

**ZONING BOARD OF ADJUSTMENTS
AUGUST 17, 2016
CITY HALL'S COUNCIL CHAMBERS**

<u>MEMBERS PRESENT</u>	<u>MEMBER ABSENT</u>	<u>STAFF PRESENT</u>	<u>GUESTS PRESENT</u>
Ned Sheats	Jaime Gutierrez	Jaime Acevedo	Randy Johnson
Mike Friedrichs		Annette Zavala	Eileen Johnson
Kathy Olivarez		Marie Villarreal	Monica Garza
Sam Rodio		Jesus Gonzalez	Hector Rivera
		JP Terrazas	Tomas Alvizo

CALL TO ORDER

Chairman Ned Sheats called the meeting to order at 4:41 p.m.

CITIZENS PARTICIPATION

There was no citizen's participation.

APPROVAL OF MINUTES FOR APRIL 20, 2016

Chairman Sheats asked if there were any corrections to the minutes. There being none, Mr. Mike Friedrichs moved to approve the minutes as presented. Mr. Rodio seconded the motion. Upon a vote, the motion was unanimously approved.

ITEM #1.1

CONSIDER A VARIANCE REQUEST TO HAVE ACCESS FROM 23RD STREET AT 1723 E. GRIFFIN PARKWAY, BEING LOT 1, TAFF ACRES SUBDIVISION, AS REQUESTED BY HECTOR RIVERA.

Mr. Jaime Acevedo briefed over the write-up stating that the location is ¼ mile east of Stewart Road along the north side of E. Griffin Parkway (F.M. 495). The applicant has Valley Financial and Estate Planning, LLC thereon and desires to have rear access from 23rd street for a driveway and 2 parking spaces. The applicant will be remodeling the business and is proposing 2 parking spaces off 23rd Street that would be strictly for employees. While a permit can be issued for the remodeling and a proposed fence buffer, there is a plat note on the recorded subdivision that specifies, 'no driveway access allowed from 23rd Street'. We do note that an unrecorded property abutting just west has a similar rear access to 23rd Street that although not currently in use, was used in the past without any issues.

RECOMMENDATION:

Since the additional 2 employee parking spaces will not have a significant traffic impact the residential subdivision to the north, staff did not object to this variance request.

Chairman Sheats asked if there were questions from staff.

Mrs. Kathy Olivarez stated that if people parked in the front were able to go out the back.

Mr. Jaime Acevedo stated that there is rear access and additional parking spaces in the back as well as in front of the building.

Mrs. Kathy Olivarez asked if there are enough parking spaces in the front for his customers.

Mr. Jaime Acevedo replied, "Yes" he is exceeding parking spaces and is proposing to extend. Mr. Acevedo mentioned that the site plan shows the parking spaces backing up into 23rd St. and might make him change them so that they won't back up directly into 23rd St.

Chairman Sheats mentioned that there is plenty of room to the East and West for the parking spaces. He wants to be sure that there is prevention from anybody driving from 23rd St. to Griffin Parkway.

Mr. Jaime Acevedo mentioned that the buildings that are on both sides will prevent anybody from driving through.

Chairman Sheats asked if the applicant or representative were present.

The applicant, Mr. Rivera was present to address any questions that the Board might have. His address is 1723 E. Griffin Parkway Mission, Texas 78572. Mr. Rivera mentioned that Mr. Acevedo had stated that the parking spaces would be used for employees and staff. Mr. Rivera stated that the only person that would be using that particular entrance and parking spaces would be himself. The entrance would not be open to the public; it would only be used for me to have personal access from the rear of my new building.

Chairman Sheats mentioned that parking spaces can be used by anybody and management should try to separate it by staff and customers. Mr. Sheats stated that they would have to rely on the applicant to assure that the public does not use the access to park along 23rd St. and walk in the building.

Mr. River mentioned that he plans on putting an electric gate so that nobody but himself could have access to that entrance.

Mr. Mike Friedrichs stated that there is no driveway on the West side area of the building.

Mr. River stated that it's all green area and plans to add a building in order to block any access coming from 23rd St. to Griffin Parkway.

Chairman Sheats stated the site plan shows he has cut off most of the green area and is not going right through the lot line.

Mr. Acevedo stated that the lot line is further west and has left space to build a patio area.

Chairman Sheats asked the applicant what kind of business he is going to have.

Mr. Rivera stated that he purchased the building in order to continue his accounting practice.

Chairman Sheats mentioned that they appreciate that he came before the board with the information.

Chairman Sheats asked if there was any public opposition to the request.

Mr. Randy and Eileen Johnson who reside at 2310 Tulip Mission, Texas had concerns they wanted to address to the board. Mr. Johnson mentioned that when they made a cut along 23rd St. and it rained he got water in his garage. He stated that the cut opened up a river from 495 through the parking lot and water streamed through the curve into the city sewer outlet. Mr. Johnson mentioned that the outlet is located right in front of his house and there was 18 inches of water on the street from 2 inches of rain. He mentioned that you could see gravel and other items flowing from 495 into his subdivision. Mr. Johnson stated he is opposing the variance for that reason. He also mentioned that there is a lot of traffic and children in the subdivision and it is not an area that is zoned commercial yet. He stated that they are concerned because if they allowed the cut to be made there would be a lot of water coming into the subdivision. Mr. Johnson stated that they also had a letter of protest and that their main concern was the water not so much the traffic. He mentioned that making another cut would only bring more water into the subdivision when it rained. He mentioned if there would be a berm installed to slow down the water and give the drainage system a chance to take it in. He stated that he had to purchase flood insurance due to the flooding that occurs when it rains. Mr. Johnson mentioned that on the north side there is an over flow pond that gets all the water from the subdivision to the east.

Mr. Mike Fredrichs mentioned that there are 2 retention ponds north of Mr. Johnsons home.

Mr. Johnson stated that they fill up instantly and that sometimes it takes a day or so for them to go down. He stated that the water from the ponds have also come into 23rd Street. Mr. Johnsons' concern is that it would aggravate the flooding situation in their subdivision.

Chairman Sheats stated that he agrees with his concern but it is not something that the applicant is required to do something about. Mr. Sheats mentioned that as long as the applicant is legal in everything he does to construct his property he is not changing the flow.

Chairman Sheats asked, "If the applicant is responsible"?

Mr. Jaime Acevedo stated that we can't hold him accountable. He mentioned that the neighbor to the West came into the office to voice his concerns. Mr. Acevedo stated that the neighbors concern was that the green area between his property and the applicants' property is used to retain a lot of the moisture when it does rain. Mr. Acevedo mentioned that the neighbors concern is that the water will go into his property since the green area will be developed. Mr. Acevedo stated that he spoke to the City Manager and was told to get an evaluation of the area to possibly tie into the TXDOT drain system along Griffin Parkway so that the water that rains and accumulates in the 2 lots goes down into the system that's along 495 and not further north into the residence area.

Chairman Sheats asked, "How long will the process take to explore with TXDOT"? He stated that TXDOT would be the ones with the final word. Mr. Sheats stated that he estimates it would take about 6 months.

Mr. Jaime Acevedo replied, "Around 2 or 3 months maybe".

Chairman Sheats stated that the City is doing everything it can to alleviate any damages.

Chairman Sheats asked, "Where is the outflow from Griffin Parkway into the TXDOT drainage system?"

Mr. Jaime Acevedo replied, "I don't see anything showing on the strip of the site plan."

Chairman Sheats stated the issue is not to put a drain in the back of anybody's parking lot but to keep water from coming off of Griffin Parkway by putting in another curb drainage system by TXDOT.

Mr. Jaime Acevedo stated that something could be done in between lots.

Chairman Sheats suggested that severing along the red line between the lots could be an option. Mr. Sheats mentioned that way there would be nothing from Griffin Parkway coming in the only thing that the drainage system on 23rd St. would have to contend with besides its own water would be what's coming off the back half of those properties.

Mr. Jaime Acevedo mentioned that one thing that wasn't discussed with City Manager was whether the properties would incur any costs or if this would be something that the City would absorb.

Chairman Sheats stated that more than likely TXDOT wouldn't absorb any fees either.

Mr. Jaime Acevedo stated that he is not sure if both property owners would incur any costs. TXDOT is not going to pay for it and I'm not sure City Manager is going to either we would need to talk about the funding for the project.

Chairman Sheats mentioned that he doesn't see why we would deny the variance based on something that happens once in a while all though as serious as it maybe we have to do the best we can for the people. I think if the City of Mission goes to TXDOT we would be morally ok.

Mrs. Kathy Olivarez stated that if there could be a temporary berm installed to keep the water from flowing in that direction.

Mr. Jaime Acevedo mentioned that the water could not be restricted because the allowance of the curb cut would allow the water to escape.

Mr. Mike Fredrichs asked, "Do you know what the difference is in elevation?"

Mr. Jaime Acevedo replied, "No."

Mr. Mike Fredrichs mentioned that he asks because the water will always flow to the lowest part.

Mr. Randy Johnson stated that the drain is right in front of his home to the north of his driveway and when it rains a few inches we have 15 inches of water in our driveway. If a car passes by we get water inside our garage.

Mr. Mike Fredrichs stated that the drainage has to cleaned every now and then.

Mr. Randy Johnson mentioned that the drain is full of trash right now so that if it would rain we would probably get flooded.

Mr. Sam Rodio asked, "When was the last time the utility department went out there to clean?"

Mr. Jaime Acevedo replied, "They usually go out and clean the drains before we get a major storm and are supposed to go out there at least every 6 months."

Mr. Sam Rodio mentioned that the drain cleaning needs to be done now and be put on a regular schedule.

Mr. Jaime Acevedo stated that it can be arranged with the proper department.

Mr. Sam Rodio stated that if the drain is full like the applicant mentioned back then when I used to do subdivisions they used 30 inch pipes instead of the 24 inch pipes.

Mr. Jaime Acevedo mentioned that they recently started using 24 inch pipes but that the likelihood is that they are using smaller pipes.

Mr. Sam Rodio stated that they are probably using 18 inch pipes.

Mr. Randy Johnson mentioned that the outlet of that overflow pipe is a 12 inch about a 30 inch inlet and a 12 inch outlet.

Mr. Jaime Acevedo stated that it is probably a 12 inch outlet.

Mr. Sam Rodio asked the applicant "Is there a way you can install a temporary berm to slow that water down?"

Mr. Hector Rivera replied, "I am willing not to do the curb cut and use my truck to go over the curb on the rear access." The last thing I want to do is to contribute to worsening someone's flooding problems.

Mr. Sam Rodio stated that if you could alleviate your flush to where you don't have a big drop on the other side then I don't see there would be a problem if you don't do the curb cut.

Chairman Sheats asked, "Can we legally provide access to a lot without having a curb cut?"

Mr. Jaime Acevedo replied, "I don't think we can our City Engineer is on his way we can address that question to him."

Mr. Sam Rodio stated that there's a possibility that it can be done because it is a rolled curb. It is a valley curve and it should be allowed. The integrity of

what they are trying to get done is to save their house and I agree with them. If the applicant is not going to do a curb cut then there will be no excess water going down that street.

Mr. Jaime Acevedo stated that if it is a valley curve like you mentioned then he won't need to do a curb cut.

Mr. Sam Rodio mentioned if the applicant is putting a new building in and he builds it high enough then most of the water can get flushed out to Griffin Parkway where it should go.

Mr. Hector Rivera stated that his neighbor has no green area and plans to put a drainage ditch all along the front of Griffin Parkway just the way the church across the street has it.

Mr. Sam Rodio replied, "What you're trying to do is a swail?"

Mr. Hector Rivera stated that he plans to make the swail so that it can push all his water forward so that it could go in the swail and retain it there. I really don't want to do one along the property line because I don't feel it's my responsibility because I'm trying to conserve as much green area as I can. If the city allows me to use the parking in the front to have more green area I am all for that.

Mr. Sam Rodio mentioned that if the new building is built high enough to where you force the water to Griffin Parkway then you will not be putting any excessive water back on 23rd Street. If you don't make the curb cut then you are not pushing any excessive water on 23rd Street. The main issue is that the storm drains need to be cleaned because I don't doubt that they are full of sand, dirt, water, and plastic bottles in them. If we can put that on the agenda and you can get with the utility department to work it out and let these people know what they are doing.

Chairman Sheats stated that maintenance is something that he would like to be seen done before rather than having to pick up the problems afterwards. The previous conversations on these particular set of properties indicated that the one to the West is lower so what we are doing is preventing it from flowing North and forcing it into this gentleman's property which is lower than the one to the East.

Mr. Randy Johnson stated that he doesn't see any room for a drainage ditch to be installed.

Mr. Jaime Acevedo stated that it could be installed behind the sidewalk.

Mr. Randy Johnson asked, "Is it going West or East?"

Mr. Jaime Acevedo replied, "It will be running West to East."

Mr. Randy Johnson stated that where the sidewalk is at its residential, those people are like 8 feet from the street.

Mr. Jaime Acevedo mentioned that they are proposing a swail or a detention area around a 3 or 4 foot drop.

Mr. Sam Rodio stated that the drop would retain a lot of water and it would keep all that water in the swail.

Mr. Hector River stated that he would put the swail as deep as it needed to be.

Chairman Sheats mentioned one thing that is trying to be done here is that we are trying to keep these people dry and we can't come near a particular solution to take care of a 25 inch storm it's going to happen no matter what we do, the issue is that we want to have as little damage as we can to all the people, if its lowered to the left than we can't afford to repeat its flow North or you're going to drown the person to the West. We need to focus on solving two problems not one because we have two properties that are going to be mutually affected by whatever we do. The only solution I see is going back to TXDOT to see how we can get water off East Griffin Parkway somewhere in the front of these two properties.

Mr. Jaime Acevedo stated that what we are entertaining today is just a variance to have the rear access; our City Manager has already given our City Engineer direction to work up a resolution for this area.

Chairman Sheats mentioned stated that we have two things going for us; we are going to TXDOT so that we can get a drain in front of their homes and we are not going to require a curb cut that will reduce any excessive water going over the curb.

Chairman Sheats asked, "Do we have an agreement here with the board?"

Mr. Mike Fredrichs stated that he has one suggestion that we do not make the curb cut a permanent No, that once there's a favorable conditions in the future and it is needed it can be done. I think we could hold up on the curb cut and the other issue I see is that the applicant is one A.D.A parking space short.

Chairman Sheats asked, "How many parking spaces does he have in the front?"

Mr. Fredrichs stated that there are 26 parking spaces in the front plus the ones on the side.

Chairman Sheats asked, "Is this per business?"

Mr. Fredrichs replied, "It is per parking lot not per business."

Mr. Hector Rivera mentioned that he has never had more than 2 cars in his parking lot at once neither has his neighbor.

Mr. Fredrichs stated that he is bringing it up because it is the American with Disabilities Act.

Mr. Hector River stated if we could reduce the number of parking spaces that would be fine.

Mr. Jaime Acevedo mentioned that we would take a look at it and based on your square footage that would give us the number of parking spaces that are required.

Mr. Hector Rivera mentioned that he wants to have it right so that I could keep as much green as I can that is the objective.

Chairman Sheats stated that we are doing a variance request for one property and we are not changing zoning, we are not having a building permit because we have an existing structure, and we don't even have an existing structure new parking lot design.

Mr. Jaime Acevedo mentioned that all these issues we will catch on the site plan approval.

Chairman Sheats stated that I want to clarify that we are not having a curb cut.

Mrs. Eileen Johnson mentioned that with a curb cut the people in the neighborhood do not want there to be access from 495 to our neighborhood in the future because we see how things evolve within time. I have a paper with a dozen signatures that are very strong about not allowing a curb cut.

Chairman Sheats stated that there will be no curb cut but he will have access from 23rd street to 2 parking spaces from the rear of his establishment for his personal parking. It is also recorded on the plat that they are not allowed to access 23rd street in this particular area. We are only giving variance to use the rear access not to cut the curb and there will never be an access from Griffin Parkway to 23rd Street.

Mr. Hector River mentioned that he proposing to put a fence to alleviate the illegal dumping.

There being no further discussion, Chairman Sheats entertained a motion. Mr. Mike Fredrichs moved to approve the variance as presented. Mr. Sam Rodio 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, Chairman Sheats entertained a motion to adjourn. Mr. Sam Rodio moved to adjourn. Mr. Mike Friedrichs seconded the motion. Upon a vote, the meeting was adjourned at 5:15 p.m.

Ned Sheats, Chairman
Zoning Board of Adjustments