

**ZONING BOARD OF ADJUSTMENTS
AUGUST 18, 2010
CITY HALL'S COUNCIL CHAMBERS**

<u>MEMBERS PRESENT</u>	<u>MEMBERS ABSENT</u>	<u>STAFF PRESENT</u>	<u>GUESTS PRESENT</u>
Kathy Olivarez	Jorge Garcia	Sergio Zavala	Robert Bolin
Jon Lown	Raul Sesin	Annette Zavala	Jose Aguilar
Ned Sheats		Alex Hernandez	
Daniel Tijerina			
Keri Amen			

CALL TO ORDER

Chairwoman Olivarez called the meeting to order at 4:36 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 MAY 19, 2010

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

ITEM #1.1

CONSIDER A VARIANCE REQUEST TO HAVE A 14' GARAGE FRONT SETBACK INSTEAD OF THE REQUIRED 18' GARAGE FRONT SETBACK, AT 2313 WISTERIA, BEING LOT 58, LA HACIENDA SUBDIVISION, AS REQUESTED BY MR. ROBERT BOLIN

Mr. Sergio Zavala stated that the vacant site is at the SW corner of Wisteria and 23rd Place. This rectangular lot measures 55' x 75.32' and is not unique. This lot was part of a mass variance in the subdivision that reduced the rear setback requirement from 10' to 6' (11-2-93) to allow more flexibility to build. The applicant desires to build a new townhouse with a garage front setback 14' needing 4' to meet the minimum 18' setback. The applicant submitted a list of 15 different sites within the subdivision that had allegedly less than 18' from the front. After an on-site inspection of all 15 sites, staff found that only 5 of the homes did indeed have less than the required 18' note: 5 out of 126 lots equal 6.3% meaning that 93.7% complied with the typical 18' garage setback. The 5 homes were built between 1992 and 1994.

The inspectors that made the mistake of approving the homes with those setbacks are no longer employed with the City. Section 1.17 (2) Powers of Board of Adjustment: The board shall have the power to authorize upon appeal in specific cases such variances from the term of this ordinance as will not be contrary to the public 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 this board is satisfied that the applicant has proven the following conditions exist: (f) that the variance will not serve as a convenience to the applicant. Staff recommendation is denial do to: The structure has not been built and can be modified to meet the 18' garage setback and approving this variance would only serve as a convenience to the applicant. Staff has predominantly sustained the 18' garage setback, thus a variance should not be issued based on errors in 5 out of 126 lots. The lot is not unique but is commonly shaped. Others with identical lots have complied with the City's regulations.

Chairwoman Olivarez asked if there was any public opposition to the request.

There was no response

Chairwoman Olivarez asked if the applicant or representative was present.

Mr. Robert Bolin said he bought the lot in April 2010. He spoke to some neighbors and they don't have a problem with it and the Home Owners Association gave him an approval to have an even shorter setback. He also had driven to different sites and at Southern Oasis, he alleged that there was a house that had a shorter garage setback; and another house at Aladdin Villas with similar variances.

Mr. Jose Aguilar the contractor for Mr. Bolin said that they had presented a list of other lots that had shorter setbacks and had spoken to several owners and there was "no problem" therefore would the variance should get approved.

Mrs. Olivarez said that they had to see each case individually just because there had been staff errors made in the past did not mean that ZBA had to follow the pattern. If ZBA approves this one, then when someone else came for the same request, how come ZBA deny one and approve another?

Mr. Lown said he had gone to the area and the houses with shorter garage setbacks were built back in the 90's, and this was no reason to say 'yes' and set precedence.

Mr. Ned Sheats expressed the folly in following mistakes or repeating mistakes made by others by an official ZBA vote to a housing proposal on a vacant lot. Other neighborhoods such as Southern Oasis had their own unique circumstances, too.

Mrs. Olivarez said there are guidelines to follow they already have a 6' rear setback and maybe the house his trying to built is to big for the lot.

There being no further input or discussion, Chairwoman Olivarez entertained a motion. Mr. Lown moved to deny the item presented. Mr. Tijerina seconded the motion. Upon a vote, the motion for denial was passed unanimously.

**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. Sheats moved to adjourn. Mr. Tijerina seconded the motion. Upon a vote, the motion to adjourn passed unanimously at 4:51 p.m.

Kathy Olivarez, Chairwoman
Zoning Board of Adjustments