

**ZONING BOARD OF ADJUSTMENTS
FEBRUARY 19, 2014
CITY HALL'S COUNCIL CHAMBERS**

MEMBERS PRESENT

Ned Sheats
Jaime Acevedo
Mike Friedrichs
Raul Sesin
Kathy Olivarez

MEMBER ABSENT

Sam Rodio

STAFF PRESENT

Daniel Tijerina
Bobby Salinas
Annette Zavala

GUEST PRESENT

Patricio Martinez
Wayne Godlien
Barb Lockner
Butch Gary
Vickie Godlien
Rose Lerbakken
Lyle Lerbakken
Sylvia Russell

CALL TO ORDER

Chairman Sesin called the meeting to order at 4:30 p.m.

CITIZENS PARTICIPATION

Chairman Sesin asked if there was anyone in the audience that had anything to present or express that was not on the agenda. The audience remained un-responsive.

APPROVAL OF MINUTES FOR JANUARY 15, 2014

Chairman Sesin asked if there were any corrections to the minutes. There being some, by Mr. Friedrichs, Mr. Sheats moved to approve the minutes as corrected. Mrs. Olivares seconded the motion. Upon a vote, the motion passed unanimously.

ITEM #1.1

TABLED:CONSIDER A VARIANCE REQUEST TO HAVE A 6' CORNER SETBACK WHERE A 10' IS REQUIRED TO ENCLOSE EXISTING CARPORT, AT 201 RIM, BEING LOT 27, BLOCK C, WAGON CITY SUBDIVISION, AS REQUESTED BY MR. & MRS. LYLE & ROSE LERBAKKEN

Mr. Sheats moved to have the item removed from the table. Mrs. Olivarez seconded the motion. Upon a vote, the motion for removal passed unanimously.

Mr. Daniel Tijerina mentioned that the subject site is located on the SW corner of Rim and Boot Dr., within Wagon City Subdivision (a 55 and older community). RV lot measures 37' x 45', There is currently an RV with a 'grandfathered' open carport on the lot that is encroaching within the side corner setback a total of 4', i.e the carport is 6' from the property line. The applicant wishes to enclose the existing open carport. The enclosure would be for a living area.

The acreage where Wagon City was developed was annexed into the City on 6-26-78 and later platted on 10-9-78. In reviewing the Hidalgo County Appraisal records in regards to other RV corner lots, the installation of structures range from 1981 to 2000.

ZBA asked staff to research the subdivision to see if there were other RV lots with encroachments and whether such encroachments were considered 'grandfathered'. In order to compare 'apples to apples' we only reviewed to the corner RV lots of the subdivision which are located from Rim Dr., to the north end of the subdivision. In reviewing all of the corner lots we did see only 1 lot that was encroaching on the front setback with an open carport.

If staff were to do a full sweep of the entire subdivision, we would find several others encroaching on front and side setbacks.

On 1-16-14, staff received a letter from the Wagon City Home Owner's Association stating that they concur with the City's recommendation of denial and that they would prefer that we do not do a full sweep of the subdivision. Since precedence had been set in other cases, Staff cannot support the enclosure of the existing carport but, can support the approval of the existing 6' side corner setback for the open carport to remain.

If approved, as with others, an **Agreement for Deferred Building Setback Compliance and Structural Encumbrance** should be linked to any such motion.

Chairman Sesin asked if there was any opposition.

There were three persons in the audience that were in opposition.

Chairman Sesin mentioned that the City had received a letter from Wagon City signed by Mr. Jerry Blackburn, President of Wagon City Home Owners Association, and basically it stated they supported the Planning Director and his staff on their decision.

Chairman Sesin asked if the applicant or representative were present.

Mr. and Mrs. Lyle Lerbakken were present to address any questions; she mentioned that they were not notified by Mr. Blackburn of the opposition letter; she also mentioned that he accompanied her to the City to speak to Mr. Salinas and that Mr. Blackburn mentioned that they would support their variance, and hearing that they sent an opposition letter surprises her.

Chairman Segin mentioned that the letter was received on January 17, 2014.

Mrs. Lerbakken mentioned that they had their board meeting and this was not brought up to their attention.

Chairman Segin mentioned they do rely on their local association but they don't base their decision solely on the HOA; but do take it under consideration. Even if the letter was not submitted the Board on their last meeting had several issues with the carport being enclosed, Staff is still recommending maintaining the open carport as is, but willing to leave it as is with the 6' corner setback, and not allowing the enclosure.

Mrs. Olivarez commented that maybe, Mr. Blackburn solely might support them in their request but during their HOA meeting the rest of the board voted against the variance.

Mr. Friedrichs asked Mrs. Lerbakken that in the last meeting she mentioned that her permit had been signed by the HOA.

Mrs. Lerbakken replied she did not obtain a signed HOA approval; she had obtained a petition from her neighbors in favor. She mentioned that the home behind them has an enclosed carport, and they are trying to be consistent with the other homes around them.

Mr. Sheats stated that, he thought that Wagon City has one of the best mobile home parks in Mission. And if staff needs to they will do an entire sweep of the subdivision, they will find several encroachments, and would proceed to make them comply, Staff has a job, and their job is to enforce City ordinances. He is in full agreement to allow the carport, but not the living area. Seeing how they have submitted a statement from Wagon City HOA stating that they prefer the city not visit the subdivision, and that's a problem, The City can't stay away from the issue. It does not mean that they are going to have a mass variance change what it means is that they have to level the playing field. The City has made their presence in other subdivisions that have had similar problems, his suggestion is to use this new term, to have a closed end variance, And to find out when all this changes happened, and who caused it and let's get away from this happening again. And whether Wagon City did make the complaint or if they

didn't it needs to be fixed. He proceeded to make a motion with a closed end variance, what this would mean is when the property changes hands whether it is sold or changes ownership for any reason, any violations the property has need to be brought back into compliance to proper setbacks. And if they applied for a variance and if it was approved then it stays, they can't go uncovering violations year by year, that's his position on this item, his in favor of them keeping the carport open.

Chairman Sesin mentioned that they don't have anything in writing about Wagon City saying they don't want the City to go in and do a sweep of the subdivision.

Mr. Sheats mentioned it was stated in the last meeting and it's in the minutes.

Chairman Sesin mentioned that it was a statement not a written letter.

Mrs. Lerbakken mentioned that they were told by the tax assessors that their carport was in regulations.

Mr. Friedrichs mentioned that the taxing offices are happy to tax anything.

Chairman Sesin mentioned that the real entity is the City, and they are saying that they are not in compliance that's the reason they are before the board it's because they are not complying, never the less the City is willing to grant the variance for the carport to remain as is.

Mr. Acevedo asked if the board would approve the variance as long as it remains open, and if they change owners it would have to brought back to compliance.

Mr. Salinas they would be doing the same thing as Heritage Square the Deferred Setback Compliance.

Mr. Friedrichs asked what would happen if there are two owners and one sells or if one of the owners passes away.

Chairman Sesin mentioned that it would apply only when the change of ownership occurs, and if only one owner dies, it would be handled by the probate court.

There being no further discussion, Chairman Sesin entertained a motion. Mr. Sheats moved to "Deny" the variance request for the enclosure of the existing carport, however to approve the variance for the carport to remain

at the 6' corner setback where a 10' is required as recommended by staff Mr. Friedrichs seconded the motion. Upon a vote, the motion passed unanimously

**ITEM #2.0
OTHER BUSINESS**

There was no other business.

**ITEM #3.0
ADJOURNMENT**

There being no further business, Chairman Sesin entertained a motion to adjourn. Mr. Sheats moved to adjourn. Mrs. Olivarez seconded the motion. Upon a vote, the motion passed unanimously at 4:47 p.m.

Raul Sesin, P.E., Chairman
Zoning Board of Adjustment