

**ZONING BOARD OF ADJUSTMENTS
MARCH 18, 2009
CITY HALL'S COUNCIL CHAMBERS**

<u>MEMBERS PRESENT</u>	<u>MEMBERS ABSENT</u>	<u>STAFF PRESENT</u>	<u>GUESTS PRESENT</u>
Raul Sesin Kathy Olivarez Jorge Garcia Daniel Tijerina Jon Lown	Keri J. Aman	Bobby Salinas Ray Elvira Annette Zavala Sonia Carnes	Rudy Vela David Pitt Victor Vascova Ralph Felzak Grace Wright

CALL TO ORDER

Chairman Sesin called the meeting to order at 4:35 p.m.

CITIZENS PARTICIPATION

There was no response upon inquiring.

APPROVAL OF MINUTES FOR JANUARY 21, 2009 & FEBRUARY 10, 2009

Chairman Sesin asked if there were any corrections to the minutes. Mrs. Olivarez moved to approve the minutes as presented. Mr. Tijerina seconded the motion. Upon a vote, the motion passed unanimously.

ITEM #1.1

CONSIDER A VARIANCE REQUEST TO HAVE A 1' CORNER SIDE SETBACK INSTEAD OF THE REQUIRED 6' CORNER SIDE SETBACK AT 300 S. BRYAN ROAD, BEING LOT 14, BLOCK D, HERITAGE SQUARE SUBDIVISION, AS REQUESTED BY MR. DAVID PITT

Mr. Salinas stated that the site is located at the NW corner of Tammy Drive and Luther Lane. The corner lot site measures approximately 40' frontage to Tammy Drive by a 78' depth (3,120 sq. ft.). The applicant is requesting that a 1' corner side setback remain on Lot D-14 at Heritage Square Subdivision. Typical corner side setback for this development is 6'. The applicant purchased this residence in 2008 and is the second owner to this residence. The previous owner purchased the mobile home from Mark Andrews, the original Heritage Square developer, with the existing carport already in place. It is not known if a City Building Permit was issued also, there is no record of a variance being issued. Staff had an opportunity to visit with the applicant on-site and determined that there is no sight obstruction caused by the carport for this retirement community. Over the past months several 'temporary' variances have been granted at Heritage Square considering the specific circumstances relating to the years of existence, the hazard of it or lack thereof, and the method of ultimate reconciliation to code. Staff's recommendation was that since the side carport had been there for over 27 years and it presented no sight obstruction, Staff did not object subject to: 1) it remaining perpetually

open, and 2) once the unit is replaced, all prevailing setbacks to be met (which is to include the removal of the secondary driveway and not replaced.

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

There was no response.

Chairman Segin asked if the applicant or representative were present.

The applicant, Mr. Pitt was present to answer questions.

Mrs. Olivarez asked if there were any utility easements on the setback.

Mr. Salinas replied that there were none.

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

ITEM #1.2

CONSIDER A VARIANCE REQUEST TO HAVE A 18' FRONT YARD SETBACK INSTEAD OF THE REQUIRED 20' FRONT YARD SETBACK BEING LOT 143, ALADDIN VILLAS PHASE I SUDIVISION, AS REQUESTED BY MR. VICTOR VASCOVA

Mr. Salinas stated that the subject site is located along the east side of Jupiter between Leo and Aladdin Villas West. The site approximately measures 47.50' frontage to Jupiter by a 99.80' depth (4,740 sq. ft.). The applicant is proposing to construct his residence on Lot 143 and is requesting a variance to have an 18' front setback instead of the plat-specified 20' front setback. Staff calls your attention to the Site Plan which has the supporting column for the front open porch 18' from the lot line or inline with the garage. The applicant claims that the supporting columns can be moved back 2' to comply with the 20' front setback requirements but he would rather have the column be inline with the garage for aesthetics. Being zoned R-5, the typical building front setback is 20' and garage setbacks are 18'. A field visit to Aladdin Villas West revealed that others in Aladdin Villas and along Jupiter are in compliance with both the 18' garage setback and 20' front building setback. Section 1.17 (2) Powers of the board of adjustments states: 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 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 variances 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 condition exist: (f) that the variance will not merely serve as a convenience to the applicant.

Since the intent of this variance appears appear to merely serve as a convenience to the applicant, staff cannot support this request. Staff's recommendation was for Denial as proposed. Due to: No ARC approval, others are meeting front setbacks, if approved; will set wrong precedence to others, lot is not unique and merely for applicants convenience.

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

Mrs. Grace Wright from 509 Jupiter St., mentioned that she wanted all the houses to be aligned was concerned that this approval would allow others to apply for front setback variances for approval.

Ralph Felzak from 502 Venus St. was also in opposition and mentioned that it was a sight obstruction if you're coming from the south and should be moved back the whole structure.

Chairman Sesin asked if the applicant or representative were present.

Mr. Rudy Vela, the contractor for the project mentioned that there were many houses that had a 15' front setback and all they wanted was to keep the column at 18' for the structure to be stable. He also mentioned that he did have a letter from the Architectural Control Committee where they approved the site plan.

Mr. Sesin mentioned that even though there are existing structures violating the front setback they would rather stop this from happening again. He asked if Mr. Vela had a copy of the ACC approval letter.

Mr. Vela presented the board with the letter and also mentioned that a copy was turned in when he applied for the building permit.

Mrs. Olivarez asked if the column was the item in question or the garage.

Mr. Vela replied that the request was for the column to be at 18', the garage and the home were meeting required setbacks.

Mr. Salinas mentioned that if the board wanted to they could table the item to further investigate the setbacks of the existing structures.

Mr. Tijerina asked the contractor if a brace could be installed with the column at 20'.

Mr. Vela replied that if the brace were put on it would not look appealing and it would have a large overhang, and would weaken sooner or later.

Chairman Sesin explained to Mrs. Wright and Mr. Felzak that the variance was approved, the only thing that would not meet the setback would be the column to the porch, the home and the garage were in the right place.

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

ITEM #1.3

CONSIDER A VARIANCE REQUEST TO HAVE A 1' REAR SETBACK INSTEAD OF THE REQUIRED 10' REAR SETBACK BEING LOT 7, BLOCK 22, CIMARRON COUNTRY CLUB SUDIVISION PHASE I SECTION IV, AS REQUESTED BY MR. RAUL VELA

Mr. Salinas stated that the subject site is located near the San Saba and Sabine intersection along the south side of Sabine Street. The irregular lot measures approximately 74' frontage to Sabine and has a depth of 90' or (6,912 sq. ft.). The owner, Raul Vela, desires to construct an open patio area in his back yard and is requesting to have two supporting columns 1' to the rear lot line. Being in the Cimarron Country Club, Lot 7 is unique in that it abuts an open golf course. There are no recorded Utility Easements and the applicant has obtained approval from the Cimarron Architectural Control Committee for his proposal. Typical rear setbacks for this development should be 10' for this PUD zone. When viewing the vicinity map, there is a 300' golf course directly abutting the subject site to the south, thus not affecting anyone to the rear. Recommendation: Since there are no known utilities and since this applicant abuts a 300' open golf course area, Staff recommended approval subject to a recorded document that the patio will perpetually 'open and un-enclosed' and may be subject to City re-evaluation with a minimum 30 day notice to the owner.

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.

There was none.

Mr. Garcia mentioned if there were any utility easements.

Mr. Salinas replied that there were none.

Chairman Sesin mentioned that the structure would remain perpetually open and record proper documents.

There being no further input or discussion, Chairman Segin entertained a motion. Mr. Tijerina moved to approve the variance subject to recording a setback compliance agreement. 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. Olivarez moved to adjourn. Mr. Tijerina seconded the motion. Upon a vote, the motion passed unanimously at 5:02 p.m.

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