

**ZONING BOARD OF ADJUSTMENTS
AUGUST 19, 2009
CITY HALL'S COUNCIL CHAMBERS**

MEMBERS PRESENT

Raul Segin
Kathy Olivarez
Jorge Garcia
Daniel Tijerina

MEMBERS ABSENT

Keri Aman
Jon Lown

STAFF PRESENT

Sergio Zavala
Jaime Acevedo
Bobby Salinas
Annette Zavala

GUESTS PRESENT

Maria C. Martinez
Arnulfo Cardenas
Maria E. Picazo

CALL TO ORDER

Chairman Raul Segin called the meeting to order at 4:52 p.m.

CITIZENS PARTICIPATION

Chairman Segin asked if there was anyone in the audience that had anything to present that was not on the agenda. The audience remained un-responsive.

APPROVAL OF MINUTES FOR JUNE 16, 2009

Mr. Zavala mentioned that staff would bring the minutes back for approval at the next meeting.

ITEM #1.1

CONSIDER A VARIANCE REQUEST TO KEEP A 1.5' FRONT YARD SETBACK INSTEAD OF A 15' FRONT YARD SETBACK AT 2802 GOLD AVE., BEING LOT 72, ABBOTT MANOR PHASE I SUBDIVISION, AS REQUESTED BY MARIA C. MARTINEZ

Mr. Sergio Zavala explained that the site was located at the NE corner of Gold Ave. and 28th St. The site measures approximately 60' frontage to Gold by a 103' depth (6,180 sq. ft.). The applicant has constructed a carport without first obtaining a Building Permit and is requesting a variance to keep a 1.5' front setback instead of the plat-specified 15' front setback. Staff calls your attention to the site plan which has the supporting columns for the carport 1.5' from the lot line. The applicant claims that there is no way that the supporting columns can be moved back 13.5' to comply with the 15' front setback requirements. Being zoned R-4, the typical building front setbacks is 15'. A field visit to Abbott Manor revealed that others in Abbott Manor and along Gold are in compliance with both the 15' front building setback. Section 1.17 (2) Powers of board of adjustment: The board shall have the power to authorize upon appeal in specific cases such variances from the terms of this ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship, and so that the

spirit of this ordinance shall be observed and substantial justice done. Such variance from the strict application of the terms of this ordinance must be in harmony with its purpose and intent, and shall be authorized only when the board is satisfied that the applicant has proven the following conditions exist: (f) that the variance will not merely serve as a convenience to the applicant.

Since the intent of this variance appears to merely serve as a convenience to the applicant, staff cannot support this request. ZBA has denied similar requests in the past where carports were encroaching over the front setbacks after handicap ramps were installed (Heritage Square). Recommendation is denial as proposed, 1) others are meeting front setback, 2) if approved, will set wrong precedence to others, 3) lot is not unique 4) merely for applicants convenience. As of this writing, 8/12/09 there have been phone calls in opposition of the variance request.

Chairman Sesin asked if there was any public opposition to the request.

There was no response.

Chairman Sesin asked if the applicant or representative were present.

Mrs. Maria C. Martinez was present and mentioned that she did not obtain a permit, and that she had spoken to a contractor that had advised her that it would cost \$1,000.00 to move and she did not have the money to move it.

Chairman Sesin mentioned that the item could be tabled so staff and the applicant could figure out how to resolve the issue.

There being no further discussion, Chairman Sesin entertained a motion. Mrs. Olivarez moved to Table the request to keep 1.5' front yard setback variance. Mr. Garcia seconded the motion. Upon a vote, the motion to Table the item passed unanimously.

ITEM # 1.2

CONSIDER A VARIANCE REQUEST TO KEEP A 4' SIDE BUILDING SETBACK INSTEAD OF A 6' SIDE BUILDING SETBACK AT 2918 NICKLE AVE., BEING LOT 151, ABBOTT MANOR SUBDIVISION, AS REQUESTED BY MARIA E. PICAZO

Mr. Jaime Acevedo stated that the site was located at the SE corner of Nickel Avenue and 30th Street. The site measures approximately 60' frontage to Nickel Ave. by a 103' depth (6,180 sq. ft.). The applicant is requesting a variance to keep a 4' side-building setback on Lot 151. Staff calls your attention to the Site Plan, which has the mobile home 5' from the lot line. Being zoned R-4, the typical side setback is 6'. The intent of a side setback is to allow a 'fire' clearance from one residence to another. What ZBA has entertained in the past is a 12' building

to building separation to the neighbor; however, the neighbor must be willing to sign (and record) a perpetual 8' side yard setback, i.e., $8' + 4' = 12'$ separation. Staff does not object to the variance if the neighbor agrees to a higher setback as noted.

Chairman Sesin asked if there was any public opposition to the request.

There was no response.

Chairman Sesin asked if the applicant or representative were present.

Mrs. Maria E. Picazo was present.

Chairman Mr. Sesin asked her if she obtained a permit.

Mrs. Picazo replied that she obtained a permit after the fact.

Chairman Mr. Sesin mentioned that if staff wanted to table the item so they could speak to the applicant to figure out a solution.

Mrs. Olivarez mentioned that she could move the poles since it was not finished and meet the setback requirements.

Mr. Acevedo mentioned that the ZBA could approve the item with the condition that the owner of Lot 152, agree not to build anything within 8' from the side-building setback. If her neighbor does not agree, Mrs. Picazo would have to move the columns 2' in to comply with the required setback.

There being no further discussion, Chairman Sesin entertained a motion. Mrs. Olivarez moved to approve the request of the 4' side-building setback, with the recommendation as set by Staff, Mr. Garcia seconded the motion. Upon a vote, the motion passed unanimously.

ITEM # 1.3

CONSIDER A VARIANCE REQUEST TO HAVE A 17' FRONT YARD SETBACK INSTEAD OF A REQUIRED 20' FRONT YARD SETBACK AT 1806 W. 15TH ST., SOUTHERN OAKS SUBDIVISION, AS REQUESTED BY ARNULFO CARDENAS

Mr. Bobby Salinas stated that the site was located 60' west of Crisantema along the north side of 15th St. The lot measures 60' x 105' and has a City water line running through the existing 5' utility easement. The applicant desires to construct a metal carport in front of his garage to protect his vehicle and his family from the elements. The carport would have two metal I-beam supports, which would be placed 3' from the garage and would overhang to the front lot line. Staff calls your attention to the Site Plan, which illustrates the proposed

carport from the front lot line. Staff notes that the carport would not create a traffic safety issue by inhibiting visibility. The carport would also be required to remain perpetually open and is not expected to not diminish the value of the subject property. A typical enclosed garage has a setback of 18'; this 'open' carport would have 1' less than that. Finally, staff usually looks at what has been approved in the past and found that ZBA saw a variance request for an identical type of carport on 8-30-06 along 1st St., a 43' B/B residential collector, where an approval was issued to have an 18' front setback. One of the reasons for the approval on 8-30-06 was:

The City of Mission has an ordinance that allows for open canopies/open porches (usually at the front door area) to encroach 5' into the front setback; why, because such features are not considered as occupancy improvements. This can be compared to canopies at convenience stores that merely protect the people while conducting their business and there has rarely been an instance that such canopies cause traffic problems; in like manner, this residential canopy should not be a public hindrance either."

The recommendation is no objection for reasons cited above and subject to a recorded document on perpetual openness of the carport.

Chairman Sesin asked if there was any public opposition to the request.

There was no response.

Chairman Sesin asked if the applicant or representative were present.

Mr. Arnulfo Cardenas was present and mentioned that the structure was going to be constructed of all metal and not enclosed.

There being no further discussion, Chairman Sesin entertained a motion. Mr. Garcia moved to approve the request of the 17' front yard setback variance and subject to a hold harmless agreement. Mrs. Olivarez seconded the motion. Upon a vote, the motion passed unanimously.

ITEM #2.0 OTHER BUSINESS

Mr. Zavala mentioned to the ZBA board that a letter was sent to Mrs. Rosie Cedillo in response to questions she had during a meeting held on June 2009.

ITEM #3.0 ADJOURNMENT

There being no further business, Chairman Sestin entertained a motion to adjourn. Mr. Garcia moved to adjourn. Mr. Tijerina seconded the motion. Upon a vote, the motion passed unanimously at 5:05 p.m.

Raul Sestin, P.E., Chairman
Zoning Board of Adjustments