

**ZONING BOARD OF ADJUSTMENTS
FEBRUARY 10, 2009
CITY HALL'S COUNCIL CHAMBERS**

MEMBERS PRESENT

Kathy Olivarez
Jorge Garcia
Keri J. Aman
Jon Lown
Raul Sesin

MEMBERS ABSENT

Daniel Tijerina

STAFF PRESENT

Sergio Zavala
Bobby Salinas
Jaime Acevedo
Annette Zavala

GUESTS PRESENT

Ariel Salinas
Jaime Ayala
Aristotle J. Sibala III
Michael D. McDonald
Joe Hernandez
Feliciano Rodriguez

CALL TO ORDER

Vice-Chair Olivarez called the meeting to order at 4:37 p.m.

CITIZENS PARTICIPATION

There was no response upon inquiring.

APPROVAL OF MINUTES FOR JANUARY 21, 2008

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

ITEM #1.1

CONSIDER A VARIANCE REQUEST TO HAVE A 2.5' SIDE SETBACK INSTEAD OF THE REQUIRED 5' SIDE SETBACK & TO HAVE A 7.5' REAR YARD SETBACK INSTEAD OF THE REQUIRED 10', AT 4200 SANTA INEZ St., BEING LOT 189, LOMA VERDE PHASSE III SUDIVISION, AS REQUESTED BY MR. ARISTOTLE J. SIBALA

Mr. Acevedo stated that the subject site is located at the SW corner of Santa Inez and Santa Rocio Street. The applicant desires to retain a 2.5' side and a 7.5' rear setback for an 8' x 6' metallic storage shed installed with no building permit. Typical setbacks at this development are 5' side building setback and 10' rear building setback, due to the 10' Utility Easement. The storage shed is at the SW corner of the property and sits on wooden blocks. As of this writing no other building variances have been granted for Loma Verde III Subdivision. Since the structure is relatively small and can be easily relocated into compliance, due to: Staff does not support this variance request. Recommendation is denial, no permit was issued, others are meeting rear setbacks and if approved it will set wrong precedence to others, and lot is not unique and was self-inflicted.

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.

The applicant, Mr. Sibala mentioned that the reason he wanted to keep the setbacks were, because they were going to install a swimming pool and the shed would be to close.

Chairman Sesin stated that the shed was small enough to move.

Mrs. Olivarez asked if the cable boxes were in the way.

Mr. Acevedo mentioned that they were not in the way.

Mr. Lown asked him why he did not want to move the shed to the proper setbacks.

Mr. Sibala replied that it would interfere with the location of the pool.

There being no further input or discussion, Chairman Sesin entertained a motion. Mr. Garcia moved to deny the variance Mr. Lown seconded the motion. Upon a vote, the motion passed unanimously.

ITEM #1.2

CONSIDER A VARIANCE REQUEST TO PROPOSE A 10' FRONT SETBACK INSTEAD OF THE TYPICAL 20' FOR 'FRONT' OF HOME, LOT 23, HACKBERRY MANOR SUDIVISION, AS REQUESTED BY MR. ARIEL SALINAS

Mr. Acevedo stated that the subject site is at the NW corner of 23RD Street and Karina Drive and has dimensions of 74.5' x 100'. The proposition is to have the 'front' of the home face 23rd Street. In assessing variances of this nature in perspective to the Zoning Ordinance's boundaries, the owner's desire for 'aesthetics' in lieu of simply meeting typical setbacks, is not recognized. Although other similar requests have been cleared, in general those other lots were narrower in lot widths, i.e., this lot's width is over 74'. In our attempt to regain the full integrity of our zoning guidelines, Planning is defaulting to the ordinance's guidelines and, in that regard, we have the following comments: -enforcing typical setbacks will not impose an unnecessary hardship. This corner lot is not unique; there are 2 other corner lots to the east where their front is to the north-south street and their garage is a side entry along 23rd Street. This results in a more uniform row of 'front doors' than a double car garage door being in their midst. Re-designing the house to face the east will align with future others to the north and face the 'front doors' of the lots across the street to the east. Sect.

1.17-2f) states " That the variance will not merely serve as a convenience to the applicant" this appears to be the case, since we know that all standard setbacks can easily be compiled with. Faced with a non-unique lot where other 74' + wide corner lots have been counseled by Staff to comply with all their setbacks & having a home face eastward would be 'more uniform' to future homes to the adjoining north & east, Staff has no alternative but to object to this variance.

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

There was none.

Chairman Sesin asked if the applicant or representative were present.

The applicant Mr. Salinas mentioned that he had some pictures of other homes that were similar to the one he wants to build.

Mr. Sesin mentioned that even though the pictures he presented were similar he also mentioned that they would rather stop this from happening again and recommends that proper setbacks be met.

Mrs. Olivarez mentioned that in the previous meeting, the complaint from surrounding property owners was that they wanted for all the homes to be facing the same way.

Mr. Garcia asked Mr. Salinas if he was the owner.

Mr. Salinas replied that he was the contractor.

Mr. Zavala mentioned that this item was very challenging since it was not an irregular lot size.

There being no further input or discussion, Chairman Sesin entertained a motion. Mrs. Olivarez moved to deny the variance Mr. Lown seconded the motion. Upon a vote, the motion passed unanimously.

ITEM #1.3

CONSIDER A VARIANCE REQUEST TO HAVE A 4.5' SIDE SETBACK INSTEAD OF THE REQUIRED 6' SIDE SETBACK AT 300 S. BRYAN RD., BEING LOT 6, BLOCK "M", HERITAGE SQUARE SUBDIVISION AS REQUESTED BY MR. MICHAEL McDONALD

Mr. Acevedo stated that the subject site was at the SE corner of Dianna Drive and Mark Place. The lot measures approximately 40' frontage to Dianna Drive by a 78' depth (3,120 sq. ft.). The applicant is requesting that a 0' corner side setback remain on Lot G-1 at Heritage Square Subdivision.

The typical corner side setback at this development is 6'. In 1981, the applicant purchased her residence from Mark Andrews, the original Heritage Square developer, with the existing carport already in place. Due to the age of the structure in question, it is not known if a City Building Permit was issued, however there is no record of a variance being issued. Staff had an opportunity to visit the site and determined that there is no sight obstruction caused by the existing carport for incoming and outgoing traffic. There are also no known accidents at this intersection on record. Over the past months several variances have been granted at Heritage Square, this one would be no different than those that have already been granted. Since the side porch had been there for over 27 years and presents no sight obstruction, staff does not object subject to: the side porch remaining perpetually open, and, once the unit is replaced, prevailing setbacks to be met.

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. McDonald was present to answer any questions the board might have.

Chairman Sesin asked when the structure was built, and if it already had the carport.

Mr. McDonald replied back in 79' with the carport.

Chairman Sesin asked if the utility easement serviced both lots 6 and 7.

Mr. Acevedo mentioned that it did.

Mr. Zavala mentioned that the subdivision was recorded back in 79' and the engineer being Melden & Hunt, they did 10' easement on all lots as a possible option to run lines. The City has no intention of using the 10' utility easement.

There being no further input or discussion, Chairman Sesin entertained a motion. Mrs. Olivarez moved to approve the variance subject to recording a setback compliance agreement upon the unit's replacement. Mr. Garcia seconded the motion. Upon a vote, the motion passed unanimously

ITEM #1.4

CONSIDER A VARIANCE REQUEST TO HAVE A 0' REAR SETACK INSTEAD OF THE REQUIRED 5' REAR SETBACK, AT 1300 E. 8th ST., BEING A 1.33 ACRE TRACT OF LAND OUT OF LOT 20-10, WEST

ADDITION TO SHARYLAND, AS REQUESTED BY MISSION HOUSING AUTHORITY.

Mr. Acevedo stated that the site is on the SE corner of Humberto Javier Avila (Pecan St.) and East 8th Street. The un-platted 1.33 acre C-1 Lot has typical 5' rear building setbacks. The applicant is requesting to have a 0' rear setback for a gymnasium building that was erected at the SE corner of the property. The building will also have a 0' side building setback as already allowed by code if 'fire rated'. A field visit revealed that the applicant is proposing to utilize two of the existing masonry buffer walls as load bearing walls for the proposed structure. Another concern is that the proposed structure will be only 8' away from the long standing commercial building just south. Faced with these circumstances on a non-unique Lot, Staff cannot support this 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.

Mr. Ayala, from the Mission Housing Authority, was present to answer any questions the board might have.

Chairman Sesin asked why they started building without a permit.

Mr. Ayala mentioned that they did obtain a permit for the walls for the fence, and this was an over site, he was under the impression his boss Mr. Joel Gonzalez had obtained the proper permits and this was originally going to be a storage room and in the future would be converted into a gym, to meet requirements with HUD.

Chairman Sesin asked Mr. Ayala that they still did not obtain a permit.

Mr. Ayala apologized for not having the permit and if it had to be moved they would.

Chairman Sesin mentioned that if they were going to do something and especially if HUD is involved they need to comply especially with the City.

Mrs. Olivarez mentioned that there doesn't seem to be room for fire protection between the two buildings.

Chairman Sesin replied that the Mission Housing Authority, needed to comply with all building requirements.

There being no further input or discussion, Chairman Segin entertained a motion. Mrs. Olivarez moved to deny the variance Mr. Garcia seconded the motion. Upon a vote, the motion passed unanimously

**ITEM #2.0
OTHER BUSINESS**

There was none

**ITEM #3.0
ADJOURNMENT**

There being no further business, Chairman Segin entertained a motion to adjourn. Mrs. Amen moved to adjourn. Mrs. Olivarez seconded the motion. Upon a vote, the motion passed unanimously at 5:11 p.m.

Chairman Raul Segin
Zoning Board of Adjustments