

**ZONING BOARD OF ADJUSTMENTS  
DECEMBER 8, 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>GUEST PRESENT</u></b>
Kathy Olivarez	Jon Lown	Sergio Zavala	Mr. & Mrs. Noe Cruz
Daniel Tijerina		Annette Zavala	
Ned Sheats		Bobby Salinas	
Jorge Garcia			
Raul Sestin			
Keri Amen			

**CALL TO ORDER**

Chairwoman Olivarez called the meeting to order at 6:34 p.m.(The regular meeting time of 4:30 p.m. was deferred due to lack of quorum; those present were advised and agreed to stay for the later time).

**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 November 17, 2010**

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

**ITEM #1.1**

**CONSIDER A VARIANCE REQUEST TO KEEP A 6' CORNER SIDE-YARD SETBACK INSTEAD OF THE 15' CORNER SIDE-YARD SETBACK, AT 1916 E. 24<sup>TH</sup>. BEING LOT 38, GLASSCOCK VILLAGE SUBDIVISION, AS REQUESTED BY MR. NOE CRUZ**

Planning Director Sergio Zavala said that the aerial shows that there was a patio cover over this same section of the subject property for several years. The City had no record of a permit to construct this initial patio roof. Not realizing that a permit was needed to replace the older patio cover, the owner proceeded to build a new \$6000 patio roof. A building inspector noticed the work, stopped by and put a 'Stop Work' order until the matter was further explored. We note that the owner stopped the work, and has cooperated with staff in this process of possible reconciliation.

The lot is not unique except for its frontage to Glasscock Road, a minor arterial. The photos reflect that Glasscock Road is buffered from the residence by a fence. Furthermore, the patio is for exterior usage and is not a living area wherein, if it were, the setbacks would all have to be complied with. However, non-living areas within the zoning setbacks have been deviated by the City Council thus providing a more lenient form of enhanced-structurability to its citizens. For example, open carports were allowed by ordinance in 2009 to now be at the typical 20' front setback instead of the higher 35' for arterial streets because of the fact that a carport is 'non-living' and allows the owner to better enjoy their private property without causing any depreciative effect to adjoining neighbors. In like manner, the subject patio is non-living, is not built toward the neighbor's side but the corner street side, and the intervening years since the original patio was built, there were no residual negative effects to adjoiners. If ZBA approves the variance, Staff would recommend that an indemnification and encumbrance agreement be imposed to mandate that it forever remain non-living, not enclosed to a living area, hold the city of Mission harmless, and if it was ever removed by fire, ect., then all recorded setbacks must be complied with.

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.

Mr. Noe Cruz, the applicant, said that he had hired a friend who was a contractor to do a shed for his boat, and he assumed that he had a permit for the carport as well. He found out that his friend didn't obtain a permit for the carport.

Mr. Sesin asked if Glasscock was widening, would this home be too close to the street.

Mr. Zavala mentioned 'no' because if Glasscock was widened where additional ROW was needed, the City would acquire it from SISD across the street instead of multiple residential owners. Upon inquiring, Mr. Zavala replied that the contractor could be filed against for violating basic permit codes which he'd be summoned to Municipal Court to pay a fine and court costs.

Chairwoman Olivarez entertained a motion. Mr. Sesin moved to approve the variance subject to the conditions recommended by Staff. Mr. Garcia seconded the motion. Upon a vote, the motion 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. Garcia seconded the motion. Upon a vote, the motion to adjourn passed unanimously at 6:45 p.m.

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Kathy Olivarez, Chairwoman  
Zoning Board of Adjustments