

Be it said and remembered that at 8:30 a.m. on the 6th day of January, 2021, there came on and was held a Zoning Board of Adjustment meeting in the Council Chamber, 5th Floor, 411 W. 8th St., Odessa, Texas.

Due to the COVID-19, the meeting was teleconferenced, as allowed by Governor Abbott's executive order. The Zoning Board of Adjustment was present through teleconference.

MEMBERS PRESENT: Ludie Warner, Chairperson
Geraldo Arzate
Brooke Harper
Kyle Newton
Anthony Rios
Mark Windham

MEMBERS ABSENT: Rosa Valdez (Alternate)

OTHERS PRESENT: Randy Brinlee, Director of Development; Lorraine Quimiro, Planning Manger; Tim McDaniel, Planner; Cory Maxwell, Planning Tech; Robert Carroll, Senior Assistant City Attorney; and Anne Roney, Secretary.

Chairperson Warner called the meeting to order, with Member Windham giving the Invocation.

DOCKET NO. 2021-01-V (approved with conditions)

Open a public hearing to consider approval of the request of David Oates, owner, for a variance from Sections 14-7-5 and 14-7-7 of the City of Odessa Zoning Ordinance to locate a carport with a 10' front yard setback instead of the required 25' front yard setback, and a one foot (1') side yard setback instead of the required five feet (5') setback in a Two-Family-One (2F-1) Zoning District, Lot 25, Block 8, Beverly Heights Addition (803 E 13th St.)

Mr. McDaniel gave the following presentation: There were 17 notices mailed to surrounding property owners, with no notices returned, no written protests and 3 written approvals.

The property involved in this request is located at 803 E 13th St. The site is zoned Two-Family-One (2F-1) and is currently occupied by single family development. The property is surrounded by single family residential development.

The applicant is David Oates, owner, and the purpose of the request is to allow a carport to be located 15' forward of the required 25' front yard building setback, and four feet (4') forward of the five feet (5') side yard setback.

In order to allow the structure fifteen feet (15') forward of the 25 feet front yard setback, the applicant is requesting a variance from Section 14-7-5 of the City of Odessa Zoning Ordinance, which states:

"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:

2F-1: 25'"

In order to allow the structure four feet (4') forward of the five feet (5') required side yard setback, the applicant is requesting a variance from Section 14-7-7 of the City of Odessa Zoning Ordinance, which states:

"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:

2F-1: 5"

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.

The applicant is requesting the ability to place an approx. 14'x45' carport on an existing slab along the eastern side of the property. Staff feels that there is adequate distance between the proposed structure and neighboring structures.

Staff has no objections to the applicant's request to reduce the side yard requirement to one foot (1'). However, staff would suggest that a fifteen feet (15') front yard setback be observed instead of the requested ten feet (10'), as the applicant would be able to take advantage of the four feet (4') overhang that is allowed by ordinance.

Based on the preceding analysis, staff recommends approval of the request with the 15' front yard as suggested, and with the following conditions:

- 1. The carport shall not be enclosed in the future.
- 2. All other structures shall observe front and side yards as set forth in the zoning ordinance.

Ms. Warner asked if the applicant was removing a structure that was on the property, being told he is not. Mr. McDaniel stated there is an existing slab and the applicant wishes to place a carport over the slab. Ms. Warner then asked if there was a reason the City was requesting a 15' setback instead of the 10' being requested. Mr. McDaniel stated if the poles are set with a 15' setback, the applicant is allowed a 4' overhang which will serve his needs. There being no further questions for City Staff. Chairperson Warner opened the public hearing.

Mr. David Oates, applicant at 803 E. 13th, approached the lectern. Mr. Oates stated the reason he wants the long carport is to be able to cover two vehicles and protect the vehicle from the weather.

Ms. Warner asked if the 15' setback with the 4' overhang works for him. The City's recommendation will give him a 14' cover. She asked if this would be adequate. Mr. McDaniel stated the posts would have to be located at the 15' setback then he would be given the additional 4' overhang. Mr. Oates stated he thought it would be a tight fit. Ms. Warner asked how long the carport would be, being told 45'. Ms. Warner then asked how long vehicles are, being told about 20'. Mr. Brinlee explained the stack distance and the city requirements. What the city is recommending in this request will give the applicant enough cover for his vehicles. Mr. Oates stated what he is requesting would not obstruct the view. Mr. Brinlee stated a 15' setback would still give good vision clearance and the city is reluctant to support anything less. Mr. Oates asked if the city was recommending a 15' setback instead of 10'. Mr. Brinlee stated a 15' setback would give the applicant 44' of cover. Mr. Rios stated the 15' with the additional 4' overhand would give the applicant

the extra feet he required. There being no further questions or comments, Chairperson Warner closed the public hearing.

Member Rios moved the variance be approved with a 15' setback with the following conditions:

1. The carport shall not be enclosed in the future.
2. All other structures shall observe front and side yards as set forth in the zoning ordinance.

Member Arzate 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:

1. The carport shall not be enclosed in the future.
2. All other structures shall observe front and side yards as set forth in the zoning ordinance.

There being no further business to come before the Board the meeting was adjourned at 8:42 a.m.

Anne Roney, Secretary, placed the minutes in the Minute Book on January 6, 2021.

Ludie Warner, Chairperson