

**ZONING BOARD OF ADJUSTMENTS
DECEMBER 04, 2019
CITY HALL'S COUNCIL CHAMBERS**

MEMBERS PRESENT

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

MEMBER ABSENT

Eliud Reyna

STAFF PRESENT

Jaime Acevedo
Susana De Luna
Carmen Castro

GUESTS PRESENT

Esmeralda Martinez
Jessica Trevino
Jesus Salinas
Oscar Garza
Jose Vera
Alonso Rocha

CALL TO ORDER

Chairman Sam Rodio called the meeting to order at 4:33 p.m.

CITIZENS PARTICIPATION

There was no citizen's participation

APPROVAL OF MINUTES FOR NOVEMBER 6, 2019

Chairman Rodio asked if there were any corrections to the minutes. There being none, Mr. Guillermo Martinez moved to approve the minutes as presented. Mr. Jose "Pepe" Garcia seconded the motion. Upon a vote, the motion was unanimously approved.

ITEM #1.1

CONSIDER A VARIANCE REQUEST TO KEEP A 4' SIDE SETBACK INSTEAD OF THE REQUIRED 6' SIDE SETBACK & TO KEEP A 10' FRONT SETBACK INSTEAD OF THE REQUIRED 20' FRONT SETBACK AT 105 N. SOL DORADO, BEING LOT 19, BLOCK 4, TIERRA DORADA PH. II SUBDIVISION, AS REQUESTED BY ALONSO ROCHA

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 to keep the original ZBA approval granted on October 21, 2019.

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 present.

Mr. Alonso Rocha wanted to know if there was anything he was able to do. He was sorry he did not acquire a permit, but his argument was that he wasn't going to be able to fit the cars below the carport anymore.

Mr. Acevedo mentioned that Mr. Rocha's neighbor has the same carport length but in that case, the carport is wider so he is able to move the front and still able to fit the cars, so he recommended to get a letter from neighbor where he agrees to stay with a 10' side setback to keep Mr. Rocha's side setback at 0'.

Mr. Rocha mentioned that he spoke to the neighbor and he agreed to stay with his current side setback.

Mr. Acevedo told him that he still needs the neighbor letter notarized.

There being no further discussion, Mr. Mavis moved to approve the request as per staff recommendation to a recorded document from neighbor in which he does not oppose having a 10' side setback, if he does not have it by December 9th, 2019 the variance will stay as it got approved back in October 21st, 2019. Mr. Garcia seconded the motion. Upon a vote, the motion passed unanimously.

ITEM #1.2

CONSIDER A VARIANCE REQUEST TO KEEP A 6" SIDE SETBACK INSTEAD OF THE REQUIRED 6' SIDE SETBACK AT 1805 W. 15½ STREET, BEING LOT 161, SOUTHERN OAKS PH. III, AS REQUESTED BY JOSE A. MARTINEZ

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 a reduced setback of 2'. This would allow for the carport to be trimmed 2' to prevent rain water from falling on abutting property. Staff also recommends the installation of rain gutters. Finally, we are also requesting approval subject to a recorded document that the carport will remain open as a non-living structure and recorded document from neighbor in which he does not oppose to having an 8' side setback.

Chairman Rodio asked if there was someone present to speak against the variance.

Applicant was present and she was against the recommendation.

Mrs. Esmeralda Martinez was present and she wanted to keep the carport with the current setbacks.

Mrs. Martinez explained that her husband Mr. Jose Martinez was diagnosed with diabetes and that the Doctor recommended for him to work out, be active but he wasn't able to do it under the sun. She also mentioned that they didn't have the money to build the carport, so they requested a loan to be able to build it.

Mr. Rodio asked if she got a contractor to build the carport.

Mrs. Martinez responded that they got a contractor, but he did not have a permit and they were not aware they needed one.

Mr. Rodio mentioned that this situation is been faced many times where the contractor does not get a permit and then the home owner finds out they have to go through the variance process.

Mrs. Martinez asked the neighbor to get her approval to build the carport and she agreed with the construction so they build it.

Mr. Rodio concern was that they did not have proper drainage.

Mrs. Martinez told him that they were willing to get what they needed to drain the water to their side of property.

Mr. Garcia asked if her husband works.

Mrs. Martinez said that he used to work at the oil fields, but due to his condition he had to become a truck driver so he can have his own schedule.

There being no further discussion, Mr. Mavis moved to approve the request as presented. Mr. Gonzalez seconded the motion. Upon a vote, the motion passed unanimously subject to: 1) Paying double permit fee for not acquiring a permit, and 2) Install the rain gutters by December 20th, 2019.

ITEM #1.3

CONSIDER A VARIANCE REQUEST TO KEEP A 1' SIDE SETBACK INSTEAD OF THE REQUIRED 6' SIDE SETBACK AT 1900 BARBARA STREET, BEING LOT 133, SOUTHERN OAKS PH. II SUBDIVISION, AS REQUESTED BY JUAN J. CHAPA

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 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 to table the item to do a more thorough inspection on the property.

Mr. Rodio asked if someone was against the request.

There was none.

Mr. Rodio asked if the owner or applicant was present.

The applicant was present to answer any question.

Mr. Acevedo told the board that since there are several accessory structures and the City only allows one, he is recommending to wait and verify the whole property to see what is not complying with the City requirements.

Mr. Juan J. Chapa mentioned that he came by the City of Mission 9 years ago to get a permit and the inspector that was there at the time, told him that he didn't need a permit.

Mr. Acevedo mentioned that is hard to believe that he was told that, since we require permits for everything.

Mr. Chapa said that he does not have proof nor remembers the inspector's name.

Mr. Rodio said that he recommends to table the variance because the board can't go by that, since we don't have any proof of what he was told.

There being no further discussion, Chairman Rodio entertained a motion. Mr. Martinez moved to table the variance request including the following: To do a more thorough inspection on the property. Mr. Guillermo Martinez seconded the motion. Upon a vote, the motion was table unanimously.

ITEM #1.4

CONSIDER A VARIANCE REQUEST TO KEEP A 4.2' SIDE SETBACK INSTEAD OF THE REQUIRED 6' SIDE SETBACK AT 2720 PUEBLO DEL NORTE COURT, BEING LOT 40, PUEBLO DEL NORTE PH. II SUBDIVISION, AS REQUESTED BY MARIELA & JESUS SALINAS

Mr. Acevedo went over the write up stating that the subject site is located near the NE corner of Pueblo Del Norte Court & E. 28th Street. The applicant is in the process of selling her house and in the process, it was discovered that a small portion of the home was constructed over the side setback. The survey shows a 4.2' side setback and this subdivision requires 6'. This home was constructed back in 1997 and staff was not able to find copies of the building permit application that was approved when the home was constructed.

The applicant would like the Board to consider approving the variance as requested. Since the encroachment is not detrimental to the area staff does not object to this variance.

RECOMMENDATION: Staff recommends approval of the variance as requested.

Mr. Rodio asked if there was someone against the request.

There was none.

Mr. Rodio asked if the applicant was present.

Mr. Jesus Salinas was present to answer any questions the board have.

Mr. Salinas mentioned that the house was heritage to his wife, been the third owners they are trying to sell it but they discovered the situation on the new survey.

Mr. Rodio mentioned that he doesn't know how the setbacks change in the subdivision.

Mr. Acevedo said that it has happened where the Engineers go and install utilities which it ends up changing the easements, as it happen in this particular lot.

There being no further discussion, Chairman Rodio moved to approve the request as per staff recommendation. Mr. Martinez moved to approve the request and Mr. Mavis seconded the motion. Upon a vote, the motion passed unanimously.

**ITEM #2.0
OTHER BUSINESS**

There was no other business.

**ITEM #3.0
ADJOURNMENT**

There being no further business, Chairman Rodio entertained a motion to adjourn. Mr. Mavis moved to adjourn. Mr. Gonzalez seconded the motion. Upon a vote, the meeting was adjourned at 5:14 p.m.

Sam Rodio, Chairman
Zoning Board of Adjustments