

**ZONING BOARD OF ADJUSTMENTS
AUGUST 17, 2011
CITY HALL'S COUNCIL CHAMBERS**

<u>MEMBERS PRESENT</u>	<u>MEMBER ABSENT</u>	<u>STAFF PRESENT</u>	<u>GUEST PRESENT</u>
Kathy Olivarez	Raul Sesin	Bobby Salinas	Rogelio Solis
Jon Lown		Sergio Zavala	Miguel Trevino
Ned Sheats		Annette Zavala	Edgar Villarreal
Keri Aman			Jeff Underwood
Jorge Garcia			Saul Enriquez
Danny Tijerina			

CALL TO ORDER

Chairwoman Olivarez called the meeting to order at 4:30 p.m.

CITIZENS PARTICIPATION

The audience remained un-responsive.

APPROVAL OF MINUTES FOR JUNE 16, & JULY 13, 2011

Chairwoman Olivarez asked if there were any corrections to the minutes. Mr. Lown 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 2.8" SIDE SETACK INSTEAD OF THE REQUIRED 6' SIDE SETBACK; AND TO HAVE A 1.8" REAR SETBACK INSTEAD OF THE REQUIRED 10' REAR SETBACK AT ROCKINGHAM SUBDIVISION, BEING LOT 11, AS REQUESTED BY MR. ROGELIO SOLIS

Mr. Salinas mentioned that the site was located at the intersection of Southgate Dr. and Tulip Ave. This irregular lot measures 39.27' along the front, 169.2' and 105' along the sides and 155' along the rear. The applicant moved-in an 8' x 12' storage building in the SW area of the lot without first inquiring if a building permit was required. We've seen other cases where a temporary accessory structure has been placed within a side/rear setback; we've required the owners to either move the structure to meet minimum building setbacks or remove the structure. There may be just enough space near A.C. units where the storage room can be relocated to meet both setbacks. Staff's recommendation is denial applicant must relocate the shed.

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. Solis was present to answer any questions the board might have, he apologized to the Board about not obtaining the proper permits and coming to them after the fact, but mentioned that he bought the storage shed and believed that they had obtained the proper paper work, the lot is an irregular lot, and they move it by the a/c's it would cut off access for yard maintenance, the pool pumps are also in the back.

Mr. Sheats mentioned that with the size of the phone pedestal how would it allow him to get there if the shed would be moved to that corner.

Mr. Salinas mentioned that what they were looking at was a mixture of what was proposed and what's out there.

Mr. Solis mentioned that it was not a permanent structure and was willing to move it as his expense.

Mr. Tijerina mentioned that he was looking at the survey and there was a 15' utility easement in the rear and that it was an irregular.

Mr. Salinas mentioned that an accessory structure could be within utility easements and have a 4' rear setback.

Mr. Tijerina mentioned that if they would sign a Hold Harmless Agreement he would not object to the rear setback to be at 4'.

There being no further discussion, Chairwoman Olivarez entertained a motion. Mr. Tijerina moved to deny the variance request as recommended by staff, to adjust the side setback to be at 6' and the rear to be at 4' with the Hold Harmless Agreement. Mr. Garcia seconded the motion, upon a vote the motion passed unanimously.

ITEM #1.2

CONSIDER A VARIANCE REQUEST TO HAVE A 10' SIDE YARD SETACK INSTEAD OF THE 25' REQUIRED BY PLAT; AND TO HAVE A 5' SETBACK TO INDUSTRIAL WAY INSTEAD OF THE 70' REQUIRED BY PLAT; AND TO HAVE 7' SETBACK TO LOS EBANOS INSTEAD OF THE 40' REQUIRED BY PLAT, AT 107 INTERNATIONAL BLVD., MISSION BUSINESS PARK SUDIVISION, BEING LOT 2, AS REQUESTED BY MR. MIGUEL TREVINO C/O EDGAR VILLARREAL

Mr. Salinas mentioned that the site is located on the NE corner of Industrial Way and International Blvd. This lot measures 450' along International Blvd., and 576' along Industrial Way, 363.84' plus an additional notch along Los Ebanos on the SE corner of the lot. The site is 6.53 acres in size. Plat notes 5 & 6 state a minimum of 70' along Industrial Way and International Blvd., also 40' along Los Ebanos, and 25' on the sides.

The applicant is proposing a new metal scrap yard business which will include two warehouses; one (130' x 130') along the NW area of the Lot and the other (100' x 100') along the SE perimeter.

Variance (a) is along the NW area. The applicant is asking for a 10' setback instead of the plat required 25'. The general Zoning Code states: "Side yard setbacks from all lot lines shall be one foot back for each two feet in height including corner lots, except a building maybe built to a lot line when not adjacent to a residential zone and where a fire resistant wall meeting the requirements of the building code is provided between uses.

Variance (b) is along the SE perimeter. The applicant is asking for a 7' setback abutting Los Ebanos, instead of the required 40'. The general Zoning Code states: "The minimum building setback line shall be increased to 40' feet when adjacent to a major arterial for any residential, commercial, industrial, institutional, or other proposed building uses." Also notice that there is a 10' Utility Easement along the area that would be infringed upon.

Variance (c) is also on the SE perimeter. The applicant is asking for a 5' setback along Industrial Way instead of the plat required 70'. The general Zoning Code states: IF FRONT SETBACK-"The minimum front yard setback shall be equal to one-fourth (25 percent) of the width of the street right-of-way which it faces or in line with the majority setback of existing structures in the block face, whichever is greater." Industrial Way has a ROW width of 60', which, based on Code, would require a setback of 15' minimum. IF SIDE CORNER SETBACK- SAME REQS. AS VARIANCE (a)

Staff Recommendation: 1.) (Variance A) staff would not object to a reduction to the side setback, however we would still require a minimum setback equal to 1 foot for each 2 feet in height at its highest point, i.e. if the building is 20' tall they can have a 10' side setback, if 30' tall they could have a 15' setback etc. 2.) (Variance b. & c.) Since staff / ZBA has consistently upheld a minimum of 40' along major thoroughfares, there is an existing 10' utility easement along Los Ebanos, and because they have 6+acres in which to place the proposed building, staff recommends denial to variances b. and c.

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

Mr. Oscar Rios, owner of Border Engine, which is next to, the empty lot, mentioned that the proposal would create a site obstruction.

Chairwoman Olivarez asked if the applicant or representative were present.

Mr. Trevino was present to answer any questions the board might have. He also mentioned that he bought the property by sq. footage, and that he was going the hire anywhere from 15 to 20 people. He mentioned that he was proposing to have two large building's for recycling, and by the time all the plans go through, it might be well over a year before construction would start and would appreciate the opportunity to build at this site.

Chairwoman Olivarez mentioned that maybe he needed to find a different location for the buildings he intended to build, or adjust the building size to meet the setback requirements.

Chairwoman Olivarez mentioned that there would be three different motions on this variance,

There being no further discussion, Chairwoman Olivarez entertained a motion. Mr. Sheats moved to approve variance (a) and Mr. Lown seconded the motion. Mr. Sheats moved to deny the variance request for item (b) and Mr. Garcia seconded the motion. Mr. Garcia moved to deny variance (c) and Mr. Tijerina seconded the motion. Upon a vote all three motions passed unanimously.

ITEM #1.3

CONSIDER A VARIANCE REQUEST TO HAVE A 9' REAR YARD SETBACK INSTEAD OF THE 13' REAR YARD SETBACK AT 3601 FLORENCIA COURT, BEING LOT 21, AND 3601 ESTRELLA COURT, BEING LOT 25, LS LAS VILLAS AT LAGO ESCONDIDO PH II SUBDIVISION, AS REQUESTED BY HUNT VALLEY INDUSTRIAL, LLC

Mr. Salinas mentioned that both lots are located within a private and gated community within the Sharyland Plantation. Lot 21 is located approximately 60' west of Santa Rita along the north side of Florencia Court, Lot 25 is located approximately 80' west of Santa Rita, along the north side of Estrella Court. Each lot measures 70' x 85' (5,950 sq. ft.). The applicant is requesting the option to build new homes with a 9' rear setback similar to other lots in the subdivision. The plat notes a 13' rear setback. Notice Lots 22 and 26, these Lots are adjoining Lots 21 and 25 (which have 9' rear setbacks), however have the same lot depth. Also notice the 20' common areas separating the lots from other properties. There would be a total of 38' between homes if two homes were built within 9' rear setbacks abutting each other. There were also two other cases in this neighborhood where a 9' and a 5' rear setback were approved due to a lake ('common area') being located in the rear of the properties. Though it is not a lake, the 20' common areas provide a wide buffer between properties where a 9' rear setback

would not be detrimental to the neighborhood. Staff has no objections to the variance request.

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

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

ITEM #1.4

CONSIDER A VARIANCE REQUEST TO HAVE A 1' SIDE YARD SETBACK INSTEAD OF THE 6' SIDE YARD SETBACK AT 2313 E. 23RD SST., BEING LOT 25, SHARY PALMS PH IV SUBDIVISION, AS REQUESTED BY SAUL ENRIQUEZ

Mr. Salinas mentioned that the site is located 360' east of Glennwood Ave., along the north side of E. 23RD. St., This lot measures 60' x 114.83' and there are no unique lot features as to location or orientation. The applicant is proposing to build a new 13' x 16' deck (on block foundation) with a pergola. The adjoining property belongs to the applicant's mother. They are proposing the pergola in this location so it would be utilized by both properties, both properties could use the deck for family functions and it would be close to the pool for supervision. Staff met with the owners on 8-12-11 to see the site and noticed that there wasn't a fence dividing the two properties. The owner's mentioned that they wanted to install a 4' fence to keep his mother's dog out of their yard. Regardless of this item's outcome, the 4' fence must be installed in order to meet typical barrier requirements for swimming pools, i.e., ensure the safety of any guests that may visit his mother's house that may have small children. Staff would not object to the installation of the non-permanent deck and pergola, so long as there's an encumbrance document requiring a minimum of an 11' side setback on the mother's property with associated map recorded in the County's deed records to alert any interested parties in the future. Staff does not object to the variance subject to the recording the 11' side setback encumbrance and the installation of the 4' barrier fence.

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. Enriquez he mentioned that his mom had moved to Mission from Houston. He mentioned that they have seven grandchildren that would benefit from the deck. He also mentioned that they were going to install the 4' fence along the side setback to avoid kids going to the property unattended and to keep his mom's dog out of the property.

Chairwoman Olivarez asked what would happen if his mother decided to move back to Houston in the future, and the new buyers wanted to build on that corner.

Mr. Salinas mentioned that they would record a document stating that there cannot be any type of building or construction on that corner.

Mr. Enriquez mentioned that at any time in the future if his mom would sell the property his brother would be buying the property and it would stay in the family.

There being no further discussion, Chairwoman Olivarez entertained a motion. Mr. Garcia moved to approve the variance request as recommended by Staff. Mr. Lown seconded the motion. Upon a vote, the motion passes unanimously.

ITEM #2.0
ADJOURNMENT

There being no further business, Chairwoman Olivarez entertained a motion to adjourn. Mr. Lown moved to adjourn. Mr. Garcia seconded the motion. Upon a vote, the motion passed unanimously at 5:05 p.m.

Kathy Olivarez, Chairwoman
Zoning Board of Adjustments