

**ZONING BOARD OF ADJUSTMENTS
OCTOBER 20, 2010
CITY HALL'S COUNCIL CHAMBERS**

<u>MEMBERS PRESENT</u>	<u>MEMBERS ABSENT</u>	<u>STAFF PRESENT</u>	<u>GUEST PRESENT</u>
Kathy Olivarez	Daniel Tijerina	Sergio Zavala	Mari Cruz Garza
Jon Lown	Raul Sesin	Annette Zavala	
Ned Sheats		Bobby Salinas	
Jorge Garcia			
Keri Amen			

CALL TO ORDER

Chairwoman Olivarez called the meeting to order at 4:35 p.m.

CITIZENS PARTICIPATION

Chairwoman Olivarez 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 SEPTEMBER 15, 2010

Chairwoman Olivarez asked if there were any corrections to the minutes. Mr. Sheats moved to approve the minutes as presented. Mr. Lown seconded the motion. Upon a vote, the motion passed unanimously.

ITEM #1.1

CONSIDER A VARIANCE REQUEST TO HAVE A 2' SIDE YARD SETACK INSTEAD OF THE REQUIRED 6' SIDE YARD SETBACK, AT 106 TECATE DR., BEING LOT 10, BLOCK 13, TIERRA DORADA #1 SUBDIVISION, AS REQUESTED BY MRS. MARI CRUZ GARZA

Chairwoman Olivarez entertained a motion to remove the item from the 'Table'. Mr. Sheats moved to remove the item from the 'Table'. Mr. Lown seconded the motion. Upon a vote, the motion passed unanimously.

Chairwoman Olivarez cautioned that all votes needed to vote in her favor to get a variance awarded.

Assistant Planning Director Bobby Salinas said that the item had been seen on September 15, 2010, however since a 'full' board was not present, the applicant requested that the item be tabled until a full board was available.

Mr. Salinas noted that the site was located approximately 190' north of Paseo Encantado along the east side of Tecate Dr. The site measured 60' x 100' or 6,000 sq. ft. The applicant had her home thereon with a porch/carport that was built with no permit resulting in a 2' setback. The required side setback for the subdivision is 6'. On July 28, 2010, a letter was sent to the applicant for *construction without a permit*. The City Council recently approved Ordinance #3574 which requires non-living accessory structures such as carports and garages, to be built of like material and a minimum of 80% similar architectural style to the primary residence; the carport meets this ordinance. The spacing between the neighboring property and the site measures 11' to the column; usual fire separation is 12' however in certain cases we've seen where 10' is sufficient, i.e. Sharyland Plantation, where side setbacks are 5', which equate to homes being 10' apart (living area).

The applicant obtained approval from the neighbor and provided an affidavit of voluntary property encumbrance reflecting that the neighbor would perpetually maintain a larger side setback of 9' on their property. If approved, ZBA should require that the carport remain perpetually open and, if the structure should ever be removed, the 6' side setback shall be re-established. Staff's recommendation was no objection, but have the neighbor's setback affidavit to be recorded, and the applicants *perpetually* open carport affidavit be recorded, too.

Chairwoman Olivarez asked if there was any public opposition to the request
There was none

Chairwoman Olivarez asked if the applicant or representative were present.

Mrs. Garza was present to answer any questions the board might have.

The Chair noted that the structure did not look like a carport. It did not have a paved driveway it looked like they built a porch on the side and its roof matched the rest of the house.

Mrs. Garza replied that it was not finished. They completed the foundation and roof but, when they were told they needed a permit, they stopped construction. If approved they planned to pave the driveway.

Chairwoman Olivarez mentioned that she complied with the new 'matching' code, but still did not meet typical building setbacks.

Chairwoman Olivarez declared that the reason the setback separation was required was for fire safety, and also noise, people don't want to be that close to each other. The Chair's other concern was asking the neighbor not to build on the *common* side of their property. Though the existing owner

agreed, if he sells the property and the new owner wanted to add another room to the side, there would be a problem.

Mrs. Garza mentioned that her neighbor readily agreed.*

Mr. Bobby Salinas mentioned that there was a document that would be recorded in the County's Deed Records to avoid any such problems in the future.

Mr. Sheats advised that she still needs a permit, get proper inspections, and was still responsible for any fees due. He noted that she was very lucky that her neighbor agreed to sign the document.

Chairwoman Olivarez entertained a motion. Mr. Lown moved to approve the variance subject to the conditions recommended by Staff. Mr. Garcia seconded the motion. Upon a vote 4-1, the motion passed with Mr. Sheats dissenting.

**ITEM #2.0
OTHER BUSINESS**

There was no other business discussed.

**ITEM #3.0
ADJOURNMENT**

There being no further business, Chairwoman Olivarez entertained a motion to adjourn. Mr. Lown moved to adjourn. Mr. Sheats seconded the motion. Upon a vote, the motion to adjourn passed unanimously at 4:50 p.m.

Kathy Olivarez, Chairwoman
Zoning Board of Adjustments

* NOTE: the neighbor attended the 9/15/2010 hearing to voice his support but, since tabled, did not have the opportunity...Planning Director