

**ZONING BOARD OF ADJUSTMENTS
SEPTEMBER 19, 2018
CITY HALL'S COUNCIL CHAMBERS**

MEMBERS PRESENT

Jaime Gutierrez
Terry Meewes
Kathy Olivarez
Ned Sheats
Sam Rodio
Julian Gonzalez
Guillermo Martinez

MEMBER ABSENT

STAFF PRESENT

Jaime Acevedo
Virgil Gonzalez
Maribel Quintanilla

GUEST PRESENT

Alberto Vazquez
Erika Rios
Kelley Heller-Vela
August De Kock
Zorayda Garcia
Mike Friedrichs
Alonso Rocha
Narciso Rios

CALL TO ORDER

Chairman Ned Sheats called the meeting to order at 4:30 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 AUGUST 15, 2018

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

ITEM #1.1

VARIANCE REQUEST: To have a 0' front setback instead of a 20' front setback

ZONING: Mobile Modular Home (R-4)

APPLICANT: Alberto Vasquez

PROPERTY: 2701 W 6th Street
Lot 28, Punta del Sol Subdivision

Mr. Jaime Acevedo went over the write up stating the subject site is located at the SW corner of W. 6th Street and Moorefield Road intersection. The property is zoned Mobile Modular Home (R-4).

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 an open carport pre-existed. Google maps and prior aerial photography confirm that the open carport was indeed pre-existing with a zero setback or at 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 a zero setback and the new owner simply enclosed the structure.

In talking to the applicant, the applicant would like to keep the structure as is and has even relocated the front entrance to 6th Street instead of Moorefield. His mailbox and front door are now along 6th Street. This changes or lessens the variance request from a request to have 0' setback where a 20' front setback is required to a request of a 0' corner setback where a 10' corner side setback is required.

RECOMMENDATION: In reviewing this case there are several options that can be applied to this case. The first option is for the applicant to retrofit the enclosed garage back to open carport as it was when he purchased the property. The second option is to allow the structure to remain as is. The final option would be to bring the property into full compliance and remove the non-conforming structure. Since the structure already existed and the property owner was not aware of the contractor had not obtained proper permits, Staff is recommending that the carport is allowed to stay in its current form subject to meeting all building codes.

Chairman Sheats asked if the Commissioners had any questions to Staff.

There was none.

Chairman Sheats stated that it will get approved as is and removed if sold.

Applicant was present to answer any questions that Commissioners might have.

Mr. Jaime Acevedo explained to applicant the Commissioners recommendations, approved as is and removed if sold.

Applicant agreed to conditions.

Chairman Sheats asked if there was any audience objection.

There was none.

Mr. Sam Rodio 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

VARIANCE REQUEST: To have a 0' Side Setback
Instead of a 6' Side Setback

PROPERTY: 102 Sol Dorado
Lot 12, Block 5
Tierra Dorada No. 2 Subdivision

ZONING: Single Family Residential (R-1)

APPLICANT: Erika Rios

Mr. Jaime Acevedo went over the write up stating the subject site is located near to the NE corner of Sol Dorado and Paseo Encantado along the east side of Sol Dorado. The applicants desire to retain a 0' side building setback instead of the required 6' front building setback for an open carport. Since the carport is at the lot line, the abutting residence is only 6' from the existing carport that was installed without a building permit. Staff calls your attention to the photo which shows the half-finished carport-type structure. The applicants desire to retain this structure to provide shade and storage for their recreational vehicle. Being zoned R-1, the typical side setbacks are 6'. The intent of side setbacks is to allow a 'fire' clearance from one residence to another. What ZBA has entertained in the past is a 10' building to building separation to the abutting neighbor when the neighbors agree and sign an agreement and there is a minimum separation of at least 10'

between structures. However, in this scenario the applicant and the abutting residence would only have 6' of separation from one structure to the next. Staff cannot support such variance based on the fire safety issues that would be imposed should such structure be granted approval. One of the roles of the Zoning Board of Adjustments is to promote the health, safety and general welfare of the community by granting variances to the ordinances. This would not accomplish that.

RECOMMENDATION: Staff recommends denial, approving such variance would set precedence.

Chairman Sheats asked if the Commissioners had any questions to Staff.

Mr. Sam Rodio asked if there was any communication with the other property owner.

Mr. Jaime Acevedo replied "No" but she might be here with the applicant. I met with the applicant and they might be related.

Mr. Julian Gonzalez asked if the neighbor knew that it was inside her property when it was being built.

Mr. Jaime Acevedo replied that when he talked with the owner and told her that base on the picture it appear that property fence was not shift and it was passing the neighbor's property.

Mr. Julian asked if the neighbor never complaint.

Mr. Jaime Acevedo replied "No".

Mr. Jaime Gutierrez asked if that was done by a contractor.

Mr. Jaime Acevedo replied "Yes".

Chairman stated that even if the applicant says it is in her property, survey proves otherwise.

Mrs. Kathy Olivarez stated that if she puts a roof on the structure, all the water will go to the neighbor's property.

Chairman Sheats stated that there is no fire safety.

Applicant was present to answer any questions that Commissioners might have.

Mr. Jaime Acevedo explained to the applicant that commissioners want to hear from her what she has to say to convince them to approve the request.

Applicant stated that she will be installing gutters to address the rain issue but as far as separation requirements for the fire safety issue she really does not have an answer to that.

Chairman Sheats stated that he would like the contractor's name and have the city write him a letter.

Mr. Sam Rodio agreed by saying that is costing her a lot of money.

Applicant replied that contractor's name is Juan Lopez but he does not answer or return her calls anymore.

Terry Meewes asked if the structural was her idea or the contractor's.

Mr. Jaime Acevedo replied that is her idea not the contractor's.

Chairman Sheats asked if there was any audience objection.

Mr. August De Kock was there for opposition and stated that he was oppose and would not want someone building anything inside his property line.

Mr. Terry Meewes moved to deny the variance requests as per staff's recommendations and needs to be removed within 30 days. Mr. Kathy Olivarez seconded the motion. Upon a vote, the motion to deny the variance passed unanimously.

ITEM #1.3

VARIANCE REQUEST: To have a 30' Front Setback
Instead of a 40' Front Setback

PROPERTY: 1617 N. Taylor Road
Lot 1
Taylor Senior Village Subdivision

ZONING: Multi-Family Residential (R-3)

APPLICANT: The Brownstown Companies

Mr. Jaime Acevedo went over the write up stating the site is located ¼ mile south of Griffin Parkway (F.M. 495) along the west side of Taylor Road. The applicant is requesting a variance for a 30' Front Setback where a 40' Front Setback is required by the recorded plat. When Taylor Senior Village was recorded in 2017, Lot 1 was given a 40' front building setback based on a site plan submitted by the developer at that time. However, the previous owners, the Townsends, requested that the developers preserve a large oak tree as a condition of sale of this property to The Brownstone Group. This large tree had sentimental valued to the Townsends and they wanted it preserved. The applicant alerted staff and instead of replatting or amending the approved subdivision plat, Staff recommended a variance since the R-3 setbacks are typically 30' and not 40'.

This applicant has constructed a gated community with a single entry-way to the single lot multi-family development. The development has also granted the future right of way needed for the expansion of Taylor Road. Overall, the proposed setback will not have any adverse effect on the lots or surrounding properties.

RECOMMENDATION: Staff does not object and recommends approval of the reduced 30' front setback.

Chairman Sheats asked if the Commissioners had any questions to Staff.

There being none.

Applicant Kelly Heller-Vela was present to answer any questions that Commissioners might have.

Chairman Sheats asked if there was any audience objection.

Mr. August De Kock was there for opposition and asked if this has anything to do with the right of way for the expansion of Taylor Road.

Mr. Jaime Acevedo replied "No" because when this was developed the City acquire the right of way that was needed for the expansion of Taylor Road.

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

ADJOURNMENT

There being no further business, Mr. Jaime Gutierrez moved to adjourn. Mr. Terry Meewes seconded the motion. Upon a vote, the motion passed unanimously at 4:58 p.m.

Ned Sheats, Chairman
Zoning Board of Adjustments