

**ZONING BOARD OF ADJUSTMENTS
FEBRUARY 19, 2020
CITY HALL'S COUNCIL CHAMBERS**

MEMBERS PRESENT

Ken Boyle
Jose "Pepe" Garcia
Terry Meewes
Sam Rodio
Romeo Gonzalez
Guillermo Martinez
Doris Just

MEMBER ABSENT

STAFF PRESENT

Jaime Acevedo
Susana De Luna
Carmen Castro

GUESTS PRESENT

Maria Salinas
Delia Gonzalez
Yadira Martinez
Jose R. Garcia
Alexa Barbosa
Erika Rios

CALL TO ORDER

Chairman Sam Rodio called the meeting to order at 4:34 p.m.

CITIZENS PARTICIPATION

There was no citizen's participation

APPROVAL OF MINUTES FOR DECEMBER 4, 2019

Chairman Rodio asked if there were any corrections to the minutes. Mr. Terry Meewes mentioned that Section 1.1, 1.2 and 1.4 his last name is misspelled. Mr. Jose "Pepe" Garcia moved to approve the minutes as corrected. Mr. Romeo Gonzalez seconded the motion. Upon a vote, the motion was unanimously approved.

ITEM #1.1

CONSIDER A VARIANCE REQUEST TO HAVE 0' FRONT SETBACK INSTEAD OF THE REQUIRED 20' FRONT SETBACK AND A 0' SIDE SETBACK INSTEAD OF THE REQUIRED 6' SIDE SETBACK AT 919 BLAKE STREET, BEING LOT 76, EAGLE HEIGHTS NORTH SUBDIVISION, AS REQUESTED BY JUAN J. SALINAS

Mr. Jaime Acevedo went over the write up stating the subject site is located along the east side of Blake Street, near the Blake/Miracle Lane intersection. The lot measures 54' x 113' or 6,102 sq. ft. The applicant desires a reduced 0' side and 0' front building setbacks for an open carport built with no building permit. Under the recently revised carport ordinance, the required side setback is 4' and the required front setback is 8' for an open carport.

Staff calls your attention to the photo which shows the open carport with a 0' side and 0' front setback 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. To consider this, the abutting neighbor would have to not object to having an increased rear setback in writing. Recently, the open carport ordinance was revised by the PNZ and City Council. Under the new ordinance, residents in a subdivision 20 years or older are allowed reduced setbacks for open carports. The newly approved open carport setbacks are 4' for sides and 8' for front.

RECOMMENDATION: Since no permits were obtained Staff's recommendation is to deny the request and have the applicant modify the structure to meet code. Staff feels that those that do not obtain a building permit should not be allowed to keep their structures 'as-built' while others that do get permits are forced to modify their plans to meet code.

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

There was none.

Chairman Sam Rodio asked if the applicant was present.

Representing the applicant Mrs. Maria Salinas approach the board stating that she lives at 919 Blake Street and was in favor of request.

Chairman Sam Rodio asked if the contractor advised them that a permit needed to be taking out.

Mrs. Maria Salinas stated that they came to get a permit to build the carport and it was denied, because we needed to leave certain feet from the front and the side and since we saw everyone was building carports, I told my husband "Let's build it". I am not building it to have a party; it's just to protect the cars.

Chairman Sam Rodio asked if the contractor got a permit?

Mrs. Maria Salinas stated he did not because my husband built it with some friends.

Chairman Sam Rodio mentioned we have a lot going on; a permit should have been taken out, also a concrete permit.

Mrs. Maria Salinas stated I got a permit for the concrete and I also got a notarized paper from the neighbor saying that she didn't have problems with it.

Mr. Jaime Acevedo stated we didn't pull it out, but the issue more than anything is the carport. The concrete we don't mind the water running into the neighbor's yard. The main issue is the carport not meeting code nor permits were issued. She talks about a neighbor across the street we also filed a case against her, name is Chloe Robles and she is already in the process also.

Chairman Sam Rodio asked Mrs. Salinas if they had gutters in the carport.

Mrs. Maria Salinas replied "Yes".

Chairman Rodio mentioned that they need to set some standards setbacks.

Mr. Terry Meewes asked if her husband built this.

Mrs. Maria Salinas mentioned that her husband and some of her friends, but the reason they don't move the front posts to the back is because it is square tubing is very heavy and we don't want anybody to get hurt.

Chairman Sam Rodio stated you will have to move it back. Square tubing or not you can put purlins and have the same strength. He added that most people from this board were in construction and know that you can place purlins and still have the same strength that is not a problem.

There being no further discussion, Mr. Terry Meewes moved to deny the request as presented. Owner has to modify the structure according to code by March 27, 2020. Mr. Guillermo Martínez seconded the motion. Upon a vote, the motion passed unanimously.

ITEM #1.2

CONSIDER A VARIANCE REQUEST TO HAVE A 6" SIDE SETBACK INSTEAD OF THE REQUIRED 6' SIDE SETBACK AT 1003 PARK LANE, BEING LOT 12, BLOCK 2, PALMERAS VILLAGE SUBDIVISION BY PEDRO GONZALEZ

Mr. Jaime Acevedo went over the write up stating that the subject site is located along the north side of West 25th Street between Gold Avenue and Holland Road. The lot measures 55' x 110' or 6,050 sq. ft.

The applicant desires a reduced 6" side building setbacks for an open carport built with no building permit. The required side setback is 4' for an open carport. Staff calls your attention to the photo which shows the open carport with a 6" side setback 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. To consider this, the abutting neighbor would have to not object to having an increased rear setback in writing.

RECOMMENDATION: Since no permits were obtained Staff's recommendation is to delete structures or modify structures to meet code. Allowing as is would not be fair for others that do modify their building permit plans to meet code. If the ZBA wants to approve this request, I would recommend that all approved structures be fire rated.

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

Mrs. Delia Gonzalez stated that she currently lives at 1003 Park Lane. My husband and I construct the carport without a permit; I saw many neighbors were doing them so we got a carport.

Chairman Sam Rodio mentioned that it doesn't make any difference what the neighbors do. We have to follow the rules. Chairman Rodio asked if the owed the property next door.

Mrs. Delia Gonzalez answered "No", we are interest in the property but it's not on sale.

Mr. Jaime Acevedo mentioned there is no neighbor on the side, and the fence doesn't need to be moved is just the supporting columns for the carport.

There being no further discussion, Mr. Jose Garcia moved to deny the request as presented. Owner has to modify the structure to code, take off the fence along the carport and add rain gutters by March 27, 2020. Mr. Guillermo Martínez seconded the motion. Upon a vote the motion passed unanimously.

ITEM #1.3

CONSIDER A VARIANCE REQUEST TO HAVE A 1' SIDE SETBACK INSTEAD OF A 6' SIDE SETBACK AND A 1' REAR SETBACK INSTEAD OF THE REQUIRED 10' REAR SETBACK AT 905 W. 24TH PLACE, BEING LOT 46, CHAPARRAL HEIGHTS SUBDIVISION, AS REQUESTED BY JUAN SALAZAR

Mr. Jaime Acevedo went over the write up stating that the subject site is located along the south side of W. 24th Place between Holland and Gold Avenue. The lot measures 55' x 110' or 6,050 sq. ft. The applicant desires a reduced 1' side and rear building setbacks for an open outdoor patio and

accessory buildings built with no building permit. The required side setback is 6' and the required rear setback is 10'.

Staff calls your attention to the photo which shows the existing two accessory building structures with a 1' side and 1' rear setback 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. To consider this, the abutting neighbor would have to not object to having an increased rear setback in writing. An alternative can also be to fire-rate the structure. Typically, this would not be too difficult but in looking at the pictures the applicant has constructed a wall. An aerial shows the setback violations on site that cannot be easily seen from the street. The applicant would like consideration of this item due to the fact that his brother owns three properties behind his lot and his father owns the property next to his.

RECOMMENDATION: Since no permits were obtained Staff's recommendation is to delete structures or modify structures to meet code. Allowing as is would not be fair for others that do modify their building permit plans to meet code. If the ZBA wants to approve this request, I would recommend that all approved structures be fire rated.

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

There was none.

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

There was no response.

There being no discussion, Chairman Sam Rodio entertained a motion. Mr. Guillermo Martinez moved to deny the variance request. Owner has to modify the structure to code by March 27, 2020. Mr. Romeo Gonzalez seconded the motion. Upon a vote, the motion passed unanimously.

ITEM #1.4

CONSIDER A VARIANCE REQUEST TO HAVE A 0" SIDE SETBACK INSTEAD OF THE REQUIRED 6' SIDE SETBACK AT 1512 CRISANTEMA AVENUE, BEING LOT 189, SOUTHERN OAKS PH. III SUBDIVISION, AS REQUESTED BY OSCAR MARTINEZ

Mr. Jaime Acevedo went over the write up stating that the subject site is located along the east side of Crisantema Avenue between W. 15 1/2 Street

and W. 16th Street. The applicant desires a reduced 0" 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 6" 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.

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 car port 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 Sam Rodio asked if there were any input in favor or against the request.

There was none.

Mr. Sam Rodio asked if the applicant was present.

Mrs. Yadira Martinez I am the sister of Oscar Martinez residing at 1512 Crisantema Avenue. The only reason we have the carport is because my mom is blind. They use the carport to give her stick lessons and also to protect her eyes since she is in the process for a surgery.

Chairman Sam Rodio asked Mrs. Martinez do you use it as a patio.

Mrs. Oscar Martinez responded "Yes, for her".

Mr. Jaime Acevedo mentioned that staff allowed has allowed them in the past whenever there is a health issue.

There being no further discussion, Chairman Sam Rodio entertained a motion. Mr. Guillermo Martinez moved to approve the request as long as there is a medical need and not been transferable to others. Mr. Romeo Gonzalez seconded the motion. Upon a vote, the motion passed unanimously.

ITEM #1.5

CONSIDER A VARIANCE REQUEST TO HAVE A 6'5" FRONT SETBACK INSTEAD OF THE REQUIRED 20' FRONT SETBACK AND A 1' SIDE SETBACK INSTEAD OF THE REQUIRED 6' SIDE SETBACK AT 2303 GOLD AVENUE, BEING LOT 98, CHAPARRAL HEIGHTS SUBDIVISION, AS REQUESTED BY JOSE R. GARCIA

Mr. Jaime Acevedo went over the write up stating that the subject site is located along the west side of Gold Avenue, near the NW corner of Gold and Griffin Parkway (F.M. 495). The lot measures 53' x 115' or 6,095 sq. ft. The applicant desires a reduced 1' side and 6'5" front building setbacks for an open carport built with no building permit. The required side setback is 4' and the required front setback is 8' for an open carport.

Staff calls your attention to the photo which shows the open carport with a 1' side and 6'5" front setback 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. To consider this, the abutting neighbor would have to not object to having an increased rear setback in writing.

The applicant would like consideration of this item due to having a medical condition.

RECOMMENDATION: Since no permits were obtained Staff's recommendation is to delete structures or modify structures to meet code. Allowing as is would not be fair for others that do modify their building permit plans to meet code. If the ZBA wants to approve this request, I would recommend that all approved structures be fire rated.

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

There was none.

Mr. Sam Rodio asked if the applicant was present.

Mr. Jose R. Garcia stated that this structure was done due to his wife having cancer. There was a person who approached the house offering to do the job and told me that I didn't need a permit just for it to have an incline for water to come down.

Mr. Sam Rodio asked Mr. Jose R. Garcia if the contractor said you didn't need a permit.

Mr. Jose R. Garcia replied, "Yes, He said he have built several and you don't need a permit". If something has to be modified just let me know what do I have to get done.

Mr. Jaime Acevedo told Mr. Jose R. Garcia that he needed to install rain gutters.

There being no further discussion, Chairman Sam Rodio entertained a motion. Mr. Terry Meewes moved to deny the request as presented. Owner has to modify the structure to meet code 8' front setback, 4' side setback and add rain gutters by March 27, 2020. Mr. Romeo Gonzalez seconded the motion. Upon a vote, the motion passed unanimously.

ITEM #1.7

CONSIDER A VARIANCE REQUEST TO HAVE A 1' FRONT SETBACK INSTEAD OF THE REQUIRED 20' FRONT SETBACK AND A 1' SIDE SETBACK INSTEAD OF THE REQUIRED 6' SIDE SETBACK AT 506 S. SOL DORADO, BEING LOT 113, DEL ORO SUBDIVISION, AS REQUESTED BY NORMA BARBOSA

Mr. Jaime Acevedo went over the write up stating that the subject site is located along the west side of Sol Dorado between One Mile South and Camino Grande. The lot measures 50' x 131' or 6,555 sq. ft.

The applicant desires a reduced 1' side and 1' front building setbacks for an open carport built with no building permit. The required side setback is 4' and the required front setback is 8' for an open carport.

Staff calls your attention to the photo which shows the open carport with a 1' side and 1' front setback 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. To consider this, the abutting neighbor would have to not object to having an increased rear setback in writing.

RECOMMENDATION: Denial. Subdivision is not older than 20 years therefore it would not be eligible to comply with new open carport ordinance.

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

There was none.

Chairman Sam Rodio asked if the applicant was present.

Ms. Alexa Barbosa stated I am the owner's daughter and lives at 506 S. Sol Dorado.

Chairman Sam Rodio asked Ms. Barbosa did you get the carport built?

Mrs. Alexa Barbosa replied "Yes, it was pre-built and they just install it".

Chairman Sam Rodio asked if the company got a permit.

Mrs. Alexa Barbosa responded I don't think so; the company is outside city limits.

Chairman Sam Rodio stated it doesn't matter if the company is outside City limits or not, they still have to get a permit. It's nice but it can't even be retrofitted to what the city allows.

There being no further discussion, Chairman Sam Rodio entertained a motion. Mr. Terry Meewes moved to deny the request. Board wants for applicant to remove the structure by March 27, 2020. Mr. Ken Boyle seconded the motion. Upon a vote, the motion passed unanimously.

ITEM #1.8

REVOKE VARIANCE REQUEST TO HAVE A 4' SIDE SETBACK INSTEAD OF THE REQUIRED 6' SIDE SETBACK AT 102 SOL DORADO, BEING LOT 12, BLOCK 5, TIERRA DORADA NO. 2 SUBDIVISION, AS REQUESTED BY ERIKA RIOS

Mr. Jaime Acevedo went over the write up stating that this item was last seen by the ZBA on February 20, 2019 at which time an approval was given with a reduced 4' side setback and reduced 14' front building setbacks. The reason why this item is being considered again is because the property owners have not complied with the conditions of approval issued by the ZBA.

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 neighbor's next door also does not object to the open carport as long as it remains open.

RECOMMENDATION: Staff recommends compliance with ZBA's approval conditions of February, 2020 within 30 days. Non-compliance would result in complete denial of what was approved and subject to other enforcement measures by City.

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

There was none.

Chairman Sam Rodio asked if the applicant was present.

Mrs. Erika Rios stating she lives at 102 Sol Dorado Street.

Chairman Sam Rodio asked Mrs. Rios how long ago was she seen in ZBA.

Mr. Jaime Acevedo stated this item was before ZBA in February I believe, about a year ago. This subdivision was built twenty years ago so it will meet code on the front setback, so the only thing that we have to modify is the sides.

Chairman Sam Rodio asked Mrs. Erika Rios do you have the contractor's name.

Mrs. Erika Rios mentioned that she doesn't have his information anymore, I had his phone number but he didn't pick up anymore.

Mr. Jaime Acevedo told Mrs. Erika Rios that she is complying with the front not the side.

Mrs. Erika Rios asked if there is a way she can only move the side poles to 2'. The reason she had the carport like that was because they don't have a porch and the kids play there.

Mr. Terry Meewes stated that the problem to leave the carport at 2' side setback is that we said to retrofit a year ago and nothing has been done.

Mrs. Erika Rios stated her husband works out of town.

Mr. Terry Meewes mentioned that they have a problem because ZBA had asked to move it a year ago and still she didn't do anything.

Mrs. Erika Rios stated that she promise modification in a month.

There being no further discussion, Chairman Sam Rodio entertained a motion. Mr. Terry Meewes moved to deny the request as presented. Applicant has to modify structure to meet code at 4' side setback by March 27, 2020. Mr. Jose Garcia seconded the motion. Upon a vote, the motion passed unanimously.

ITEM #1.9

TABLED: CONSIDER A VARIANCE REQUEST TO HAVE A 1' SIDE SETBACK INSTEAD OF THE REQUIRED 6' SIDE AT 1900 BARBARA STREET, BEING LOT 133, SOUTHERN OAKS PHASE II SUBDIVISION, AS REQUESTED BY JUAN CHAPA

Mr. Jaime Acevedo went over the write up stating the subject site is located at the NW corner of Jacob Street and Barbara Street along the north side of Barbara Street. The corner lot measures 68' x 110' or 7,480 sq. ft.

The applicant desires a reduced 1' side and rear building setbacks for an open carport and accessory buildings built with no building permit. The required side setback is 6' and the required rear setback is 10'.

Staff calls your attention to the photo which shows the existing carport-type structure with a 1' 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. To consider this, the abutting neighbor would have to not object to having an increased rear setback in writing. An alternative can also be to fire-rate the structure. Typically, this would not be too difficult but in looking at the pictures the applicant has constructed a wall. An aerial also shows that there may be other setback violations on site that staff was not aware of.

RECOMMENDATION: Since no permits were obtained Staff's recommendation is to delete structures or modify structures to meet code. Allowing as is would not be fair for others that do modify their building permit plans to meet code. If the ZBA wants to approve this request, I would recommend that all approved structures be fire rated.

Chairman Sam Rodio entertained a motion to remove the item from table. Mr. Jose Garcia moved to remove the item from the table.

Mr. Guillermo Martinez seconded the motion. Upon a vote, the motion passed unanimously.

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

There was none.

Chairman Sam Rodio asked if the applicant was present.

There was no response.

There being no discussion, Chairman Sam Rodio entertained a motion. Mr. Terry Meewes moved to deny the request as presented. Mr. Romeo Gonzalez 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 Sam Rodio entertained a motion to adjourn. Mr. Terry Meewes moved to adjourn. Mr. Jose Garcia seconded the motion. Upon a vote, the meeting was adjourned at 5:29 p.m.

Sam Rodio, Chairman
Zoning Board of Adjustments