation being self-inflicted. The carport is along the front of the mobile home and not alongside the mobile home, which is the usual norm. The support column is only 2' to 5.5' over front setback. The carport is too substantially in violation over the setback to salvage the roof overhang unless a steel I-beam support column is used to meet the 15' setback. One of the primary intents of the Zoning Ordinance is to respect whatever structure may have been grandfathered when the 1981 code was established, and leave them as legal non-conformities. However, if a heavy wind topples a carport, for example, then a phasing-in process is legally expected to thus start the slow process of setback compliance within the neighborhood.

Staff's Recommendation was denial due to: the lot is substantially conventional; may be able to still salvage most of the roof overhang by perhaps installing a steel I-beam at the 15' setback to thus support the aluminum metal roof overhang.

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

Mr. Dan Sharp, Vice-President of the ACC mentioned that they should review the plans but they don't know what's grandfathered in and what's not.

Chairwoman Olivarez asked if the applicant or representative were present

Mr. Ben Wohlers, the applicant, said that when he bought the trailer, the owner advised him that the carport was grandfathered in. He believed its been there since late '86', and that he had also asked a previous ACC board member from their park and was also told that the carport was grandfathered in, but if he had to remove it, he would.

Mrs. Shirley Sharp mentioned that at one time Tropical Valley Acres was a KOA, and it allowed R.V.'s and mobile homes, the setback at that time might have been different and that's the reason the carport was placed where its located now and, if so, would this make a difference on this particular situation.

Mr. Zavala mentioned that the original subdivision was a park. The developer, Pauline Biscaccio, back in '83' made it a subdivision with lots for mobile homes. At one point, it was an R.V. Park, but with the testimony

received by the applicant, he mentioned that the carport was done in '86', and the subdivision was recorded with setbacks being 15' Front 6' Side 10' Rear. To be grandfathered it should have been constructed in 1981.

Mr. Lown, mentioned that they can have an I-Beam that would work fine and if they would go to Heritage Square, they have several of them, and they look fine. Heritage Square's Lot F-1 is a corner lot, and if they want to drive by and take a look at it, they'll see how it looks.

Mr. Tijerina mentioned that in the third paragraph it stated that the carport structure was (re) built without a building permit thus there is a measure of the situation being self-inflicted. This may have been grandfathered when the 1981 code was established, and leave them as legal non-conformities. What ever was there could stay, and if removed, it has to comply with the setback ordinance.

There being no further discussion, Chairwoman Olivarez entertained a motion. Mr. Tijerina moved to deny the variance request as recommended Mr. Lown 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, Chairwoman Olivarez entertained a motion to adjourn. Mr. Lown moved to adjourn. Mr. Tijerina seconded the motion. Upon a vote, the motion passed unanimously at 5:07 p.m.

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Kathy Olivarez, Chairwoman  
Zoning Board of Adjustments