

**ZONING BOARD OF ADJUSTMENTS  
OCTOBER 15, 2014  
CITY HALL'S COUNCIL CHAMBERS**

**MEMBERS PRESENT**

Ned Sheats  
Jaime Acevedo  
Mike Friedrichs  
Raul Sesin  
Kathy Olivarez

**MEMBERS ABSENT**

Sam Rodio

**STAFF PRESENT**

Bobby Salinas  
Susana De Luna

**GUEST PRESENT**

John Gaytan

**CALL TO ORDER**

Chairman Raul Sesin called the meeting to order at 4:43 p.m.

**CITIZENS PARTICIPATION**

Chairman Sesin asked if there was any citizen's participation.

There was none.

**APPROVAL OF MINUTES FOR AUGUST 20, 2014**

Chairman Sesin asked if there were any corrections to the minutes for August 20, 2014. Mr. Ned Sheats moved to approve the minutes as presented. Mr. Mike Friedrichs seconded the motion. Upon a vote, the motion passed unanimously.

**ITEM #1.1**

**CONSIDER A VARIANCE REQUEST TO HAVE AN 8' CORNER SIDE SETBACK INSTEAD OF THE REQUIRED 10' CORNER SIDE SETBACK OR TO HAVE A 4' SIDE SETBACK INSTEAD OF THE 6' SIDE SETBACK, AS REQUESTED BY ENCARNACION H. OLIVAREZ**

Mr. Bobby Salinas mentioned that the subject site is located on the NE corner of Blake St. and Washington Ave., The site measures 50.7' in width x 412.50' in length. The property currently has a residence thereon, however is proposing to demolish and rebuild a new 36' x 50.6' home. Since the width of the home is 36', it would leave a total of 14.07' for setbacks. The corner side setback requires 10' and the side setback requires 6' (16' total). The applicant is asking if ZBA would be willing to approve either a reduced corner side setback from 10' to 8' or a reduced side setback, from the required 6' to 4'.

Zoning Ord., Art. XIII, Section 1.59-3(a) cites that corner lots shall have 10' corner setbacks 'provided that the buildable width of such a lot of record shall not be reduced to less than thirty-eight feet'.

In this case, if the 10' corner side setback is imposed, the buildable width for the replacement residence would be 34.7' (10' corner side setback + 6' side yard setback – 50.7' = 34.7' of buildable width). We also note that we have had several ZBA items where an inner side setback is reduced where the adjoining neighbor agrees to a larger side setback to equate to at least the minimum 12' between homes. In this case, the neighboring home is 10' 11" from the applicant's property, which could allow the applicant to have a 4' setback without adversely affecting the neighbor's existing home.

REVIEW COMMENTS: Though the home is not yet built and a redesign can be required, one can agree that the existing setback requirements do have a negative impact on the buildable width of the lot. It would simply depend on which of the two setbacks ZBA would prefer to approve, if any. For the corner side setback, it can be noted that the proposed home would be setback 30' from Blake St. and this particular location is an intersection with stop signs, thus should not be considered as a sight obstruction for traffic on Washington Ave. In the case for the side setback, an agreement can be reached with the adjoining neighbor to mandate an 8' setback adjoining the proposed home. This would allow for the minimum required 12' separation and would also allow for the 10' corner side setback to be met.

RECOMMENDATION: Staff feels that since the home has not been built yet they could meet the building setbacks.

Chairman Sesin asked if there was any opposition.

There was none.

Chairman Sesin asked if the applicant or representative was present.

Representing the applicant, Mr. John Gaytan was present to address any questions from the Board.

Chairman Sesin asked if Mrs. Olivarez was the owner of the property.

Mr. Gaytan replied, "That is correct".

Chairman Sesin asked if there was any way he could meet the required setbacks.

Mr. Gaytan stated that originally, the owner was told that he could be 10' from the curb and he designed the plans meeting those setbacks. He added that when he got the job, he discovered that the side setback was 8' instead of the required 10' and the only way he could leave the plan as is was to request for a variance. Mr. Gaytan stated that they decided to apply for the variance and alter the plans because in a 36' lot they were barely getting rooms of 11' or 12' and if he reduced them 2' the rooms were going to be very small. He mentioned that he understood they needed to have a 10' corner setback in order to have visibility but when a home is setback 30' or 40' there is really no sight obstruction.

Mr. Mike Friedrichs asked if all the homes were aligned.

Mr. Gaytan mentioned that there were no other homes it was just a long strip.

Mr. Sesin mentioned that there was a home abutting it on the east side.

Mr. Gaytan stated that those homes were about a minimum of 25' setback.

Mr. Sesin asked Mr. Gaytan how far he was proposing to go into the property.

Mr. Gaytan replied, "About 35' to 40' front setback".

Mr. Ned Sheats mentioned that this variance was for 2'.

Mr. Gaytan replied, 'That's correct".

Mr. Sheats stated that the City of Mission has thousands of corner lots meeting setbacks and even the home that used to be there was meeting all the required setbacks.

Mr. Gaytan mentioned that the home that was there was about 20' x 20'.

Mr. Sheats stated that even if it was a smaller home it seemed to be working fine for the people that live there. He added that the issue that they have with all the variances that come before this board is that the more variances that they grant the more reason to believe that there should not be an ordinance. He mentioned that he would feel different about this variance if there was something unique about this lot like the lot being smaller, an easement that ran through the lot, etc., but there is nothing about this lot that would prevent it from being developed. Mr. Sheats added that he had

about 450' in back of the home that he could add to make up for the 2' or 4' in order to comply with the required setbacks.

Chairman Sestin asked if it was a brick veneer home.

Mr. Gaytan replied, "Yes". He mentioned that he understands that they could redesign it and make it look like a mobile home and make it 100' long but he needs to consider that it's an elderly lady that is going to be living there and it would be hard for her to move from one side of the home to the other.

Mr. Sheats stated that they were just talking about 2' to 4' that could be made up easily by adding it to another room not 80' or 100'.

Mr. Gaytan stated that they would be talking about more than that because he would need to redesign and restructure the whole house in order for him to comply with the setbacks. He added that he guarantees that there was no other lot like this one in Mission, which was narrow and long.

Mr. Sheats asked staff if there were other lots in Mission with these same characteristics that were meeting setbacks.

Mr. Salinas stated that if the question was if there were other corner lots in Mission with a 10' setback the answer is yes there are other lots like this one that are meeting setbacks.

Mr. Jaime Acevedo asked how much right of way you have from the property line to the curb.

Mr. Gaytan asked to the front curb or side curb.

Mr. Acevedo stated to the side curb.

Mr. Gaytan mentioned that it was about 10'. He added that they would be about 18'.

Mr. Mike Friedrichs asked Mr. Salinas what was the front setback.

Mr. Salinas stated that it was 20'.

There being no further discussion, Chairman Sestin entertained a motion. Mr. Ned Sheats moved to deny the variance request as recommended by staff. Mr. Mike Friedrichs seconded the motion. Upon a vote the motion to deny the variance passed unanimously.

**ITEM #2.0  
OTHER BUSINESS**

There was none.

**ITEM # 3.0  
ADJOURNMENT**

There being no further business, Chairman Sesin entertained a motion to adjourn. Mr. Ned Sheats moved to adjourn. Mr. Mike Friedrichs seconded the motion. Upon a vote, the motion passed unanimously at 5:35 p.m.

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Raul Sesin, Chairman  
Zoning Board of Adjustment