

THE STATE OF TEXAS §
CITY OF BROWNSVILLE §
COUNTY OF CAMERON §

MINUTES of a **Regular Meeting** of Board of Adjustment of the City of Brownsville, Texas, held in the Commission Chambers, on the Second Floor of the Brownsville City Hall – Old Federal Building, located at 1001 East Elizabeth Street, Brownsville, Cameron County, Texas, on **Wednesday, January 2, 2019** at **5:30 P.M.** with the following members present:

PRESENT:

DILLON VANDERFORD, JR.
ROY DE LOS SANTOS
HOWARD SLACKMAN
JOHN KINCH
MARY ALICE LOYA
MICHELLE GARCIA
MARTIN METZGER
CONSTANZA MINER

CHAIRMAN
VICE CHAIRMAN
BOARD MEMBER
BOARD MEMBER
BOARD MEMBER
ALTERNATE BOARD MEMBER
ALTERNATE BOARD MEMBER
PLANNING & DEVELOPMENT SERVICES
DIRECTOR
BUILDING OFFICIAL
PLANNER I
LEGAL CONSULTANT

OMAR OCHOA
MYRNA LEAL
JOHN CHOSY

ABSENT:

ANA HERNANDEZ

PLANNING & DEVELOPMENT SERVICES
ASSISTANT DIRECTOR

A quorum being present, Chairman Dillon Vanderford **called the meeting to order at 5:31 PM.**

Item No. 1: Approval of minutes for the meeting of December 5, 2018.

Board Member Roy De Los Santos made a motion to **approve** the minutes for the meeting of December 5, 2018; the motion was seconded by Board Member Howard Slackman and was **unanimously approved.**

Item No. 2: Public Hearing and Action to consider a variance from Chapter 348, Article V, Sec. 348-812.- Yards, to allow a 6” side yard encroachment for a structure at Lot 23, Block 8, Colonia Alta Vista Subdivision, located at 2545 E. Van Buren Street, as requested by Ramon Salazar.

Mr. Omar Ochoa, Building Official, presented on the variance request and stated that the Planning and Development Services Department has no objection to the request.

Board Member Roy De Los Santos asked Mr. Ochoa if the Department knew what the intended use of the structure was. Mr. Omar Ochoa stated that the owner had mentioned using it for recreational purposes and as an extension of his own property across the alleyway.

Mr. Omar Ochoa, Building Official, clarified that the Planning and Development Services Department was unsure of the exact location of the property line because no professional survey had been submitted. The measurements for setbacks would be taken from the posts of the structure to the property line or property fence which normally lies on the property line.

Mr. Omar Ochoa, Building Official, stated that the owner had mentioned building a home on the property but that would occur at some point in the future.

Applicant Ramon Salazar approached the Board and stated that due to his lack of knowledge and advice from neighbors and friends he believed that due to the type and size of structure that a permit was not necessary. His friends told him that the structure would only need to be 3 feet from the fence. Mr. Salazar also stated that the fence is found within the property line.

Chairman Dillon Vanderford stated that he understood that the applicant intended to comply with the code according to the advice given of 3 feet.

Board Member Howard Slackman stated that he did not feel comfortable moving forward with the case without having an official survey. Mr. Slackman stated that he measured the distance from the post of the structure to the fence and that it was a distance of 31”.

Conversation ensued on whether the applicant should incur an additional expense of a professional survey to ensure accurate measurements for the possible variance.

Board Member Roy De Los Santos motioned to **table** the item until the applicant could submit a professional survey to accurately define property lines. The motion was seconded by Board Member Howard Slackman; and **carried unanimously**.

Item No. 3: Public Hearing and Action to consider a variance from Chapter 320, Article II.-Sidewalk Facilities, to exempt the property from ROW sidewalk along Morning Side Road, for a tract of land containing 0.858 acres, more or less, composed of a 0.465 acres out of residential lot 27, Chicago Gardens Subdivision, Share 28, Espiritu Santo Grant, located at 1764 Morningside Road, as requested by Ruben Alvarez.

Mr. Omar Ochoa, Building Official, presented on the variance request and stated that the Planning and Development Services Department has no objections to the variance request.

Applicant Ruben Alvarez was present at the meeting but decided not to speak or address the Board.

Board Member Roy De Los Santos motioned to **approve** the variance request to exempt the property from ROW sidewalk along Morning Side Road so long as there are no curbs and gutters. Board Member John Kinch seconded the motion; and **carried unanimously**.

Item No. 4: Public Hearing and Action to consider a variance from Chapter 348, Article V, Sec. 348- 747.- Front Yard, and Sec. 348-749.- Side Yard, to allow a 3.12' front yard encroachment and a 4.5' side yard encroachment for an existing building at Lot 16, Block 1, Maple Forest Subdivision, located at 4056 Elyt Drive, as requested by Juan and Rosa Amaya.

Mr. Omar Ochoa, Building Official, presented on the variance request and stated that the Planning and Development Services Department has no objections to the variance.

Ms. Myrna Leal, Planner I, stated that the applicant notified the Planning and Development Services Department that she would not be able to attend the meeting but that she hoped the letters she submitted would be enough to explain her position.

Board Member Roy De Los Santos stated that because the letter the applicant submitted was in Spanish it would be unfair for Board members to rule upon something they do not understand; he would like to request that in the future any documentation submitted in Spanish be translated to English for the Board. Board Member Roy De Los Santos went on to explain that the letter stated that the applicant had trusted the contractor she hired to follow all building rules and believed the contractor had gotten permits to build the structure. The neighbor's letter stated that their only concern would be drainage from an open ended gutter that spills onto their property.

Board Member Roy De Los Santos motioned to **approve** to allow a 3.12' front yard encroachment and a 4.5' side yard encroachment for an existing building with the condition that any runoff from any encroaching structure be routed away from the fence line at a minimum of 2'. Board Member Howard Slackman seconded the motion; motion **carried unanimously**.

Item No. 5: Public Hearing and Action to consider granting a variance from Chapter 348, Article V, Sec. 348-812.- Yards, to allow a 22.61' front yard encroachment and a 10' other front yard encroachment for new construction and Sec. 348-2, Yard (1)(b), to allow a driveway within 36 feet of the corner yard, for Lot 7, Block 13, Winter Haven Subdivision, located at 16 Green Valley Lane, as requested by Felipe Guerrero.

Board Member Howard Slackman stated that due to a conflict of interest he would need to step down for this item; Mr. Slackman personally knows the applicant.

Board Member Roy De Los Santos stated that because there are two Alternate Members present at the meeting that one of them should take Board Member Howard Slackmans place. With verification from Mr. John Chosy, Legal Counsel, Alternated Board Member Martin Metzger joined the Board Members on the bench.

Mr. Omar Ochoa, Building Official, presented on the variance request and stated that the Planning and Development Services Department has no objection to the variance request.

Mr. Felipe Guerrero, representative and contractor for the project, approached the Board and stated that he believes this project is in compliance with all setback requirements. Mr. Felipe Guerrero stated that because Winter Haven is a private subdivision, the property lines begin in the middle of the street and can go up to half way through the waterways throughout the subdivision. Mr. Felipe Guerrero quotes the code stating that the setback regulations for Dwelling "G" and states that the project is in compliance with code requirements. Mr. Felipe Guerrero also states that the only encroachment to the entire project is the driveway due to the size of the lots found within the subdivision.

Board Member Roy De Los Santos asked staff on their opinion or stance on the claim from the applicant on how the property lines should be measured.

Mr. Omar Ochoa, Building Official, stated that it was based on the definition of "Street" – "Street means a road right of way or road right of way easement more than 25' wide." and because this property in question is a private road the interpretation was applied to this case.

Conversation ensued regarding the applicants understanding of city code and the property owners taxing amount regarding property limits.

Board Member Roy De Los Santos asked for verification on which "front" the driveway sits on. Ms. Myrna Leal, Planner I, stated that the side of the property with the driveway is the "other front" and not the "front yard".

Conversation ensued regarding how staff plans on handling similar situations in the future. Mr. Omar Ochoa, Building Official, stated that the Board has seen a similar case in the past and it was handled by approving a variance.

Board Member Roy De Los Santos moved to **approve** the variance request to allow a 22.61' front yard encroachment and a 10' other front yard encroachment for new construction and to allow a driveway within 36 feet of the corner yard. Motion was seconded by Board Member John Kinch; and **carried unanimously**.

Item No. 6: Consideration and ACTION to appoint a Chairperson and/or Vice-Chair.

Board Member Howard Slackman nominated Board Member John Kinch to serve as Chairman.

Board Member Mary Alice Loya nominated Board Member Roy De Los Santos to serve as Chairman.

Board Member Howard Slackman commented on Board Members John Kinch's experience and knowledge as the reason for his nomination.

Board Member Roy De Los Santos stated that due to the amount of work that was needed for the Board he did not see the Chairman position as simply a "gatekeeper position". He believed the Chair needs to be a leader who will assist in education and direction for the Board and that is his reason why he would like to be considered for the Chairman position.

Chairman Dillon Vanderford requested a roll call vote:

Board Member Howard Slackman votes for Board Member John Kinch.

Board Member Roy De Los Santos votes for Board Member Roy De Los Santos.

Board Member John Kinch votes for Board Member John Kinch.

Board Member Mary Alice Loya votes for Board Member Roy De Los Santos.

Chairman Dillon Vanderford votes for Board Member Roy De Los Santos.

By a vote of 3 to 2 Board Member Roy De Los Santos has been named Chairman for the Board of Adjustment for the coming year.

Board Member Roy De Los Santos nominated Board Member John Kinch to serve as Vice Chair for the Board of Adjustment. Board Member John Kinch declined his nomination but in turn nominated Board Member Howard Slackman as the Vice Chair for the Board of Adjustment. All ayeed Board Member Howard Slackman as Vice Chair for the Board of Adjustment.

Adjournment:

Board Member John Kinch motioned to adjourn, motion seconded by Board Member Mary Alice Loya; and carried unanimously. Meeting adjourned at 6:41pm.

Approved this 8 day of Feb, 2019.


Roy De Los Santos
Chairman

Attest:


Myrna Leal
Planner I

Respectfully submitted by:
Myrna Leal, Planner I
Planning and Development Services Department