

**ZONING BOARD OF ADJUSTMENTS
NOVEMBER 06, 2019
CITY HALL'S COUNCIL CHAMBERS**

MEMBERS PRESENT

Sam Rodio
Terry Meewes
Guillermo Martinez
Jose "Pepe" Garcia
Romeo Gonzalez

MEMBER ABSENT

Eliud Reyna
Julian Gonzalez

STAFF PRESENT

Jaime Acevedo
Carmen Castro

GUESTS PRESENT

Alejandro Hernandez
Eloy Benavides
Eva D. Lopez
Martha Rodriguez

CALL TO ORDER

Chairman Sam Rodio called the meeting to order at 4:30 p.m.

CITIZENS PARTICIPATION

There was no citizen's participation

APPROVAL OF MINUTES FOR OCTOBER 16, 2019

Chairman Rodio asked if there was anyone besides the items from agenda wanting to speak to go forward.

ITEM #1.1

CONSIDER A VARIANCE REQUEST TO KEEP A 6' REAR SEATBACK INSTEAD OF THE REQUIRED 10' AND A 3' SIDE SETBACK INSTEAD OF THE REQUIRED 6' SIDE SETBACK AT 901 PALOMA ST., BEING LOT 139, AND THE SOUTH ½ OF LOT 140, ALA BLANCA NO. 4 SUBDIVISION, AS REQUESTED BY NOE GARCIA

Mr. Acevedo went over the write up stating that the subject is located near the NE corner of Paloma & Paisano Street. The applicant made some improvements to the property that include a storage shed, a utility room with an open carport and a chimney without obtaining the property permits, thus the need for a variance. Staff notes that the storage shed and utility room are not in compliance with the rear setback they have 6' from the property line. The chimney is in compliance with the rear setback but, is not meeting the side setback. The chimney has a 3' side setback where a 6' side setback is required.

The applicant would like the Board to consider approving the variance as requested. Since it's the last house on Paloma Street and the neighbor has more than 10' from the side setback and the encroachments are hardly visible from the street. Staff does not object to the variance.

RECOMMENDATION: Staff recommends approval of the variance as requested subject to acquiring the property permits.

Chairman Rodio asked if there were any questions in favor or against the request.

There was none.

Chairman Rodio asked if the applicant was present.

Applicant was not present.

Mr. Acevedo responded that the applicant is the gentleman from the last meeting, there is a park on the south side and the setbacks are to leave space between properties for fire clearance, and he currently has the 6' required. The applicant was at City of Mission, because he wants to sell the property and the Real Estate agent wanted to get addressed everything.

Mr. Martinez asked how along ago the changes were made to the property recently.

Mr. Acevedo responded that we do not have the information, the only information that we currently have is from the appraisal district but it is not a new construction, but since the house is for sale the agent needs everything to be cleared before the owner sells it.

There being no further discussion, Mr. Martinez entertained a motion and Mr. Pepe Garcia seconded the motion. Upon a vote, the motion passed unanimously.

ITEM #1.2

CONSIDER A VARIANCE REQUEST TO KEEP A 6' SIDE SETBACKS INSTEAD OF THE REQUIRED 10' SIDE SETBACK AT 3508 OAKWOOD LANE, BEING LOT 8, THE OAKLANDS SUBDIVISION, AS REQUESTED BY ELOY BENAVIDES

Mr. Acevedo went over the write up stating that the subject site is located near the Oakland Drive Oakwood Lane intersection along the east side of Oakwood Lane. The applicant desires to retain a section of his beautiful residence which was built over a recorded 10' utility easement. The residence was built near the year 2000 and a building permit was approved by the City showing a 6' side setback. This was an oversight by the City of Mission and not the applicant. However, since there was no bank involved in the construction of this home at the time a survey was not required. A recent survey shows the residence is not in compliance and that there is an existing encroachment to the plat specified 10' side setback. In reviewing

the plat, it appears that there's a 6" water line within the 10' side utility easement. The applicant did request that all utilities be spotted within the side easement. It was discovered that although they are not in compliance of the 10' side setback, there are no utilities within the 10' easement area that they built over. Being that this was not self-inflicted and being that the applicant was allowed to build the residential structure 'as is', Staff does not object to the variance request.

RECOMMENDATION: Staff recommends approval.

Chairman Rodio asked if the applicant was present.

Applicant was present to answer any questions the Board might have.

Ms. Cynthia Benavides confirmed that her house was built in the year 2000, she has the property on sale and they noticed on the survey that the property didn't have the proper setback.

Mr. Acevedo stated that there was a similar case from back in the summer where a permit was issued and they become aware of the setback issue once they put the property on sale.

Mr. Garcia asked if the utility easement was clear.

Mr. Acevedo responded that they were not utilities underneath.

There being no further discussion, Mr. Martínez entertained a motion and Mr. Garcia seconded the motion. Upon a vote, the motion passed unanimously.

ITEM #1.3

CONSIDER A VARIANCE REQUEST TO KEEP A 2' SIDE SETBACK INSTEAD OF THE REQUIRED 6' SIDE SETBACK AT 1805 BARBARA STREET, BEING LOT 161, SOUTHERN OAK PH. II, AS REQUESTED BY EVA D. LOPEZ

Mr. Acevedo went over the write up stating that the subject site is located between Jacob Street and Inspiration Road along the south side of Barbara Street. The lot measures 61' x 110' or 6,710 sq. ft. The applicant desires a reduced 2' side building setback for an open carport built with no building permit. The required side setback is 6'.

Staff calls your attention to the photo which shows the existing carport-type structure with a 2' side setbacks from the lot line. 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. The applicant has spoken to the neighbor which is receptive and willing to sign such agreement. The neighbor next door also does not object to the open carport as long as it remains open.

RECOMMENDATION: Staff recommends approval subject to: 1) a recorded document that the carport will remain open as a non-living structure, 2) if ever removed or sold, the prevailing setbacks shall be complied with thereafter, 3) recorder document from neighbor in which he does not oppose to having a 8' side setback.

Mr. Acevedo went ahead and suggested to take off the second condition, since for him will be too harsh to tell the new owner to take it off in case they sell the property.

Chairman Rodio asked if there were any questions in favor or against the request.

There was none.

Chairman Rodio asked if the applicant was present and if it was to go forward.

The applicant Mrs. Eva Lopez was present.

Chairman Rodio asked if she had anything she wanted to add.

Mrs. Lopez said that the only thing she wanted to add is that the construction is been there for over 10 years, been built in 2007.

Mr. Garcia asked if the carport was open in the side.

Mrs. Lopez responded "yes, it's open on the side" is just the screen.

Chairman Rodio asked if there were any questions.

There being no further discussion, Chairman Rodio moved to approve the request as per staff recommendation to a recorder document that the carport will remain open as a non-living structure and a recorded document from neighbor in which he does not oppose to having a 8' side setback. Mr. Martinez seconded the motion. Upon a vote, the motion passed unanimously.

ITEM #2.0

OTHER BUSINESS:

Chairman Rodio stated that 70% of the times the meeting is because people don't get the proper permits and it hurts the City. There is an ordinance working right now for permits in residential, construction and enclosing properties. If they don't get the building permit they will go thru National Building Code. It is not fair for the owner that the contractors don't get the proper permits.

ITEM #3.0

ADJOURNMENT

There being no further business, Chairman Rodio entertained a motion to adjourn. Mr. Martinez moved to adjourn. Mr. Garcia seconded the motion. Upon a vote, the meeting was adjourned at 4:47 p.m.

Sam Rodio, Chairman
Zoning Board of Adjustments