

**ZONING BOARD OF ADJUSTMENTS
MAY 20, 2009
CITY HALL'S COUNCIL CHAMBERS**

MEMBERS PRESENT

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

STAFF PRESENT

Sergio Zavala
Bobby Salinas
Jaime Acevedo
Sonia Carnes
Irasema Dimas

GUESTS PRESENT

Francis M. Ciancarelli
Gary Campbell
Nubia Campbell
Alexandra Bunt
Thierry Dumareille

CALL TO ORDER

Vice-Chair Olivarez called the meeting to order at 4:36 p.m.

CITIZENS PARTICIPATION

There was no response upon inquiring.

APPROVAL OF MINUTES FOR APRIL 15, 2009

Vice-Chair Olivarez asked if there were any corrections to the minutes. Mr. Garcia 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 25' FRONT BUILDING SETBACK INSTEAD OF THE REQUIRED 30' FRONT SETBACK AND TO HAVE A 10' REAR BUILDING SETBACK INSTEAD OF THE REQUIRED 15' REAR BUILDING SETBACK AT A TRACT OF LAND BEING A PART OR PORTION OF THE NE 4.54 ACRE TRACT ALSO KNOWN AS BLOCK 'J', WRIGHT ADDITION, AS REQUESTED BY EDWARD CUELLAR

Mr. Acevedo stated that the site is located between E. 12th Street and E. 10th Street along the east side of Sietz Avenue. The irregular 34,950 sq.ft. tract measures 149' frontage to Sietz by a 215' depth along the southernmost property line and a 175' lot depth along the northernmost property line. Mr. Cuellar is proposing to construct 14 apartment units and is proposing a 25' front building setback and a 10' rear building setback. Typical setbacks for R-3 developments are 30' in the front and 15' in the rear. Mr. Cuellar desires the reduced setbacks so that his apartments line up to the existing apartments just south. Staff calls your attention to the included aerial, which has the proposal 'inline' with the existing apartments just south. Sietz is a minor street that will not be further widened by the City. Also, the existing 25' setbacks to the south have not caused any traffic concerns and are actually buffered from the streets

via landscaping; and, do not cause any sight obstructions. As far as the rear setbacks, there are no known utility easements along the rear property line and no rear parking is proposed.

Staff does not object to the proposal if, being consistent to the units to the south, there is similar lush landscaping to obscure the 5' encroachment.

Vice-Chair Olivarez asked if there was any public opposition to the request.

There was no response.

Vice-Chair Olivarez asked if there was anyone who would like to speak in favor of the request.

A concerned citizen asked if the apartments would increase her taxes.

Vice-Chair Olivarez replied that she didn't think that it would affect her taxes at all. Mrs. Olivarez stated that the apartments would be in line with what existed in the neighborhood.

Mr. Zavala reiterated that these 1-story units would be buffered by landscaping along the front of the existing apartments that would obscure the building to the actual street. He also stated that staff was not objecting to grant the rear variance since the alley effect was on the north side and not on the east side of the property.

Mr. Garcia mentioned that on the aerial it shows that the proposed apartments would be in alignment with the existing ones from the rear.

Mr. Zavala replied, 'Yes', however the property on the south does extend further east.

Mr. Lown asked if there were any easements on the rear of the property.

Mr. Zavala replied that there were none.

Vice-Chair Olivarez asked if these apartments were a 1 bedroom or 2 bedroom units.

Mr. Zavala replied that they were a mixture and as far as the parking goes regardless of the amount of bedrooms the requirements is two parking spaces per apartment.

Mrs. Aman walked in at 4:42 p.m.

Vice-Chair Olivarez stated that the reason she was concerned was because the building and the parking lot were taking the majority of the lot and she was concerned where the play areas would be for kids from the apartments.

Mr. Zavala stated that a function of the city was to secure proper monies for parks. Regarding this particular site, it is near the Mission Library and Oblate Park, which were within a walking distance. He also stated that this project was meeting and exceeding the City's open space requirement.

There being no further input or discussion, Vice-Chair Olivarez entertained a motion. Mr. Tijerina moved to approve the front and rear variances as recommended by staff. Mr. Lown seconded the motion. Upon a vote, the motion passed unanimously.

ITEM # 1.2

CONSIDER A VARIANCE REQUEST TO HAVE A 1' REAR SETBACK INSTEAD OF THE REQUIRED 10' AT 3505 SANTA IDALIA, BEING LOT 96, LOS NOGALES PHASE I, AS REQUESTED BY ALEXANDRA BUNT

Mr. Zavala went over the write up stating that the site is 120' south of the Santa Idalia/San Roman intersection (E. side). Some of the Lot's special features include an irregular shape; also, this property abuts an open drainage ditch to the south (which is buffered with a decorative wrought iron fence which is the norm in this PUD's neighborhood). We have received 8 letters of 'no objection' from the neighbors. FYI, this matter had come before the ZBA on 9/4/07 and was not approved. As of this writing, we have received no opposing comments to this item's re-consideration. The applicant built an open canopy structure over their rear patio area. As seen in the attached photos, the structure is somewhat obscured by Ficus trees, and lush landscaping along the southern perimeter.

This canopy was not built long ago but it is a bit similar 'in structure' to the matters dealt with in Heritage Square. If you may recall, longstanding canopies over ROWs were made with no permits. After a sweep at Heritage Square, they were all approved BUT WITH CONDITIONS. Some of the conditions that were typical to the Heritage Square resolution included indemnification; realization that a utility company still had the right to remove the improvements if needed; and that the 'open' canopy be perpetually open. The ZBA could consider such conditional approval with specific instruction to have said encumbrances recorded in the deed records (so as to alert future owners).

Staff's adjusted inclination to this request: An irregular lot adjacent to an open ditch; much of the structure obscured by landscaping; we have received favorable neighborhood response; and taking into account the Heritage Square resolution, is not objectionable.

Vice-Chair Olivarez asked if there was any public opposition to the request.

There was no response.

Vice-Chair Olivarez asked if the applicant or representative were present.

Mr. Thierry Dumareille stated that when they built the porch they didn't know anything about easements. He stated that they did check to see if there were any water, gas lines, etc. through the easement and that was the reason why they came to the City to see if they would be authorized to have to patio. He mentioned that Sharyland Plantation required them to change the color to a beige color, which they did.

Mrs. Aman stated that on the minutes from original ARC when the ZBA Board denied the request, it stated that Mr. Sesin had talked to the applicant and it was indicated that Sharyland Plantation wanted for the applicant to lower the height of the awning and install brick on the columns. She was wondering if that still applies to the request or if the city has any evidence that the ARC has accepted the awning as is before the board made its decision.

Vice-Chair Olivarez replied that staff had received a letter from the neighbors not opposing to the request.

Mrs. Aman replied that the letters didn't have anything to do with the ruling of the ARC. She suggested that until the city receives some support in writing from the ARC, that the board shouldn't make a ruling until that time, so her recommendation was to table the item.

Mr. Zavala replied that it could be an option but another option would be to approve with an encumbrance that within 30 days of the motion, the applicant needs to secure the approval of the ARC.

Vice-Chair Olivarez asked Mr. Dumareille if he had gone to the ARC and asked for them to approve the request.

Mr. Dumareille replied that the last time he had met with the committee of Sharyland Plantation, members had changed and were clueless as to what was going on.

Mr. Zavala stated that the ARC was not going to act on the request until the city approves the request.

Vice-Chair Olivarez mentioned that she shared Mrs. Aman's concern and that she would like to see the ARC letter first before making a decision on the request.

Chairman Sesin walked in at 4:49 p.m.

Chairman Sesin asked if the ARC was okay with it as long as they get something from the City, because he doesn't want to influence the ARC due to the board's decision.

Vice-Chair Olivarez stated that she was also concerned that the board's decision would influence the ARC, especially since there are new members on the ARC board.

Mr. Zavala stated that it was the board's decision, if they wanted to place it on the Table; staff can hear the item was again.

Vice-Chair Olivarez entertained a motion. Mr. Tijerina stated that he would like to make a motion for denial based on previous action taken by the Zoning Board of Adjustments. There being no second, the motion died.

Vice-Chair Olivarez entertained another motion. Mr. Garcia moved to approve the variance subject to the conditions as requested on others in Heritage Square and getting the approval from the ARC within 30 days. Mr. Lown seconded the motion. Upon a vote 3-2 with Mr. Tijerina and Vice-Chair Olivarez dissenting.

**ITEM #2.0
OTHER BUSINESS**

There was none.

ITEM #3.0`

ADJOURNMENT

There being no further business, Vice-Chair Olivarez entertained a motion to adjourn. Mrs. Aman moved to adjourn. Mr. Tijerina seconded the motion. Upon a vote, the motion passed unanimously at 4:57 p.m.

Kathy Olivarez, Vice-Chair
Zoning Board of Adjustments