

**ZONING BOARD OF ADJUSTMENTS
FEBRUARY 20, 2019
CITY HALL'S COUNCIL CHAMBERS**

ZBA PRESENT

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

ZBA ABSENT

Julian Gonzalez
Eliud Reyna

STAFF PRESENT

Jaime Acevedo
Virgil Gonzalez
Kristin J. Warshak

GUESTS PRESENT

Joe A. Rios, Jr.
Tony De La Tejera
Lucy Duran
German Rios
Jacquelin Sanchez
Daniel Tijerina

CALL TO ORDER

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

CITIZENS PARTICIPATION

Chairman Rodio 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 JANUARY 16, 2018

Chairman Rodio asked if there were any corrections to the minutes. Mr. Guillermo Martinez moved to approve the minutes as presented. Mr. Jose "Pepe" Garcia seconded the motion. Upon a vote, the motion passed unanimously.

ITEM #1.1

TO CONSIDER A VARIANCE REQUEST TO ALLOW ENCROACHMENT ON THE FRONT AND SIDE SETBACK AT 1605 OAK ALLEY DRIVE, BEING LOT 27, OAK ALLEY AT CIMARRON SUBDIVISION, AS REQUESTED BY TERRA HOMES, C/O LUCILA DURAN

Mr. Jaime Acevedo went over the write up stating the subject site is located near the intersection of Oak Alley Drive and Stewart Road. The irregular lot has frontage to Oak Alley Drive and would like a 10' front setback to be considered instead of the plat required 25' front setback. The subject property is irregular and does not lend itself to have a 25' front setback. What is being requested is that the residence be given a 10' front setback and residence face towards west. In viewing the site plan, a 25' setback will be in place along the south side of the property thus the residence will be in

alignment with future homes along Oak Alley Drive. The proposal should not be detrimental to the neighborhood. This is being built by the developer to start the construction of homes in this new subdivision.

STAFF RECOMMENDATION: Approval.

Chairman Rodio asked if the applicant was present.

Mr. Tony De La Tejera was available to answer any questions the board might have.

Chairman Rodio asked if there was any more information the applicant wanted to give.

Mr. De La Tejera stated the owner of the subdivision asked the front of the house be facing west so when people drive in the subdivision, they do not see the side of the house, but rather the front.

Chairman Rodio reiterated this was going to be a spec home, and asked if the board had any questions.

Mr. Guillermo Martinez made a point that Mr. Acevedo stated the variance if approved would align with the rest of the homes in the area.

Mr. Acevedo stated, "That's correct."

Chairman Rodio entertained a motion. Mr. Guillermo Martinez moved to approve the variance request as per staff's recommendations. Mr. Jose "Pepe" Garcia seconded the motion. Upon a vote, the motion to approve the variance passed unanimously.

ITEM #1.2

TO CONSIDER A VARIANCE REQUEST TO ALLOW EXISTING ENCROACHMENTS ONTO THE REAR AND SIDE SETBACKS AT 2004 N. DUNLAP AVENUE, BEING LOT 7, BLOCK 2, RIOS SUBDIVISION AS REQUESTED BY JOSE A. RIOS, JR.

Mr. Jaime Acevedo went over the write up stating the subject site is located behind El Patio Restaurant on Dunlap Avenue. The applicants desire to retain a 0' side building setback instead of the required 6' side building setback and a 0' rear setback instead of a 10' rear setback for an open carport. The applicant's wife had a skin condition that prevents him from being exposed to direct sunlight. Therefore, his family has installed a series of canopies and carports throughout his property. The violation with regards

to the canopies and carports is that no permits were issued and they extend to the rear and side property lines. The applicant would like to keep the existing carport the existing 0' rear and side setbacks through a variance. What the ZBA has entertained in the past is to approve a variance for health reasons as long as the need is present or the property is sold. Once the need is no longer there or the property is sold, the non-conforming structure is removed. An agreement can be prepared citing this temporary variance; and recorded to alert any subsequent owners. The water meter record can also be 'tagged' to alert Planning of any new owner registering their name. Since the day of this writing, 2/15/19, staff has not received any calls or letters from the neighbors in opposition to this request.

RECOMMENDATION: Staff recommends conditional approval subject to: 1) the recording of agreement as cited above, 2) the variance is not transferable to others, and 3) once the use of the open carport is no longer needed, the open carport must be removed or relocated to comply with typical setbacks within 30 days.

Chairman Rodio asked if the applicant was present.

Mr. Joe Rios, Jr. was present to answer any questions the board might have. Mr. Rios stated that he has lived at the subject location for over 42 years, and the structure was placed about 15 years ago due to his wife's medical condition.

Chairman Rodio asked if there were any questions for the applicant.

Mr. Guillermo Martinez asked Mr. Rios if he housed mobile homes at the location.

"No, just a travel trailer which I am trying to sell," replied Mr. Rios.

Mr. Terry Meewes asked if permits were taken out for the structure.

Mr. Rios stated he thought so, but it was such a long time ago.

Mr. Guillermo Martinez asked if this variance was subject to a neighbor complaint.

Mr. Acevedo explained that it was due to Code Enforcement staff who picked up on the encroachments and sent a letter.

Being no further discussion, Chairman Rodio entertained a motion.

Mr. Jose "Pepe" Garcia moved to approve the variance request. Mr. Terry Meewes moved for an amendment to the motion to include staff's recommendations. Mr. Terry Meewes seconded the motion. Upon a vote, the motion to approve the variance passed unanimously.

ITEM #1.3

TO CONSIDER A VARIANCE REQUEST TO ALLOW EXISTING ENCROACHMENT FOR A SIDE AND REAR SETBACK AT 1405 DON'S DRIVE, BEING LOT 29, ORANGE BLOSSOM SUBDIVISION, AS REQUESTED BY JACQUELIN R. SANCHEZ

Mr. Acevedo went over the write-up stating the subject site is located 500' north of Elm Drive along the west side of Dons Drive. The owner, Jacquelin Sanchez, desires to retain storage shed and is requesting to retain a 2' side building setback for this structure. Typical setbacks for this development should be a 6' side building setback for an R-1 zone. A permit for the shed was not issued by the City. 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. In this scenario the residence is over 10' from the storage shed. However, the abutting neighbor would have to agree in writing to their property having increased setbacks. As of this writing, the abutting neighbor has not agreed to having increased side setbacks imposed on his property.

RECOMMENDATION: Staff recommends denial, allowing this will set presidency when others desire the same.

Mr. Acevedo added that he did receive three calls in opposition to the structure.

Chairman Rodio asked if there was anyone in the audience against the variance request.

Mr. Daniel Tijerina wanted to express his opposition to the construction of the structure and palapa structure to the 10' easement and side setback as well. He would like for the codes to be met.

Chairman Rodio asked if the applicant was a contractor.

Mr. Acevedo explained the husband of the applicant does construction work and is in the audience.

Mr. Hugo Acosta, husband of the applicant explained to the board that he did not build the shed. He only did the concrete work for the shed for which he did take out a permit. He did admit that he did wrong by not pulling a permit or checking with the city on the setbacks before having the structure built. Mr. Acosta stated that he would move the structure to the back in conformance with setbacks.

Chairman Rodio stated that it is up to the board to abide by the regulations of the city.

Mr. Jose "Pepe" Garcia asked if it was a shed used for storage.

Mr. Acosta replied, "Yes."

Mr. Guillermo Martinez inquired if the applicant if it would be difficult to move the shed.

Mr. Acosta replied, "No." He did add that he did receive a citation from municipal court.

Chairman Rodio entertained a motion. Mr. Terry Meewes moved to deny the variance request and to move the structure by March 15, 2019. Mr. Jose "Pepe" Garcia seconded the motion. Upon a vote, the motion passed unanimously.

ITEM #1.4

TO CONSIDER A VARIANCE REQUEST TO HAVE A 4' SIDE SETBACK AND 14' FRONT SETBACK INSTEAD OF 20' FRONT 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 explaining 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. Then on November 14, 2018 it was again denied with 0' setbacks. Now the applicant would like for her variance to be considered with reduced setbacks.

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 be allowed a 4' side building setback instead of the required 6' front building

setback and a 14' front setback instead of a 20' front setback for an open carport. Staff calls your attention to the photo which shows the half-finished carport-type structure. The applicants desire to retain this structure and relocate the supporting structures to the proposed setback. The proposed setbacks would allow the structure to remain while still providing the maneuvering area needed to safely move vehicles in and out of the carport. 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. In this scenario the applicant and the abutting residence would have 10' of separation from one structure to the next. The neighbors next door also does not object to the open carport as long as it remains open.

RECOMMENDATION: Staff recommends approval of the variance request subject to the structure remaining open and remaining all metal. These are all conditions that the owner agrees with.

Chairman Rodio asked if anyone was against the item.

There was none.

Chairman Rodio asked if the applicant was present.

Mrs. Erika Rios was present to answer any questions the board might have. Mrs. Rios wanted to add that she would like to have the structure at 4' on the side and 14' in the front so she could have some type of coverage for a travel trailer and for the children to keep covered when it rains since she does not have a garage. She also stated the neighbors are her sister in law who do not have a problem with the structure. Mrs. Rios went on to state that she was prepared to leave the structure as an open structure and to take down the structure in the event the house was ever sold.

Chairman Rodio inquired about a gutter system for proper drainage not going to the neighbors' property.

Mr. Terry Meewes inquired about covering the top and sides of the structure.

At this time Mrs. Rios stated there was no plan on covering the sides, just the roof.

Mr. Meewes stated for aesthetic purposes to place metal on the side for a finished look.

Discussion amongst the board about covering the structure, the roof, the gable, and moving the columns in 4'.

Mrs. Rios stated that she was okay with covering the roof, the gable and the sides of the structure.

Chairman Rodio reiterated the above and included the gutter system to drain in the front and in the rear.

Chairman Rodio entertained a motion. Mr. Terry Meewes moved to approved the variance request including the following: moving the columns in 4', installation of a drainage system to drain to the front and rear of the structure; cover the roof; cover the gable; cover the sides; and if the house were ever sold the structure will come down. Mr. Guillermo Martinez seconded the motion. Upon a vote, the motion passed unanimously.

ADJOURNMENT

There being no further business, Mr. Guillermo Martinez moved to adjourn. Mr. Jose "Pepe" Garcia seconded the motion. Upon a vote, the motion passed unanimously at 4:59 p.m.

Sam Rodio, Chairman
Zoning Board of Adjustments