

**ZONING BOARD OF ADJUSTMENTS
JUNE 20, 2012
CITY HALL'S COUNCIL CHAMBERS**

| <u>MEMBERS PRESENT</u> | <u>MEMBERS ABSENT</u> | <u>STAFF PRESENT</u> | <u>GUESTS PRESENT</u> |
|-------------------------------|------------------------------|-----------------------------|----------------------------------|
| Raul Sesin | 1 VACANCY | Bobby Salinas | Edwardo Lopez |
| Danny Tijerina | Kathy Olivarez | Sergio Zavala | Jose Enriquez |
| Jorge Garcia | Keri Aman | Annette Zavala | Reymundo Ramirez |
| Jon Lown | | Sonia Marroquin | Steve Albright Barbara Harvey |

CALL TO ORDER

Vice-Chair Raul Sesin called the meeting to order at 4:43 p.m.

CITIZENS PARTICIPATION

Vice-Chair Sesin 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.

APPROVAL OF MINUTES FOR APRIL 11, 2012

Vice-Chair Sesin 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 3 ½ CORNER SETBACK WHERE A 6' IS REQUIRED BY PLAT NOTE. BEING LOT 6, BLOCK H, HERITAGE SQUARE #1 SUBDIVISION, AS REQUESTED BY RICHARD HARVEY

Mr. Salinas mentioned that the site is located within the Heritage Square development, which is near the NW area of Bryan and the Expressway, save for the commercial frontage. The specific site is at the SE corner of Mark Place and Cory Drive. The lot has approximate dimensions of 40' x 78'. The applicant has secured a building permit, with ACC approval, to move-in his 16' x 52' mobile home to the site in March 2012. The lot had a pre-existing concrete driveway. Where the applicant desires to place an open carport over it. There is no desire to ever enclose it but for it to remain an open carport. The current driveway edge to the ROW line is 3 ½' (13 ½ to the curb). Staff has visited the site and visualized how an open carport would appear and we've determined that it would not be a sight obstruction. Attached is a map of Heritage Square #1 reflecting the variances considered

and approved. As can be seen, there have been several variances, which are corner lots that have been approved predominantly in 2009. Since precedence had been set and there have been no sight obstructions due to the 'approved' ones, this request should result in the same. If approved, as with the others, an Agreement for Deferred Building Setback Compliance and Structural Encumbrance will be required.

Vice-Chair Sestin asked if there was any public opposition to the request.

Mr. Steve Albright owner of Lot A-17 in Heritage square and also a member of the Architectural Committee was present and mentioned that they reviewed the permit and approved the mobile home only, if they would of applied showing the carport they would of not approved it, he did mention that back in 2009 the City of Mission did go by and did a sweep of the park, and from then on they are very vigilant to keep in compliance, and he has 5 others in opposition.

Mr. Salinas also mentioned that they had received a letter in opposition.

Vice-Chair Sestin mentioned that the letter received from Carl R. Letz (owner of Lot 5-G), And Zelora L. Letz (owner of Lot 4-H) had been received in opposition to the variance stating that it's a road hazard.

Vice-Chair Sestin asked if the applicant or representative were present.

Mr. Richard Harvey was present and mentioned that they needed the carport to be wide enough to allow for a future handicap ramp.

Vice-Chairman Sestin asked staff to remind him of why we did a sweep at Heritage Square. He asked if it was due to a concerned citizen complaint.

Mr. Salinas replied that they started with a complaint of a carport and they have seen several variances since then.

Vice-Chairman Sestin mentioned that he compared the carport in the picture at the 13' with the setbacks at seven oaks. He mentioned that they have a setback from the primary structure of 10' to the curb, and he sees no sight obstruction and does not envision it being a very busy street. He stated that its only internal traffic and he has no problem with the variance itself.

There being no further discussion, Vice-Chair Sestin entertained a motion. Mr. Garcia moved to approve the variance request. Mr. Lown seconded the motion. Upon a call for a vote, the motion passed unanimously

ITEM #1.2**CONSIDER A VARIANCE REQUEST TO RETAIN A 22' FRONT BUILDING SETBACK INSTEAD OF MEETING THE PLAT-NOTED 35' SETBACK, AT 2411 SYCAMORE, BEING LOT 6, TIERRA GRANDE ESTATES SUBDIVISION, AS REQUESTED BY MR. EDUARDO LOPEZ**

Mr. Salinas mentioned that the site is located at the juncture of Sycamore and Willow, property measures 80.83' x 115', the lot is not irregular but it is at a fairly unique location where it features Shary Rd. to the west & the Edinburg Canal to the north, and the retracting radius of Sycamore seeming to step away from the property. There is a picture of the open metal carport structure and, being to the NW juncture of the development, it should not affect property values, it doesn't appear to be a detriment to the immediate neighborhood. Be advised that the carport has 22' front building setback, which exceeds the typical R-1 setback of 20' but is still non-compliant to the plat-noted 35' front building setback. Insofar as perspective, this is not the first time that the ZBA has seen a similar proposal at Tierra Grande. On December 14, 1999, the ZBA entertained a request from Max & Alicia Navarro to retain a 17' front building setback for an open carport at Lot 79 which is only 9 lots to the south with predominantly the same size as the subject lot. In that case, the ZBA didn't approve the 17' setback but testimony included the following. "Chairman Salinas the entertained a motion to deny the request, and the applicant move the columns 3' in order to meet the 20' front yard setback on R-1 zoning developments" and thus the motion was acted upon based on this consensus, i.e., ZBA emeritus Raul Sesin moved, Rene De La Cruz seconded, & motion was unanimously approved.

Staff believes that the previous testimony on a similar case can guide ZBA on this application by Lopez. The 20' setback works very well on R-1 lots, i.e., it is not a depreciative factor to the adjoining. Also, ZBA's counsel was given on a nearby Tierra Grande lot to adjust the support columns to the 20' R-1 standard where there have been no negative aspects from that result. To enhance perspective on carport setbacks as opposed to setbacks to living areas, Ordinance No. 3394 where on arterial streets, Stewart, Inspiration, Taylor, etc., the front setback is always 35', however this 2008 ordinance allowed open carports to have a 20' setback. The distinction between living and a non-living area such as a carport was pivotal to the ordinance's preparation, discussion, and approval. Note that the ordinance does encumbrance such 'open' carport at the 20' mark to record a legal instrument citing that the carport will be perpetually 'open' that is, not to be enclosed and converted into a living area. In consideration of ZBA's 1999 testimony, & the merits of the 2008 ordinance, Staff does not object to the variance so long as a legal instrument is recorded on maintaining the carport as perpetually open.

Vice-Chair Sestin asked if there was any public opposition to the request.

The audience remained un-responsive.

Vice-Chair Sestin asked if the applicant or representative were present.

The audience remained un-responsive.

There being no further discussion, Vice-Chair Sestin entertained a motion. Mr. Tijerina moved to approve the variance request as recommended by staff. Mr. Garcia seconded the motion. Upon a call for a vote, the motion passed unanimously.

ITEM #1.3

CONSIDER A VARIANCE REQUEST TO 'NOT' PAVE 4 ADDITIONAL OFF-STREET PARKING SPACES FOR THE LITTLE PATRIOTS DAY-CARE CENTER AT 300 E. 2 MILE ROAD, BEING A 1.17 ACRE TRACT OUT OF LOT 28-7, WEST ADDITION TO SHARYLAND AS REQUESTED BY MR. REYMUENDO RAMIREZ JR

Mr. Salinas mentioned that the site is immediately east of Mims Elementary School and has exclusive access onto 2 Mile Road. The day care exists under a Conditional Use Permit (CUP) in the R-1 zoning district, and has for quite some time. The 2248 sq. ft. structure mandates a minimum of 9 parking spaces. Factoring-in the semi-circular driveway where 2 spaces can be accommodated along with other marked spaces, Little Patriots has 5 spaces available thus lacking 4 spaces. In a functional perspective, staff has not had any parking complaints, nor have we witnessed any haphazard parking; thus, the day-care seems to be working well so far. However, staff is reluctant to recommend waiving 4 parking spaces because there may be a parking issue in the future dependent on growth of the staff and / or children. Perhaps a reasonable compromise would be to suspend (meaning 'not to waive') the parking requirements at this time but if there are parking complaints and / or safety issues raised due to lack of parking and / or haphazard parking that can only be solved by adding parking, then staff will re-approach the owner to impose the needed paved parking at the time.

Vice-Chair Sestin asked if there was any public opposition to the request.

The audience remained un-responsive.

Vice-Chair Sestin asked if the applicant or representative were present.

Mr. Reymundo Ramirez was present he mentioned that they were only allowed to have 47 children by the state. so they were not going to expand or hire new staff.

There being no further discussion, Vice-Chair Segin entertained a motion. Mr. Tijerina moved to approve the variance request. Mr. Garcia 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, Vice-Chair Segin entertained a motion to adjourn. Mr. Lown moved to adjourn. Mr. Tijerina seconded the motion. Upon a call for a vote, the motion passed unanimously at 5:03 p.m.

Vice-Chair Raul Segin
Zoning Board of Adjustments