

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, August 7, 2019 at 5:30 P.M.** with the following members present:

**PRESENT:**

**ROY DE LOS SANTOS**  
**HOWARD SLACKMAN**  
**DILLON VANDERFORD**  
**IRIS L. DIAZ**  
**OMAR OCHOA**  
**MYRNA LEAL**  
**JENNIFER AVENDAÑO**  
**ERIKA ESPINOZA**

**CHAIRMAN**  
**VICE CHAIRMAN**  
**BOARD MEMBER**  
**BOARD MEMBERS**  
**BUILDING OFFICIAL**  
**PLANNER I**  
**ASSISTANT CITY ATTORNEY**  
**HELP DESK SPECIALIST**

**ABSENT:**

**MARY ALICE LOYA**  
**DAWN WARRICK**  
  
**ANA HERNANDEZ**

**BOARD MEMBER**  
**PLANNING & REDEVELOPMENT**  
**SERVICES INTERIM DIRECTOR**  
**PLANNING & REDEVELOPMENT**  
**SERVICES ASSISTANT DIRECTOR**

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A quorum being present, Chairman Roy De Los Santos **called the meeting to order at 5:30 PM.**

**Item No. 1: Oath of Office/ Statement of Appointment**

Newly appointed and reappointed board members recited the oath of office and statement of appointment.

**Item No. 2: Approval of minutes for the meeting of July 3, 2019.**

Board Member Howard Slackman made a motion to **approve** the minutes with corrections for the meeting of July 3, 2019; the motion was seconded by Board Member Dillon Vanderford and **unanimously carried.**

**Item No. 2: Public Hearing and Action on Case Number 2019-018-V: Public Hearing and Action to consider a variance from Chapter 348, Article VII, Sec. 348-1531.- Signs and Billboards, to allow a pole sign at Lot 1, Block 1, River Walk**

**Subdivision, Located at 20 Sam Perl Blvd., as requested by O'Reilly Auto Enterprises, LLC.**

Mr. Omar Ochoa, Building Official, presented on the variance request and stated that the Planning and Development Services Department was unable to establish grounds for granting a variance.

Alternate Board Member Michelle Garcia arrived to the meeting and joined the Board on the dais.

Mr. Omar Ochoa, Building Official, began the presentation again so that Alternate Board Member Michelle Garcia be updated.

Chairman Roy De Los Santos sought clarification on the limits of the Board of Adjustment and the Historic Preservation and Design Review Board.

Discussion ensued about surrounding businesses, their pole signs and potential height differences, and the historical district.

Chairman Roy De Los Santos stated that the hardship is not financial because they would not be able to make full use of their property as their competitors (Advanced Auto Parts) did.

Board Member Howard Slackman stated that he believed that the ability for them to make full use of their property is pertinent.

Board Member Dillon Vanderford motioned to close public hearing; motion was seconded by Board Member Howard Slackman.

Board Member Howard Slackman motioned to **approve** the variance with the condition that the height does not exceed the highest pole sign height in the surrounding area. Board Member Dillon Vanderford seconded the motion.

Ms. Myrna Leal, Planner I, asked that the hardship be stated for record keeping purposes.

Chairman Roy De Los Santos stated that the hardship was property owner not being able to make full use of the property the same way as other surrounding properties that have poles signs.

Ms. Myrna Leal, Planner I, stated that within the ordinance it is stated that a variance should not be granted if a literal enforcement of the ordinance would not allow the property be used for its best and highest use.

Chairman Roy De Los Santos stated that there is a difference between highest and best use versus what the surrounding properties have been allowed to do.

Board Member Howard Slackman stated that what Ms. Leal said were considered guidelines and that the Board of Adjustment does not need to follow them; he asked for Legal Counsel's opinion.

Ms. Jennifer Avendano, Assistant City Attorney, stated that there is a difference with this case and other cases reviewed by the Board because this falls within the historical district. The Board would need to find a hardship and hardship is defined by certain case law and could not be for specific reasons as stated on the presentation. Ms. Avendano recommended that the Board allow the Historic Preservation and Design Review Board decide on the conditions such as the width of the pole and height of the pole.

Discussion ensued regarding the Board approving the item before it is presented to the Historic Preservation and Design Review Board.

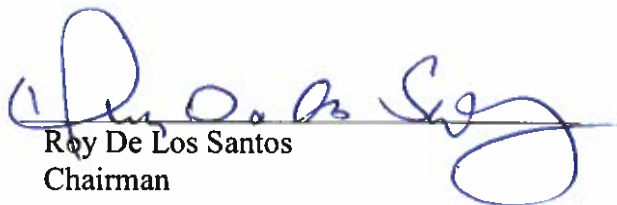
Chairman Roy De Los Santos stated that he had previously read case law at either the appellate level or Supreme Court of Texas level that discussed not being able to make full use of a property could be reasonable cause for a hardship. Mr. De Los Santos said he would send the case file to staff for review.

The Board voted on the motion previously made and the item **carried unanimously**.

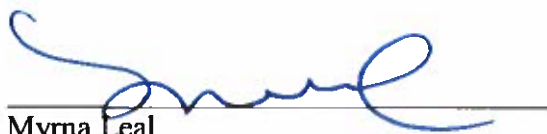
**Adjournment:**

Board Member Iris L. Diaz moved to adjourn meeting, meeting adjourned at 6:03 pm.

Approved this 4 day of Sept., 2019.

  
Roy De Los Santos  
Chairman

Attest:

  
Myrna Leal  
Planner I

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

