

**ZONING BOARD OF ADJUSTMENTS  
FEBRUARY 17, 2010  
CITY HALL'S COUNCIL CHAMBERS**

<b><u>MEMBERS PRESENT</u></b>	<b><u>MEMBERS ABSENT</u></b>	<b><u>STAFF PRESENT</u></b>	<b><u>GUESTS PRESENT</u></b>
Kathy Olivarez	Raul Sesin	Bobby Salinas	Raquel Martinez
Jon Lown	Daniel Tijerina	Sergio Zavala	Annette Martinez
Ned Sheats	Jorge Garcia	Sonia Carnes	
Keri Aman		Annette Zavala	

**CALL TO ORDER**

Vice-Chair Olivarez called the meeting to order at 4:56 p.m.

**CITIZENS PARTICIPATION**

Vice-Chair 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 JANUARY 20, 2010**

Vice-Chair 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**

**ELECTION OF CHAIRMAN AND VICE CHAIRMAN**

Mr. Salinas stated that the appointment of a Chairman & Vice-Chair is up for consideration.

Mr. Sheats moved to appoint Mrs. Kathy Olivarez as Chairman. Mr. Lown seconded the motion. Upon a vote, the motion was unanimously approved.

Mr. Sheats moved to appoint Mr. Lown as Vice-Chair. Mrs. Aman seconded the motion. Upon a vote, the motion was unanimously approved.

**ITEM #1.2**

**CONSIDER A VARIANCE REQUEST TO HAVE A 2' SIDE YARD BUILDING SETACK INSTEAD OF THE REQUIRED 6' SIDE YARD BUILDING SETBACK, AND TO HAVE A 3' REAR BUILDING SETBACK INSTEAD OF THE REQUIRED 15' REAR YARD SETBACK, AT 4102 SAN**

**ROMAN ST., BEING LOT 18, PASEO LINDO SUBDIVISION PHASE II,  
AS REQUESTED BY MR. RAUL MARTINEZ**

Mr. Salinas stated that there is an existing 24" public storm line that must be un-impeded by structures within the lot's side easement. Staff conveyed a strong recommendation against the side yard variance. Another geographic feature somewhat unique to this series of lots is that they adjoin a 200' drain ditch ROW to the south. They discovered that the applicant built a pergola with an above-ground Jacuzzi with a 1.8' side yard setback and a 3'.6' rear yard setback without any permits nor the (typical) pre-approval of the Sharyland Plantation's ARC. In reviewing the preceding cases that best fits this situation, the Lopez variance unanimously awarded on 6/21/06 had the same rear setback issue. Lopez installed an above ground Jacuzzi with poles & latticework on a 3' rear yard setback; Lopez's lot also adjoined an open drainage ditch. In ZBA's conditional approval, it included having Lopez secure letters from utility companies and signing/recording a hold harmless agreement adding that the structure would remain perpetually open. Staff Recommended 1.) Denial of the side yard variance request due to public easement with a 24" storm line; support columns can be relocated especially since on brick pavers. 2.) 3'. 6' rear yard setback; approval but, as required in the Lopez case, 1.) Need letters of no-objection from utility companies, 2) hold harmless agreement, 3.) Pergola be perpetually open.

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.

Mrs. Raquel Martinez and her daughter Annette Martinez mentioned that they were here to see what the board wanted them to do. They stated that they have lived there since 2002 and the structure in question has been there for over 3 years, and had never had a complaint regarding it. She mentioned that the reason they were here was because of a previous incident with Mr. Hugo Martinez, and now they have to go through the same process themselves.

Vice-Chair Olivarez mentioned that one of the reason's the ZBA was so strict was in order to preserve fire separation.

Mrs. Martinez mentioned that they were willing to sign a hold harmless agreement.

Mr. Sheats mentioned that there was a lot of information on the plat and available through staff indicating these easements when the property was built on. He asked why the property owner chose to ignore them.

Mrs. Martinez mentioned that they did not so much ignore them, they were unaware they needed to get permits.

Mr. Sheats mentioned that they would try and help them as much as they could with the rear setback since its 15' and bigger than most, and the side setback since it covers the storm drain it would have to be moved to meet the minimum side setback requirement.

Vice-Chair Olivarez mentioned that it's not a permanent structure so it can be moved to meet setbacks, and asked if the Jacuzzi needed to be moved as well.

Mr. Salinas mentioned that the support columns would need to be moved to meet the side setback requirement and there was no issue with the Jacuzzi, since it is not a permanent structure.

Mr. Zavala mentioned that the structure could remain as is all they needed to do was move the two columns in and use a brace to hold the structure.

Mrs. Aman mentioned that they would want the homeowner to obtain letters from the utility companies stating no objection.

There being no further input or discussion, Vice-Chair Olivarez entertained a motion. Mr. Sheats moved to approve the rear yard variance in accordance to staff recommendation and to deny the side yard setback, subject to obtaining letter's of 'no-objection' from the utility companies and a 30-day re-inspection. Mr. Lown seconded the motion. Upon a vote, the motion passed unanimously.

## **ITEM #2.0 OTHER BUSINESS**

There was no other business

## **ITEM #3.0 ADJOURNMENT**

There being no further business, Vice-Chair Olivarez entertained a motion to adjourn. Mr. Lown moved to adjourn. Mr. Sheats seconded the motion. Upon a vote, the motion passed unanimously at 5:12 p.m.

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Kathy Olivarez, Vice-Chair  
Zoning Board of Adjustments