

**ZONING BOARD OF ADJUSTMENTS
NOVEMBER 14, 2012
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	Bobby Salinas	Kevin Sparks
Raul Segin		Daniel Tijerina	Lizbeth Solis
Mike Friedrichs		Annette Zavala	Jose Ballesteros
Ned Sheats			

CALL TO ORDER

Chairwoman Olivarez called the meeting to order at 5:35 p.m.

CITIZENS PARTICIPATION

Chairwoman Olivarez asked if there was anyone in the audience that had anything to present or express that was not on the agenda.

APPROVAL OF MINUTES FOR OCTOBER 24, 2012

Chairwoman Olivarez asked if there were any corrections to the minutes. There being none, Mr. Sheats moved to approve the minutes as presented. Mr. Segin seconded the motion. Upon a vote, the motion passed unanimously.

ITEM #1.1

CONSIDER A VARIANCE REQUEST TO HAVE A 3' 5½" AND A 4'2" SIDE SETBACK INSTEAD OF THE REQUIRED 6' SIDE SETBACK BEING LOT 13, TIERRA GRANDE ESTATES SUBDIVISION, AS REQUESTED BY MRS. LIZBETH SOLIS

Mr. Salinas mentioned that the site is located 450' east of Sycamore along the south side of Willow St., There are two setback variances on the west side of the lot. Variance No. 1 – The applicant has built a 10' x 20' patio area leaving 4'2" along the side setback where 6' is required. Variance No. 2- They also built a 4'8" x 6'10" restroom on the same side leaving a 3'5" side setback instead of the required 6'. The patio was the first structure to be built without obtaining a building permit. Staff had sent her a letter explaining the need to obtain a building permit. Staff explained that she was also in violation of the side setback as well, staff gave her an opportunity to add new supports to the patio area that would meet the minimum 6' side setback and would require the removal of the existing supports as part of the permit process. She did install the new supports however they were installed leaving 4'2" on the side. As she installed the new supports, she also constructed a new restroom without a permit. Due to the location of the restroom and the restroom door being within 12' of the neighbor's home, staff cannot give the option of a larger setback to the

neighboring property as done on other similar cases, nor can we offer the fire rating option, thus the only option, unfortunately, is to remove the restroom. Staff has since filed in court for building without a permit and setback violations. Action has been deferred at the court level until ZBA's decision.

Staff's Recommendation was:

Variance No. 1 Denial. As we've consistently done in previous cases, the side supports must be removed and relocated to level the minimum 6' side setback.

Variance No. 2 Denial. The applicant knew that there were existing problems with the side setback due to the patio and she proceeded with building a new restroom that also violated the side setback. The restroom must be removed.

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

The audience remained un-responsive.

Chairwoman Olivarez asked if the applicant or representative were present.

Mrs. Lizbeth Solis was present, she mentioned that she did not obtain a permit due to the fact she didn't know it was needed, she mentioned that her father moved in and that he enjoys spending time outside, and since he does use a walker and sometimes its difficult for him to walk all the way to the front of the house and go to the restroom inside, they decided to construct a restroom outside for him. Mrs. Solis mentioned that they did not advised by the inspector nor by Mr. Salinas that she couldn't build the restroom, at the time they met with her about the encroachment of the porch.

Mr. Salinas mentioned that both structures were constructed without a permit.

Mr. Joe Hernandez, City of Mission's Inspector, mentioned that at the time he went to the site he didn't see the restroom there but he did notice the fresh stucco on the pipes. (It was approximately three months ago).

Vice Chairman Sesin asked if the City was also looking at the kitchen area constructed over the rear setback.

Mr. Salinas mentioned that they are not addressing this issue at this time and they will when they go through the permit process and might ask them to sign a hold harmless document.

The neighbor, Mr. Jose Ballesteros, mentioned that Mrs. Solis is from Mexico and does not understand and didn't now that she needed permits. Mr. Ballesteros said that she is very sorry about the situation. Mr. Ballesteros is willing to sign documents if needed.

Mr. Tijerina mentioned that encumbrance documents have been used in the past but in this case it cant be done since the building cant be fire rated due to the door, and it was self-inflicted. He also mentioned that even if they switch the door to open to the inside it wouldn't make a difference since the structure is on the setback.

Mr. Sheats mentioned that they try and find solutions to help people with situations like this but in this case it was self-inflicted twice.

Chairman Olivarez asked if the kitchen area in the rear was functioning or was it just items that were taken out from inside the house.

Vice-Chairman Sestin mentioned that no permits were acquired for any of the improvements.

Mr. Tijerina mentioned the owner would need to call and get the lines spotted to see how far they are into the utility easement, and at that time the encumbrance document could be executed. If the utility companies have to go in and remove what's on the easement it would be at owner's expense.

Mr. Friedrichs asked if the City Inspector had inspected the restroom.

Mr. Tijerina mentioned that since no permits were obtained the site was not inspected. The applicant could apply for the permits, pay the fees, and inspections would be performed. The encumbrance documents could be considered where the neighbor to the east would agree not to build on that side and have a higher setback in order to ensure a 12' separation between them.

There being no further discussion, Chairwoman Olivarez entertained a motion. Mr. Friedrichs moved to 'Deny' the variances. Mr. Sheats seconded the motion. Upon a vote, the motion passed unanimously.

CONSIDER A VARIANCE REQUEST TO ALLOW TWO MULTI-TENANT SIGNS AT A MULTI-SUITE COMMERCIAL PLAZA BEING LOTS 6-15, SPARKS-TOWNSEND PLAZA SUBDIVISION, AS REQUESTED BY MR. KEVIN SPARKS

Chairwoman Olivarez entertained a motion to remove the item from the "Table". Mr. Sheats moved to remove the item from the 'Table'. Mr. Friedrichs seconded the motion. Upon a vote, the motion passed unanimously.

Mr. Salinas mentioned that the site is located at the SW corner of Taylor and Griffin Parkway. There is an existing 22-unit plaza located thereon. The Sign Code's intent is to consolidate as many signs as possible to one tenant sign if in a multi-tenant commercial plaza setting. The applicant wishes to have ZBA consider allowing two-multi tenant signs along the front of the commercial plaza. The applicant believed that if he were to install a sign that would handle all 22 signs of the plaza, it would require the sign to be the max. height of 50'. He believed that it would be too high and the tenant signs would be too small to be legible from Griffin Parkway. The applicant is proposing to install two 24.5' tall by 10' wide signs that would provide signage spaces for 11 tenants each. The signs are proposed to have a 240' separation between them. Each sign would include 3 spaces for larger tenant signs and 8 smaller tenant signs.

Section 86-7 of the Sign Code states: "Any person contesting any disapproval, interpretation and/or the application of any rule, standard, regulation, determination, requirement, or necessity set forth in this chapter shall have the right to appeal the decision of the planning director through the Zoning Board of Adjustments by established procedures.... The ZBA may permit such modifications of the requirements.... And is hereby authorized to grant such variances in accordance with the following restrictions: 2) the number of permanent signs on any premises may be increased by not more than one."

There are several existing plazas along Griffin Parkway that can be compared to the Sparks-Townsend Plaza being River Oaks Plaza, Lone Star Plaza, and Springfield Plaza. These plazas are primarily medical and /or professional offices. In viewing each plaza, there are no multi-tenant signs along Griffin Parkway. They simply have a sign with the name of the plaza. In considering the applicant's proposal, we feel that if we were to approve this variance, it would then set precedence for future proposals to have more than one multi-tenant sign. The question to ask is whether there is certain lengths or number of units that would constitute the need for two-multi-tenant signs.

Option 1: Deny the variance request; require a redesign of the sign to include all 22 units.

Option 2: Approve the request and create precedence for others that would allow the option of having two multi-tenant signs in cases where there are more than 20 units.

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

The audience remained un-responsive.

Chairwoman Olivarez asked if the applicant or representative were present.

Mr. Kevin Sparks was present, he presented the board with pictures of tenant signs; he mentioned that he remodeled all the suites, and is trying to make it look professional and wants the right sign, in order to make it worthwhile for him. He stated that one of the signs off of Stewart Rd. is too high and the person driving by is not able to see it.

If the tenants don't advertise they don't attract business and what he wants is for the businesses to advertise. And if they were to be off the Expressway it would work but they are not. He also understands that the City doesn't want sign clutter, and they don't allow sign all over the place, but businesses use them to advertise. Mr. Sparks Plaza has 22 suites and three different addresses. He would want to build the signs in three stages. He mentioned that the City of McAllen permits signs every 150' and they also go measure before and after.

Mr. Sheats mentioned that the sign was going to either go up or even wide to accommodate the tenant signs. The City Council's intent was to somehow lessen the signs. And he also mentioned that they did not have a full quorum and that all four members had to vote for the variance to be approved. And in his opinion a lot of people now don't drive looking for a business they usually look for it online and just drive to it and they look for the locations online, through phone or GPS system.

Mr. Sparks mentioned that he only owns 18 suites, but he included the other 4 suites to include the other owners. He also mentioned that there is a tuxedo rental place in one of the suites and he told the tenant to install a channel letter sign and within two weeks after installing the sign her business went up.

Vice-Chairman Sestin asked what kind of businesses were in the suites, and suggested if he had considered providing the wall signs for the tenants? Since he mentioned before the tuxedo place obtained one and her business went up within two weeks.

Mr. Sparks mentioned that they varied on businesses and the tenant provided the wall sign, and that he is trying to help the businesses more.

Vice-Chairman Sestin mentioned that the comparison of the tenant sign with the Max Fitness one could not be done since the site is not fully developed. Building tenant signs in phases would not work out either because the Ordinance allows one sign per plaza.

Mr. Tijerina mentioned that the City Council had established the ordinance to prevent clutter. He stated that they could table the item to check with Staff and City Council to see if they could amend the code and look into the sign ordinance from McAllen, also the possibility of allowing a V- Shape Sign and having nine signs on each side.

Chairwoman Olivarez mentioned that it would be difficult to see the back part of it.

Mr. Friedrichs mentioned that they should table the item and also have Mr. Sparks speak to the sign company and see if they have any other alternatives.

Chairwoman Olivarez asked if McAllen does it by linear foot, how many signs would be allowed at this location.

Mr. Sheats stated they also need to know if the linear footage included the distance between other tenant signs that are located near to his property, and they would have to be 150' from each other.

Chairwoman Olivarez asked if staff could obtain a copy of the McAllen's Sign Ordinance and compare it to City of Mission's.

Mr. Salinas mentioned that they could have a spreadsheet prepared comparing several cities and see how they handle their tenant signs.

Mr. Sparks mentioned that a 25' sign was just too tall and maybe he could do the first 16 signs first come first serve basis.

Mr. Salinas mentioned that the sign on Bryan Road belonging to Angie Vela, was 25' tall.

Mr. Sheats mentioned that the tenant signs off the Expressway are bigger than the ones Mr. Sparks was proposing, and he doesn't want to create precedence and would want more information and also for him to get with the sign company to look into something that is an 18' x 18' tenant sign if possible.

There being no further discussion, Chairwoman Olivarez entertained a motion. Mr. Sheats moved to 'Table' the variance request. Mr. Sestin seconded the motion. Upon a vote, the motion passed unanimously.

ITEM #2.0
ADJOURNMENT

There being no further business, Chairwoman Olivarez entertained a motion to adjourn. Mr. Friedrichs moved to adjourn. Mr. Sestin seconded the motion. Upon a call for a vote, the motion passed unanimously at 6:01 p.m.

Chairwoman Olivarez
Zoning Board of Adjustments