

**ZONING BOARD OF ADJUSTMENTS  
MARCH 21, 2018  
CITY HALL'S COUNCIL CHAMBERS**

**MEMBERS PRESENT**

Mike Friedrichs  
Sam Rodio  
Jaime Gutierrez  
Julian Gonzalez  
Terry Meewes  
Sam Rodio  
Kathy Olivarez

**MEMBER ABSENT**

**STAFF PRESENT**

Jaime Acevedo  
Virgil Gonzalez  
Kristin J. Warshak

**GUEST PRESENT**

Carlos Valdez  
Enrique Cervantes, Jr.  
Wayne K. Maki  
Mark Arguelles

**CALL TO ORDER**

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

**CITIZENS PARTICIPATION**

Chairman Sheats 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 FEBRUARY 21, 2018**

Chairman Sheats asked if there were any corrections to the minutes. Mr. Mike Friedrichs moved to approve the minutes as presented. Mr. Jaime Gutierrez seconded the motion. Upon a vote, the motion passed unanimously.

**ITEM #1.1**

**TO HAVE A 13'4" FRONT SETBACK INSTEAD OF 18' GARAGE SETBACK & TO HAVE A 2'10" SIDE SETBACK INSTEAD OF 6' SIDE SETBACK AT 1606 DEBBY LANE, BEING LOT 9, BLOCK 18, MEADOW CREEK COUNTRY CLUB PHASE 1A, AS REQUESTED BY EMELENE L. JURASIN**

Mr. Acevedo went over the write-up stating the subject site is located near the Casino/Debbly Lane intersection along the east side of Debbly Lane. The platted subdivision is zoned Planned Unit Development (PUD).

The applicant has his residence on Lot 9, Lot 10, and a portion of Lot 11. Currently, the applicant has a single vehicle garage and is seeking a variance to expand the existing garage and bring it closer to the front property line to accommodate a second vehicle. The proposed construction would encroach on both the front garage setback and the side building setback. If approved

the side setback would now be 2' 10" instead of the typical 6' for a side setback and the front garage setback would now be 13' 4" instead of the required 18' garage setback.

**RECOMMENDATION:** Staff recommends denial. Allowing this variance would set precedence for other requests. We have not deviated from code on previous requests in this area of the PUD. If ZBA is inclined to approve this variance request approval shall be subject to a recorded document that garage area remain perpetually as a non-living area.

Chairman Sheats asked if the commissioners had any questions to staff.

Mr. Wayne Maki, representative for the applicant was present to answer any questions the board might have. He offered the variance request would be to accommodate 2 car side by side parking in the driveway.

Mrs. Kathy Olivarez commented the variance request may cause hazardous side obstruction and viewing issues for other residents.

Mr. Sam Rodio further explained that the variance request would definitely block traffic view.

There being no further discussion Chairman Sheats entertained a motion. Mr. Sam Rodio moved to deny the variance request for Item 1.1 as per Staff's recommendations. Mr. Mike Friedrichs seconded the motion. Upon a vote, the motion to approve the variance requests passed unanimously.

**ITEM #1.2**

**TO CONSIDER A VARIANCE REQUEST TO KEEP 1' 6" SIDE SETBACK INSTEAD OF A REQUIRED 6' SIDE SETBACK, AT 605 S. SOL DORADO STREET, BEING LOT 96, DEL ORO SUBDIVISION UNIT 1, AS REQUESTED BY CARLOS M. VALDEZ**

Mr. Acevedo went over the write up stating the subject site is located The subject site is 300' north of Mile One South along the east side of Sol Dorado. The residential lot site measures 50' x 105' or 5,250 sq. ft. The applicant desires to retain a 1' 6" side building setback for an open carport built with no building permit in 2011. The required side setback is 6' for Del Oro Subdivision Unit 1, it is noted that there are no recorded easements along this side of the residential lot.

Similar requests have been awarded by ZBA where a reduced side setback has been approved when there is at least a 12' of separation to neighboring

structure and as long as proposed structure remains perpetually open. There are 12' between the open carport and the abutting residence.

**RECOMMENDATION:** Staff recommends approval subject to: 1) a recorded document that the carport will perpetually remain as 'open and un-enclosed' structure, i.e., no walls, and 2) if ever removed, the prevailing setbacks shall be complied with thereafter.

Chairman Sheats asked if the commissioners had any questions to staff.

Mr. Acevedo offered the applicant is receptive to Staff's conditions with a recorded document for the variance request.

Mr. Carlos Valdez, applicant, was present to answer any question the board might have.

Mr. Sam Rodio asked the applicant if the structure or lean too would remain as an open carport and what about rain run off?

Mr. Valdez replied it would and that rain run off was not an issue since he installed gutters.

There being no further discussion, Chairman Sheats entertained a motion. Mr. Mike Friedrichs moved to approve the variance requests as per staff's recommendations. Mr. Jaime Gutierrez seconded the motion. Upon a vote, the motion to approve the variance passed unanimously.

**ITEM #1.2**

**TO CONSIDER A 10' CORNER SIDE SETBACK INSTEAD OF 20' CORNER SIDE SETBACK INSTEAD OF A 20' CORNER SIDE SETBACK AT 1401 SOUTH 1<sup>ST</sup>, BEING LOT 23, BRYAN POINTE PHASE I SUBDIVISION**

The subject site is located at the NE corner of Bryan Road and 1<sup>st</sup> Street—see vicinity map. The irregular corner lot has total square footage of 14,785 sq. ft. Currently, there is a recorded 20' Common Access Easement that runs along Lots 19-23 of Bryan Point Phase I Subdivision. The applicant is proposing to construct a new restaurant on Lot 23 and is requesting that the 20' access easement be reduced in a portion of Lot 23 to 10'. It is also noted that there is a 10' Utility Easement within the 20' Access Easement, this 10' Utility Easement will still be complied with. Being zoned C-1, typical corner side setbacks are 10'.

Similar requests have been awarded by ZBA in the past where a reduced corner side setback has been approved if there will be no impact or sight

obstruction created. If approved, the additional 10' of buildable area would allow the proposed building to have additional clearance for a drive-thru service window along the northern side of Lot 23.

**RECOMMENDATION:** Approval.

Mr. Acevedo explained to the board that after public hearing notices were mailed out, staff discovered a typographical error to the address for the subject site location. At this time, a recommendation was made to take no action on the item for corrective purposes, and bring the item back.

There being no further discussion, Chairman Sheats entertained a motion to take no action. Mr. Mike Friedrichs moved to approve the variance requests as per staff's recommendations. Mr. Jaime Gutierrez seconded the motion. Upon a vote, the motion to take no action passed. Mr. Sam Rodeo abstained.

**ITEM #1.4**

**TO CONSIDER A VARIANCE REQUEST TO ALLOW AN EXISTING ENCROACHMENT FOR A REAR CORNER SIDE SETBACK AT 2502 ANTIGUA DRIVE, BEING LOT 1, SHARYLAND PLANTATION VILLAGE ANTIGUA PHASE 1 SUBDIVISION, AS REQUESTED BY DR. MARIO DELPINO**

Mr. Jaime Acevedo went over the write up stating the subject site is near the Antigua Drive/Glasscock Road intersection along the south side of Antigua Drive. The 1.4375 acre irregular lot has a total square footage of 62,616 sq. ft. The owner, Dr. Mario Del Pino, is in the process of constructing a 10,951 sq. ft. single family residence on the irregular shaped lot and is requesting to have a 27' corner side setback instead of the required 30' corner side setback. A variance was approved for a 26.97' corner side setback at this location on March 15, 2017. The applicant was under the impression that the variance would allow all future construction to continue with the 26.97' corner side setback. However, when approved it was specified that the variance given in 2017 was only for an encroachment of the home. Any future construction would be required to comply with building setbacks. The owner and builder were not aware of this provision and have started construction of an outdoor pergola. This pergola has a 27' corner side setback and requires its own variance. There is a recorded 10' Utility Easement along this corner side however the proposed patio areas will be 17' away from any known utilities and the utility easement. The applicant has also obtained approval from the Hunt Valley Development for his proposed pergola—see attached. Being large estate size lots, setbacks for the development are greater than typical setback. Setbacks for Lot 1 are as

follows: Front 80', Side 20', Rear 40' and Corner side 30'. It is noted that all other setbacks are in compliance.

**RECOMMENDATION:** Since the irregular 1.4375 acre lot has greater than typical building setbacks, since the structure will be 17' away from any known utilities, and since the applicant has received support from Hunt Valley Development for his proposed variance, staff does not object and recommends approval of the proposed 27' corner side setback.

Chairman Sheats asked if the commissioners had any questions to staff.

There being none, Chairman Sheats asked if the applicant was present.

Mr. Mark Arguelles was present as representative on behalf of the applicant offering the pergola will not be an enclosed structure, and the variance request pertained to the columns only.

There being no further discussion, Chairman Sheats entertained a motion. Mr. Sam Rodio moved to approve the variance requests as per staff's recommendations. Mr. Mike Friedrichs seconded the motion. Upon a vote, the motion to approve the variance passed unanimously.

**ITEM # 1.5**

**TO CONSIDER A VARIANCE REQUEST TO HAVE A 32' REAR SETBACK INSTEAD OF THE REQUIRED 40' FOOT REAR SETBACK, 3604 OAKWOOD LANE, BEING LOT 10, THE OAKLANDS SUBDIVISION, AS REQUESTED BY EDUARDO ESPONDA**

Mr. Jaime Acevedo went over the write up stating the subject site is 600' north of Oakland Drive along the east side of Oakwood Lane. The 1.098 acre irregular lot has a total square footage of 48,344 sq. ft. The owner, Eduardo Esponda, is currently building his single family residence thereon and is requesting consideration to have a 32' rear setback instead of the required 40' rear setback. While the building permit site plan showed all setbacks to be in compliance, Mr. Esponda wants to expand on what was submitted initially and the new site plan shows a section of a gym and garage area encroaching on the rear setback. There is a recorded 15' Utility Easement along this rear side of Lot 10. However, the proposed structures will be at least 17' away from any known utilities and the utility easement. There is no Architectural Review Committee at The Oaklands Subdivision. Being large estate size lots, setbacks for this development are greater than typical setbacks. Setbacks for Lot 10 are as follows: Front 30', Side 6', and Rear 40'. It is noted that all other setbacks are in compliance and that

similar variances for rear setback encroachments have been approved in the past at The Oakland Subdivision.

**RECOMMENDATION:** Since the irregular 1.098 acre lot has greater than typical building setbacks, since the structure will be 17' away from any known utilities, staff does not object and recommends approval of the proposed 32' rear setback.

Mr. Acevedo explained to the board that as of the time of the meeting, staff has not received the site plan for the Item. At this time, a recommendation was made to take no action on the item until receiving the site plan, and bring the item back.

There being no further discussion, Chairman Sheats entertained a motion. Mr. Mike Friedrichs moved to approve the variance requests as per staff's recommendations. Mr. Jaime Gutierrez seconded the motion. Upon a vote, the motion to approve the variance passed unanimously.

**ITEM #2.0**  
**ADJOURNMENT**

There being no further business, Chairman Sheats entertained a motion to adjourn. Mr. Friedrichs moved to adjourn. Ms. Kathy Olivarez seconded the motion. Upon a vote, the motion passed unanimously at 5:03 p.m.

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Ned Sheats, Chairman  
Zoning Board of Adjustments