

**ZONING BOARD OF ADJUSTMENTS
MAY 20, 2015
CITY HALL'S COUNCIL CHAMBERS**

MEMBERS PRESENT

Ned Sheats
Mike Friedrichs
Jaime Acevedo
Kathy Olivarez
Sam Rodio

MEMBER ABSENT

Raul Sesin

STAFF PRESENT

Joe Garza
Daniel Tijerina
Annette Zavala

GUEST PRESENT

Del & Berta Zander
Chris Atkinson
Coralie Atkinson
Debra Kooman
Marian Kamin
Gerald Kamin
Debbie Melliugee
Lewis Olson
Leonard W. John
Ronald Ray
Doyle Crilow
Mark Horngren
Fred Kurth
Mike Rhodes
Sharon Shattuck

CALL TO ORDER

Vice-Chairman Sheats called the meeting to order at 4:34 p.m.

CITIZENS PARTICIPATION

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

There was none.

APPROVAL OF MINUTES FOR FEBRUARY 18, 2015

Chairman Sheats entertained a motion to approve the minutes as noted with corrections. Mr. Mike Friedrichs moved to approve the minutes as corrected. Mrs. Olivarez seconded the motion. Upon a vote, the motion passed unanimously.

ITEM #1.1

CONSIDER A VARIANCE REQUEST TO HAVE A 13' 8" GARAGE SETBACK INSTEAD OF THE REQUIRED 18' AT 500 N. BRYAN RD., BEING LOT 1, WINTER GREEN ESTATES SUBDIVISION, AS REQUESTED BY MR. JERRY KAMIN

Mr. Joe Garza went over the write-up stating that the site is located at the SE corner of Santa Barbara Dr. and San Jose Dr. the site measures 50' x 110' = 5,500 sq. ft. the

applicant is planning to install a garage door on the North side of his lot. The city ordinance for garage door setback is 18' from the lot line.

Staff Recommendation: Staff recommends denial due to: 1) not in compliance with 18' garage setback. 2) Approval of this variance request will set precedence for other requests.

Chairman Ned Sheats asked if there was any opposition.

Mr. Lewis Olson, 500 N. Bryan Rd., Lot C-11, said he was within the 200' radius of the applicant; mentioned that the problem with the variance was that it was in violation of the 16' setback, to his understanding for the subdivision. It does not violate the living space but is in violation of the side setbacks.

Mr. Tijerina mentioned that the side setback was 10' and the supporting column was at 13'4" side setback, and the garage setback is at 18' as per code, they can have living space and have a 10', side setback. On this location, the Front setback is 15', internal 6', corner side 10' the rear is 10' and the garage 18'. If this would be enclosed for lining area it would have a 10' setback but they are proposing a garage then an 18' setback comes into effect. The lot measures 60' x 110', the dimensions are from their property line. The street has a 50' R.O.W., therefore if they park a car outside it would be sticking out on the City R.O.W.

Mr. Olson mentioned that their HOA has enforced different setbacks on their subdivisions for a very long time they believed their setbacks were from the R.O.W.

Chairman Sheats mentioned that their HOA had nothing to do with the City; he mentioned that if he had a document from their HOA showing the setbacks in writing.

Mr. Olson replied that they did not, they had the City's setbacks. But they had the understanding of different regulations by their HOA.

Mr. Rodio mentioned that on the picture presented can they show the R.O.W. of the street. He mentioned the house has been there for over 20 yrs, and they have being using ROW to back up.

Chairman Sheats mentioned that they have had it for over 20 yrs and it was in violation, but know that they are requesting a variance they have to comply with the City's setback.

Mrs. Olivares mentioned that if they approve this variance for this particular lot this will allow everyone else to come in and ask for the same variance and this would change the City's ordinance.

Mr. Tijerina mentioned that the R.O.W. was 50' and the garage would have to be at 18' and at this time they have the supporting column at 13' 4".

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

The representative, Mrs. Kamin was present to address any questions from the Board might have, she mentioned that she is with Charisma Construction and they have been in business for over 30yrs, the carport has been there for many years all they are requesting is to install a garage door. The applicants are an elderly couple and he recently hurt his back cleaning this area. They want to enclose the area for security and to keep it clean and the applicant is also a veteran. All they are doing is installing a beam across the carport to enclose it.

Chairman Ned Sheats mentioned that there are a lot of Veterans and unfortunately they are not getting the care they deserve but can they offer this to every veteran that requests a variance. They cannot give everyone in Mission everything they ask for that's the reason they have ordinances.

Vice Chairman Jaime Acevedo mentioned that they have approved some similar variances with some restrictions and when the use was no longer needed to comply with proper setbacks.

Chairman Ned Sheats mentioned that if he wanted to make a motion to that variance, but they need a majority vote.

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

ITEM #1.2

CONSIDER A VARIANCE REQUEST TO HAVE A 9' 2" REAR SETBACK INSTEAD OF THE REQUIRED 10' AT 3803 HUMMINGBIRD LN., LOT 142, RETAMA VILLAGE PHASE II SUBDIVISION, AS REQUESTED BY MR. EDGAR E. CAZARES

Mr. Joe Garza went over the write-up stating that the site is located at the NE area of Hummingbird Ln., & Kiskadee Ln., the site measures 4,982.8 sq. ft., the applicant is planning to construct a new home at this lot and is encroaching 8" in the rear setback which should be 10' as stated on the recorded subdivision plat. The applicant will also be encroaching in a 1' technology easement.

Staff Recommendation: Staff recommends approval due to 1) Sol Star network (Mike Rhodes – owner/president) provided a letter approving the encroachment and 2) the execution and recording of a Hold Harmless Agreement.

Chairman Ned Sheats asked if there was any opposition.

The audience remained unresponsive

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

The representative, Mr. Rhodes was present to address any questions from the Board and Mr. Fred Kurth was also available.

Mr. Rhodes mentioned that they have a community where they have R.V.'s next to the house they have a 45' coach porch to accommodate the R.V.'s this is the only place like this, he is the Owner of Retama Village, the Builder, and the HOA President.

Mr. Fred Kurth mentioned that he has nothing technical but he does have dimensions on the lots.

Chairman Ned Sheats mentioned that how do they have lots and sell lots that do not fit a house.

Mr. Rhodes mentioned that it was an engineering error and that he would blame the engineer who designed them and that would be Mr. Fred Kurth.

Chairman Ned Sheats mentioned that if they should just allow everybody to build where they want from now on.

Mr. Rhodes mentioned that their understanding was that each variance is on its own it will not set precedence.

Chairman Ned Sheats mentioned that they decided to throw three of them all at the same time.

Mr. Rhodes mentioned that they are all individual variances.

Chairman Ned Sheats mentioned that in all these three variances there were no way that they could be modified to accommodate the lot where it's going to be built on.

Mr. Rhodes mentioned that the house that needs to be built on site has specific restrictions on what the house needs to look like and they need to accommodate a 45' coach on the lot.

Chairman Ned Sheats mentioned that they have enough room to fit the house without encroaching on the setbacks.

Mr. Friedrich mentioned that they were not only encroaching into their 1' Sol Star Communications U.E. but also a few inches into the City's U.E.

Mr. Rhodes mentioned that all the community looks the same, all front setbacks are the same, all homes are aligned to each other and they all have the 45' coach.

Chairman Ned Sheats mentioned that it's very hard to approve something that can be fixed or designed to accommodate the lot.

Mr. Rodio mentioned that the City recommended approval.

Mr. Garza mentioned that they had approval from the U.E. Company and it would only encroach 8" into the U.E.

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

ITEM #1.3

CONSIDER A VARIANCE REQUEST TO HAVE A 6' 8" REAR SETBACK INSTEAD OF THE REQUIRED 10' AT 3805 HUMMINGBIRD LN., LOT 143, RETAMA VILLAGE PHASE II SUBDIVISION, AS REQUESTED BY MR. EDGAR E. CAZARES

Mr. Joe Garza went over the write-up stating that the site is located at the NE corner of Hummingbird Ln., and Kiskadee Ln., the site measures 5, 418.7 sq. ft. The applicant is planning to construct a new home at this lot and encroach in the rear setback which should be 10' as stated on the recorded subdivision plat. The applicant will also be encroaching in a 1' Technology Easement and in a 10' utility easement by 6' 8" only leaving 3' 4" rear setback.

Staff Recommendation: Staff recommends denial based on 1) this is a new home that can be redesigned in order 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. Rhodes mentioned that they have a community where they have R.V.'s next to the house and they have a 45' coach porch to accommodate R.V.'s. That is the only place like this and he is the Owner of Retama Village and the Builder and the HOA President.

Mr. Fred Kurth was also available to answer any questions the board might have.

Mr. Rhodes mentioned why they were discussing a private easement on a private subdivision.

Mr. Tijerina mentioned that the 1' Technology easement was privately owned by Mr. Rhodes and the 10' U.E. is the City's easement, the water and sewer runs in the front of the property. This area has easements around the lot which means that the U.E. Company can use them if needed.

Mr. Rhodes mentioned that if it would be redesigned it would be encroaching on the front and they are trying to keep the homes aligned. He mentioned they have to accommodate the 45' coach and if they would reduce the size of the house it will reduce the value of the property.

Mr. Acevedo mentioned that if the supporting columns could be moved to accommodate the setback.

Mr. Rhodes mentioned that it could not since this would interfere with the way the home would look and the resale value decrease.

Chairman Ned Sheats mentioned that when they designed the subdivision did they consider that they would have to comply with City Ordinances.

Mr. Acevedo mentioned that this is an accessory building, not an enclosed structure if approved with restrictions and they cannot enclose it.

There being no further discussion, Chairman Sheats entertained a motion. Mr. Mike Friedrichs moved to approve the variance request as recommended by staff. Vice Chairman Jaime Acevedo seconded the motion. Upon a vote, the motion to approve passed unanimously.

ITEM #1.4

CONSIDER A VARIANCE REQUEST TO HAVE A 6' CORNER SIDE SETBACK INSTEAD OF THE REQUIRED 10' AT 3804 HERON WAY, LOT 144, RETAMA VILLAGE PHASE II SUBDIVISION, AS REQUESTED BY MR. EDGAR E. CAZARES

Mr. Joe Garza went over the write-up stating that the site is located at the NE corner of Heron way and Kiskadee Ln., the lot measures 5, 012.8 sq. ft., the applicant is planning to construct a new home at this lot and is proposing to encroach into the corner side setback which should be 10' as stated on the recorded subdivision plat. The applicant will also be encroaching into a 5' Utility Easement by 1'.

Staff Recommendation: Staff recommends denial based on 1) this is a new home that can be redesigned in order to meet setbacks and 2) approval of this variance request will set precedents for other requests.

Mr. Rhodes mentioned that they have a community where they have R.V.'s next to the house and they have a 45' coach porch to accommodate R.V.'s that this is the only

place like this and that, he is the Owner of Retama Village and the Builder and the HOA President.

Mr. Fred Kurth was also available to answer any questions the board might have.

Mr. Acevedo mentioned that if the house could be flipped to other side.

Mr. Rhodes mentioned that the homes are built with no windows to the neighbors so they cannot see the inside of the home next to you. And these the last three lots they have and are unique.

Mr. Friedrichs mentioned that if that could be a park.

Mr. Rhodes mentioned that it couldn't since they already have a designated area.

Mr. Rodio mentioned that they are aware that they do not want to change the esthetics of the homes and they want 6' into the 10' corner setback, could it be pushed back.

Mr. Rhodes mentioned that all homes have a 5' side setback and the 10 corner setback.

Mr. Friedrichs mentioned if this item could be tabled to take some time to see if they could work on the layout. And if they had any more lots that are the same as these three lots.

Mr. Rhodes mentioned that all lots are sold, and that they do not have any more lots that look like these, and the one bedroom homes are 897 sq ft., and the other homes are 1300 sq. ft. and there are no sidewalks.

Mrs. Olivarez mentioned that if the homes are going to be encroaching on the setbacks and if there is an accident would the City be liable.

Mr. Rodio mentioned that if there was a break on the sewer or water lines will they repair it and not hold the City liable for damages.

Mr. Rhodes mentioned that they are willing to agree with what the City requires them to do will sign a Hold Harmless Document.

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

ITEM #2.0 OTHER BUSINESS

There was no other business.

ITEM #3.0
ADJOURNMENT

There being no further business, Chairman Ned Sheats entertained a motion to adjourn. Mr. Mike Friedrichs moved to adjourn. Vice Chairman Jaime Acevedo seconded the motion. Upon a vote, the motion passed unanimously at 4:48 p.m.

Ned Sheats, Chairman
Zoning Board of Adjustments