

**ZONING BOARD OF ADJUSTMENTS
MAY 16, 2018
CITY HALL'S COUNCIL CHAMBERS**

MEMBERS PRESENT

Ned Sheats
Julian Gonzalez
Terry Meewes
Kathy Olivarez
Jaime Gutierrez

MEMBER ABSENT

Sam Rodio

STAFF PRESENT

Jaime Acevedo
Virgil Gonzalez
Kristin J. Warshak
Maribel Castellanos

GUEST PRESENT

Alberto Vasquez

CALL TO ORDER

Chairman Ned Sheats called the meeting to order at 4:31 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 MAY 9, 2018

Chairman Sheats asked if there were any corrections to the minutes for April 18, 2018. Mr. Terry Meewes moved to approve the minutes as presented. Mr. Jaime Gutierrez seconded the motion. Upon a vote, the motion passed unanimously.

ITEM #1.1

TO CONSIDER A VARIANCE REQUEST TO ALLOW AN ENCROACHMENT ONTO THE REAR SETBACK AT 2701 W. 6th ST., BEING LOT 28, PUNTA DEL SOL, AS REQUESTED BY ALBERTO VASQUEZ

Mr. Jaime Acevedo went over the right up stating the subject site is located at the SW corner of W. 6th Street and Moorefield Road intersection. The property is zoned Multi-Family Residential (R-3).

The applicant recently purchased this mobile home and hired a contractor to install a masonry perimeter wall and enclose an open car-port that existed on the property. The contractor failed to get a building permit and staff issued a stop work order. The contractor ignored that stop work order and continued working and completed the enclosing a car port. One thing that we learned in talking with the applicant is that when he recently purchased

the property, the car port already existed. Google maps and prior aerial photography confirm that the open carport was indeed pre-existing to the zero lot line.

This case went to municipal court and the Municipal Court Judge recommended allowing the applicant to apply for a variance prior to making a ruling on the case. The concern our Municipal Court Judge had was that the purchase was made with a non-conforming structure already at zero setback and the new owner simply enclosed the structure.

RECOMMENDATION: In reviewing this case there are really only two options. ZBA can use their discretion to approve the variance and allow the structure to remain as is. This will likely set precedence as others may also seek the same consideration. Or ZBA can deny the variance request and applicant would have to meet the all building setbacks. This would mean that the structure would have to be removed. Staff would recommend against allowing the variance request. However, given the circumstances we can discuss this item further at the time of the meeting to see if we can agree on a viable solution.

Chairman Sheats asked if there were any questions from the commissioners or staff.

Mr. Terry Meewes inquired as to the general requirements that city has with respect to licensing contractors when a permit is not taken out.

Mr. Acevedo explained that certain contractors (i.e., electrician, plumber, etc.) are regulated by a regulatory agency, and if a problem arises, the regulatory agency could be contacted to report a problem. However, with a general contractor, there are no regulatory agencies.

Mr. Meewes and Mr. Julian Gonzalez asked staff about city policy for general contractors who do not follow proper city protocol.

Mr. Acevedo explained that the only penalty issued to contractors is if they have paid with a check that has been returned with non-sufficient funds.

Additionally, Mr. Meewes asked staff if a recommendation could be made to City Council to penalize general contractors for non-compliance of proper procedures.

Mr. Acevedo indicated before any recommendation was made to assess or penalize general contractors, counsel would need to be involved.

Chairman Sheats redirected the board on the variance request at hand asking Mr. Acevedo what would happen if the board denied the request, and the responsibility the applicant has to remain compliant.

Mr. Jaime Gutierrez suggested taking down the walls versus just tearing everything down.

Mr. Acevedo reminded the board that was what the applicant had when he bought the property then he enclosed the carport.

Mrs. Kathy Olivarez expressed a safety concern because of the structure being at 0' of the property line.

Mr. Alberto Vasquez explained to the board that the contractor that was issued a "stop order" is not returning his phone calls.

Mr. Meewes suggested taking down the walls and putting the project back to the way it was.

Mr. Acevedo explained that would still be at a 0' setback.

Chairman Sheats reminded the board the issues in this particular instance is the setbacks which was still wrong when Mr. Vasquez purchased the property.

Mr. Acevedo made a recommendation to change the orientation of the front door to be off of Moorefield.

Mrs. Olivarez stated she understood the applicant's concern for safety in being burglarized. Furthermore, she recommended the board take action on the item, and go after the contractor who was not in compliance.

Chairman Sheats reiterated to take action in denying the request and have the applicant come back in three months to staff with an alternative solution meeting staff's setback requirements.

There was further discussion amongst the board members and Mr. Acevedo with respect to the drainage inlet, and the fact that the applicant may have to eventually take down the walls if no compromise could be made.

Mr. Acevedo stated the applicant was suggesting to change the front of the house front door to 6th Street that would change side setback to 5 feet, and asked on behalf of the applicant if the board would accept that.

Chairman Sheats stated that a decision to the applicant's suggestion would not be taken into consideration at this time due to not having plans or other options before them.

Mr. Acevedo agreed to this and suggested to take no action on the item. If the item was denied then the applicant would have to wait six months before he could bring it back to be heard again.

Mr. Terry Meewes moved to take no action for Item 1.1 as per staff's recommendations. Mr. Jaime Gonzalez seconded the motion. Mrs. Olivarez clarified that taking no action does not mean that the board will not pursue going after the contractor involved. Upon a vote, the motion to take no action passed unanimously.

ITEM #2.0
ADJOURNMENT

There being no further business, Chairman Sheats entertained a motion to adjourn. Mr. Terry Meewes moved to adjourn. Mr. Julian Gonzalez seconded the motion. Upon a vote, the motion passed unanimously at 4:40 p.m.

Ned Sheats, Chairman
Zoning Board of Adjustments