

**ZONING BOARD OF ADJUSTMENTS
NOVEMBER 14, 2018
CITY HALL'S COUNCIL CHAMBERS**

MEMBERS PRESENT

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

MEMBER ABSENT

Julian Gonzalez

STAFF PRESENT

Jaime Acevedo
Virgil Gonzalez
Kristin J. Warshak

GUEST PRESENT

Erika Rios
German Rios
Cristina Vanegas

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 SEPTEMBER 19, 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

TO CONSIDER A VARIANCE REQUEST TO HAVE A 10' FRONT SETBACK INSTEAD OF THE REQUIRED 15' FRONT SETBACK AT 1001 PERKINS, BEING THE EAST HALF OF LOTS 7 AND 8, BLOCK 176, MISSION ORIGINAL TOWNSITE, AS REQUESTED BY CHARTER COMMUNICATIONS

Mr. Jaime Acevedo went over the write up stating the subject site is located at the located at the NW corner of Perkins & Tom Landry Boulevard—**see vicinity map**. The corner lot measures 75' x 100' or 7,500 sq. ft.

The applicant is proposing to construct a new building for data equipment to support internet/cable services for residential and commercial customers as well as 911/Government services and is requesting to have a 10' front setback instead of the required 15' front setback. The subject property has been used as a data center by Time Warner Communications since 2003.

This is in a commercial area and this site is completely non-living in nature, housing data equipment only. The property has a chain link fence surrounding the perimeter. Perhaps a condition of approval could be that a mesh screen be applied along the perimeter fence to provide a buffer to traffic.

RECOMMENDATION: Staff does not object to the proposed 10' front setback.

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

Mr. Guillermo Martinez expressed his concerns that the plans or permit submitted did not have consideration for setback making an assumption that it would be alright as submitted. He did not want to set precedence.

Mr. Jaime Acevedo explained to the commissioners the permit approval was under the condition of the ZBA approval.

Mr. Sam Rodio added that this would be an improvement to the area.

Mr. Guillermo Martinez still questioned the setback at 15'.

Chairman Sheats inquired if the setbacks could be accommodated rather than ask for a variance.

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 and to include a buffer around the building. Mr. Terry Meewes seconded the motion. Upon a vote, the motion to approve the variance passed 4-1. Mr. Guillermo Martinez dissenting.

ITEM #1.2

CONSIDER A VARIANCE REQUEST TO HAVE A 0' SIDE SETBACK INSTEAD OF A 6' SIDE SETBACK AT 102 SOL DORADO STREET, BEING LOT 12, BLOCK 5, TIERRA DORADA NO. 2 SUBDIVISION, AS REQUESTED BY ERIKA RIOS

Mr. Jaime Acevedo went over the write up stating This item was last seen by the ZBA on September 19, 2018 at which time a denial was given to the applicant after a survey showed a carport structure encroaching onto the abutting lot. However, Staff received a call the week after the approval was

given from the Land Surveyor. The Surveyor conveyed to Staff that a mistake had been made on his survey and a revised survey was given to Staff. Being that the facts were not presented at the last meeting, Staff is bringing this item back for reconsideration.

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. One other development since this item was last seen is that the applicant contacted the City of Mission Fire Marshal's office who did not consider this metal structure to be a fire concern. The neighbors next door also does not object to the open carport as long as it remains open.

RECOMMENDATION: Staff recommends denial, approving such variance would set precedence. If the ZBA is incline to approve the variance request, I would recommend the following conditions be considered: 1) the structure remain open, 2) the structure remain all metal, and 3) that if property is ever sold that the structure be removed. These are all conditions that the owner agrees with.

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

Mr. Terry Meewes asked if the front setback is being meet and if the applicant plans on moving the fence?

Mr. Acevedo stated setbacks are being met and the fence will remain in place.

There was discussion amongst staff and the board with respect to the city's requirements for fences.

Chairman Sheats pointed out to commissioners the structure is actually made out of steel.

There was discussion amongst staff and commissioners with respect to the steel structure and fire potential.

Chairman Sheats expressed his concern about setting a precedence allowing such a structure and setbacks for the neighborhood.

All commissioners agreed to same after discussion.

Mrs. Erika Rios was available to answer any questions the commission might have.

Chairman Sheats asked if anyone would be living in the structure.

Mrs. Rios responded, "No. It is only used for my husband's work."

Mr. Terry Meewes asked how long the motor home is stored.

Mrs. Rios replied, "On and off for ten to twenty days."

Chairman Sheats asked if there was any audience objection.

Mr. Acevedo did receive a phone call in opposition to the variance request.

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

ITEM #1.3

CONSIDER A MASS VARIANCE REQUEST TO ALLOW DRIVEWAY ACCESS TO AND FROM ESPERANZA STREET FOR LOTS 1, 3, AND 5, CRYSTAL ESTATES PHASE 2, AS REQUESTED BY CRISTINA VANEGAS, WILFREDO GARZA, AND ISAAC CAVAZOS

Mr. Jaime Acevedo went over the write-up stating the subject site is located between Alexa Maria and Esperanza Avenue approximately 400' feet west of Los Ebanos Road. The three residential lots in question all measure 65' x 126.50' or 8,222.50 sq. ft.

The applicants are requesting to have rear access from Esperanza Street. When Crystal Estates II was recorded there was a plat note that prohibited

Lots 1-5 to have rear access to Esperanza Street. All of these lots are double frontage lots and the applicants would like to have the option to be able to use Esperanza Street. In 2017, the developer hired an engineer and started a replat of Crystal Estates II Subdivision. However, since many lots had already been sold, gathering all the signatures of the property owners of Crystal Estates II and having all the tax certificates all being current became an issue and the developer was never able to get the replat recorded. Since all of these applicants were promised rear access by the developer and the developer was never able to replat, the City has intervened and is recommending a variance request as a possible solution to this dilemma that has been inflicted on these new property owners by the developer.

RECOMMENDATION: The best solution to in this case would have been a replat of Crystal Estates. However, since the developer was not able to successfully meet the requirements of that process, Staff does not object to the proposed variance request for Lots 1, 3, and 5 since this was not something that was self-inflicted. Staff is recommending approval.

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

There was discussion between staff and the commissioners regarding the history of the recorded plat and Crystal Estates Phase III.

Chairman Sheats recommended that this variance be considered for all five lots.

Mr. Sam Rodio agreed.

Ms. Crystal Venegas was available to answer any questions the commission might have.

Chairman Sheats asked if there was any audience objection.

There was none.

There being no further discussion, Mr. Terry Meewes moved to approve the variance requests for all five lots 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. Guillermo Martinez moved to adjourn. Mr. Terry Meewes seconded the motion. Upon a vote, the motion passed unanimously at 5:11 p.m.

Ned Sheats, Chairman
Zoning Board of Adjustments