

# AGENDA

## ZONING BOARD OF ADJUSTMENT

### COUNCIL CHAMBER

SEPTEMBER 15, 2021

8:30 A.M.

1. Invocation
2. Approve the minutes of the August 4, 2021, Zoning Board of Adjustment meeting
3. DOCKET NO. 2021-09-V  
Open a public hearing to consider approval of the request of Gilbert and Flora Garza, owners, for a variance from Section 14-7-5 and 14-7-6 (11) of the City of Odessa Zoning Ordinance to allow a structure (carport) to be located with a zero (0') front yard setback instead of a twenty-five feet (25') front yard setback and from Section 14-7-7 to allow said structure (carport) to be located one foot (1') side yard setback instead of the required five feet (5') side yard setback in a Light Commercial (LC) Zoning District, Lot 8, Block 1, Mary Flanagan (803 E. 4<sup>th</sup> St.)
4. Other business
5. Adjourn

Be it said and remembered that at 8:30 a.m. on the 4<sup>th</sup> day of August, 2021, there came on and was held a Zoning Board of Adjustment meeting in the Council Chamber, 5<sup>th</sup> Floor, 411 W. 8<sup>th</sup> St., Odessa, Texas.

MEMBERS PRESENT: Mark Windham, Chairman  
Brooke Harper  
Tim Harry  
Kyle Newton  
Kirk Strahan

MEMBERS ABSENT: Gerardo Arzate  
Anthony Rios  
Priscilla Contreras (Alternate)  
Craig Stoker (Alternate)

OTHERS PRESENT: Randy Brinlee, Director of Development; Lorraine Quimiro, Planning Manager; Tim McDaniel and Maria Prieto, Planners; Jared Aguilar, Planning Tech; Dan Jones, Senior Assistant City Attorney; and Anne Roney, Secretary.

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Chairman Windham called the meeting to order, with Member Strahan giving the Invocation.

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The minutes of the July 21, 2021, Zoning Board of Adjustment meeting were approved, motion for approval being made by Member Harper, seconded by Member Strahan, with the vote being a unanimous "aye".

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DOCKET NO. 2021-08-V (approved with conditions)

Open a public hearing to consider approval of the request of William J. Bourdier and Deborah A. Bishop, owners, for a variance from Section 14-11-1(1) of the City of Odessa Zoning Ordinance to allow an existing fence to be extended to a height of nine and one half feet (9 ½') instead of the allowed eight feet (8') in a Single Family Estate (SF-E) Zoning District, Lot 30, Block 1, North Country Club Estates, 1<sup>st</sup> Filing (3300 Lancewood Ave.)

Mr. McDaniel gave the following presentation: There were 12 notices mailed to surrounding property owners, with no notices returned, no written protests and 2 written approvals.

The property involved in this request is located at 3300 Lancewood Ave. The site is zoned Single Family Estate (SF-E) and is currently occupied by single-family residential development. The property is surrounded by single family residential development.

The applicants are William Bourdier & Deborah Bishop, owners, and the purpose of the request is to locate a raised fence with a maximum height above adjacent grade of nine and one half feet (9 ½'), instead of the allowed eight feet (8'). In order to allow a fence with a height of 9 ½', the applicant is requesting a variance from Section 14-11-1(1)(A) of the City of Odessa Zoning Ordinance, which states:

Any fence or wall erected on the side property line and located to the rear of the minimum required front yard as determined by the provisions of Section 14-7-5 shall not exceed eight (8) feet in height above the adjacent grade. Interior fences in commercial or industrial districts erected on or behind the required front, side or rear yard line shall be subject to the same height restrictions as buildings in the specified districts in which the fence is located.

The following criteria as outlined in the Zoning Ordinance are to be used by the Board of Adjustment in evaluating variance requests. The burden of proof in meeting each of these criteria is upon the applicant.

- A. The variance request is not contrary to the public interest.
- B. Special conditions exist for the applicant that do not generally exist for others.
- C. A literal enforcement of the ordinance will result in unnecessary hardship.
- D. The spirit of the zoning ordinance is observed and substantial justice is done.

Staff analysis of this request finds that the requested fence height will improve sound levels coming from the adjacent State Loop 338, as well as improve privacy for the owners of the property by reducing lines of sight from the road into their back yard. Staff also finds that the request is reasonable and will not create any hazards or hardships to surrounding properties related to light, air, or open space.

Based on analysis of the site, staff recommends approval of the request as shown with the following condition:

- 1. Adoption of the site plan

Mr. Newton asked where the 9 ½' fence would be located, being told it will be along the side and the alley. Mr. McDaniel stated that will give the property owner an opportunity to step the fence down to the required 8'. There being no further questions for City Staff, Chairman Windham opened the public hearing.

Ms. Deborah Bishop, applicant in this request, approached the lectern. She asked if a permit would be required to place the fence, with Mr. McDaniel stating a permit will be required. Ms. Bishop stated they would be adding on to the existing fence. Mr. Windham stated if this request is approved she would need to contact the City's Building Inspection office for a permit.

Mr. Strahan asked if the fence has been removed or if they were going to add to the top, being told they are adding onto the existing fence. Ms. Bishop stated there is a natural drainage channel and they are placing the fence along the side. They did take down the fence between that area and her shop. The fence along the alley is a wooden fence that is deteriorating. They would like to replace that fence with a block fence. Mr. Harry asked if the neighbor's fence was at 9 ½', being told it was not. Mr. Windham asked if the back fence would be 9 ½' and the side would also be 9 ½'. Mr. McDaniel stated the side fence will start at 9 ½' at the rear of the property and be worked down to an 8' fence. Mr. Windham stated the fence height requirements are a safety issue to allow fire fighters to be able to get over the fence in case of fire. Ms. Bishop stated that was why the fence along the drainage channel would be 9 ½' and then be worked down to the 8' height per ordinance requirements.

Mr. Tim Baum, 3304 Lancewood, approached the lectern. He asked about the drainage easement and how the fence would impact the existing drainage. Mr. McDaniel stated the drainage easement will be maintained. Mr. Brinlee stated the applicant would have to work with the City's Public Works department in order to keep the drainage clear. Ms. Bishop stated she will not do anything to impede the drainage of properties into the drainage easement. There being no further questions or comments, Chairman Windham closed the public hearing.

Member Harry moved the variance be approved with adoption of the site plan. Member Strahan seconded the motion, with the vote being a unanimous "aye".

#### FINDINGS OF FACT

The Zoning Board of Adjustment for the City of Odessa finds as a matter of fact that the applicant has sustained his burden of showing that: :

1. The variance request is not contrary to the public interest.
2. Special conditions exist for the applicant that do not generally exist for others.
3. A literal enforcement of the ordinance will result in unnecessary hardship.
4. The spirit of the zoning ordinance is observed and substantial justice is done.

#### ORDER OF THE BOARD

Therefore, the Zoning Board of Adjustment of the City of Odessa acting on the basis of the required concurring vote of four (4) members of the Board hereby orders the variance sought by the applicant in this case be, in all things granted subject to the following appropriate conditions and safeguards, to wit: Adoption of the site plan.

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There being no further business to come before the Board, the meeting was adjourned at 8:45 a.m.

Anne Roney, Secretary, placed the minutes in the Minute Book on August 4, 2021.

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Mark Windham, Chairman

**TO:** ZONING BOARD OF ADJUSTMENT  
**FROM:** LORRINE QUIMIRO, PLANNING MANAGER  
**SUBJECT:** DOCKET NO. 2021-09-V  
**APPLICANT:** Flora Garza, Owner  
**REQUEST:** Variance from Sec 14-7-5, 14-7-6 (11) and 14-7-7 of the City of Odessa's Zoning Ordinance  
**PROPERTY INVOLVED:** Lot 8, Block 1; Mary Flanagan City of Odessa, Ector County, Texas

The property involved in this request is located at 803 E. 4<sup>th</sup> St. This site is currently zoned Light Commercial (LC) and is occupied by a single family residence. The property is surrounded by residential development.

The applicant is Flora Garza, owner, and the purpose of the request is for a variance to allow a structure (carport) with a zero (0') front yard setback instead of a twenty-five feet (25') front yard setback and one foot (1') side yard setback instead of the required five feet (5') side yard setback. In order to allow the structure zero feet (0') forward on the twenty-five feet (25') front yard setback and four feet (4') forward on the five feet (5') side yard setback, the applicant is requesting a variance from Sections 14-7-5, 14-7-6 (11) and 14-7-7 of the City of Odessa Zoning Ordinance, which states:

**14-7-5 and 14-7-6 (11) FRONT YARD**

In the following zoning districts the minimum required front yard shall be in accordance with the following schedule and no building or structure shall hereinafter be located, erected or altered so as to have a smaller front yard than hereinafter required, and no front yard existing at the time of passage of this ordinance shall be reduced below the minimum set forth in the following schedule except as hereinafter provided:

Light Commercial	25'	LC
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#### 14-7-7 SIDE YARD

In the Following Zoning Districts The Minimum Required Side Yard Shall Be In Accordance With The Following Schedule And No Building, Structure Or Use Shall Hereafter Be Located So As To Have A Smaller Side Yard On Each Side Of Such Building Than Herein Required, And No Side Yard Existing At The Time Of Passage Of This Ordinance Shall Be Reduced Below The Minimum Set Forth Herein:

Light Commercial	5'	LC
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The following criteria as outlined in the Zoning Ordinance are to be used by the Board of Adjustment in evaluating variance requests. The burden of proof in meeting each of these criteria is upon the applicant.

- A. The variance request is not contrary to the public interest.
- B. Special conditions exist for the applicant that do not generally exist for others.
- C. A literal enforcement of the ordinance will result in unnecessary hardship.
- D. The spirit of the zoning ordinance is observed and substantial justice is done.

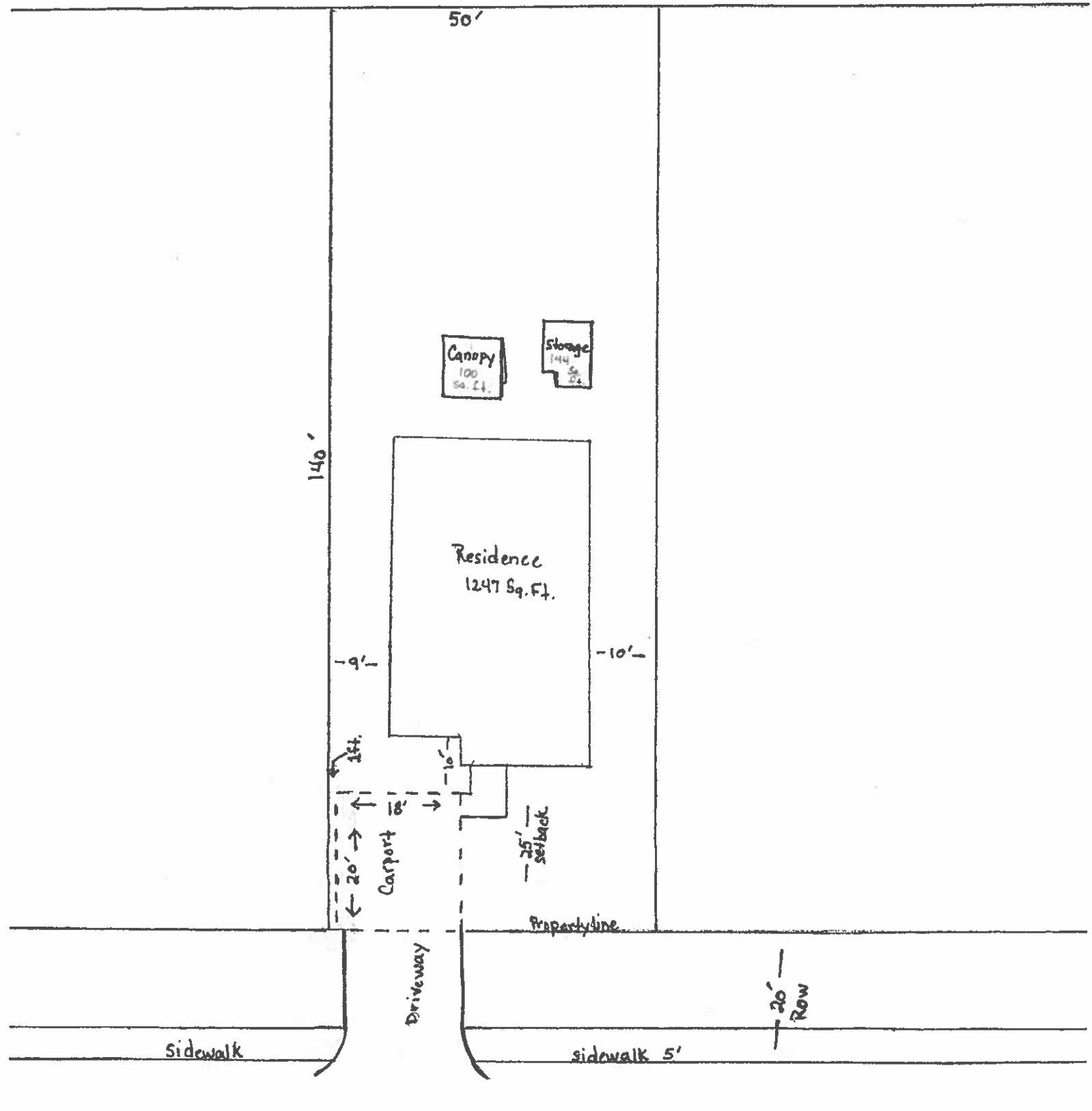
Staff analysis of this request is that there are no special conditions associated with the property that do not exist for others in the area. The applicant, Flora Garza, owner, failed to obtain a building permit which would have provided the setbacks to adequately fit the structure on the property. The Planning Staff cannot support the variance request, and recommends that the request be denied, and that the structure (carport) be placed on the lot to meet building setback requirements.

Information in order of inclusion:

- Area of notification map
- Copy of site plan







50'

140'

Canopy  
100  
Sq. Ft.

Storage  
144  
Sq. Ft.

Residence  
1247 Sq. Ft.

-9'-

-10'-

1ft.

Carport  
6'

25'  
setback

Propertyline

Driveway

sidewalk

sidewalk 5'

20'  
ROW

E. 4<sup>th</sup> ST.

