

Be it said and remembered that at 8:30 a.m. on the 20<sup>th</sup> day of January, 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.

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  
Mark Windham

MEMBERS ABSENT: Anthony Rios

OTHERS PRESENT: Randy Brinlee, Director of Development; Tim McDaniel, Planner; Maria Prieto and Cory Maxwell, Planning Techs; and Anne Roney, Secretary.

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

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The minutes of the December 16, 2020 and January 6, 2021 Zoning Board of Adjustment meetings were approved, motion for approval being made by Member Harper, seconded by Members Windham and Arzate, with the vote being a unanimous "aye".

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DOCKET NO. 2021-02-V (approved with conditions)

Open a public hearing to consider approval of the request of Derwin Shellenberger, owner, for a variance from Section 14-7-7 of the City of Odessa Zoning Ordinance to locate a patio with a one and a half foot (1.5') setback instead of the required 5' side yard setback in a Single Family-Three (SF-3) Zoning District, Lot 14, Block 18, Fleetwood Addition (4292 Bonham Ave.)

Mr. McDaniel gave the following presentation: There were 23 notices mailed to surrounding property owners, with no notices returned, no written protests and 1 written approval.

The property involved in this request is located at 4292 Bonham Ave. The site is zoned Single Family-Three (SF-3) and is currently occupied by single-family residential development. The property is surrounded by single family residential development.

The applicant is Derwin Shellenberger, owner, and the purpose of the request is to allow an accessory structure (patio) with a one and one half feet (1.5') side building setback instead of the five feet (5') as required by ordinance. In order to allow the structure three and one half (3.5') forward in the five feet (5') 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:

SF-3: 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.

This structure has been in existence for several years and applicant was unaware that their contractor didn't acquire necessary permits for construction. Staff analysis of this request is that the applicant's request to reduce the side yard to one and one half feet (1.5') is reasonable and will not create any hazards or hardships to surrounding properties related to light, air, or open space. Staff also finds that the separation between the patio and the neighboring property is adequate for fire protection concerns.

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

- 1. The structure may not be enclosed or expanded.
- 2. No other structures or additions may be placed within the 5' side yard setback.

There being no questions for City Staff, Chairperson Warner opened the public hearing. Ms. Shellenberger, applicant, stated they thought the contractor had obtained all the necessary permits. Ms. Warner asked if they were just adding onto the existing storage building. Ms. Shellenberger stated there is a cover for the existing hydro pool. Mr. McDaniel stated the applicant was applying for a solar permit when the inspector notices the storage building. This variance is just rectifying the situation. There being no further questions or comments, Chairperson Warner closed the public hearing.

Member Windham moved the variance be approved with the following conditions:

- 1. The structure may not be enclosed or expanded.
- 2. No other structures or additions may be placed within the 5' side yard setback.

Members Arzate and Harper 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: Approved with the following conditions:

- 1. The structure may not be enclosed or expanded.
- 2. No other structures or additions may be placed within the 5' side yard setback.

DOCKET NO. 2021-03-V (approved with conditions)

Open a public hearing to consider approval of the request of Wayne Squiers, owner, for a variance from Section 14-7-13(b) of the City of Odessa Zoning Ordinance to locate a storage building with a two feet (2') setback instead of the platted fifteen feet (15') side yard setback in a Single Family-Three (SF-3) Zoning District, Lot 1, Block 21, Fleetwood Addition (4252 Redbud Ave.)

Mr. McDaniel gave the following presentation: There were 21 notices mailed to surrounding property owners, with no notices returned no written protests and 5 written approvals.

The property involved in this request is located at 4252 Redbud Ave. The site is zoned Single Family-Three (SF-3) and is currently occupied by single-family residential development. The property is surrounded by single family residential development.

The applicant is Wayne Squiers, owner, and the purpose of the request is to locate an accessory building (shed) with a two feet (2') setback instead of the platted 15 ft. side building setback. In order to allow the structure three and thirteen feet (13') forward in the fifteen feet (15') setback, the applicant is requesting a variance from Section 14-7-13(b) of the City of Odessa Zoning Ordinance, which states:

Adjacent to a side street, the accessory building shall observe either the platted setback line, the setback line established by the main structure, or the setback lines established by ordinance, whichever is most restrictive.

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.

Location of this proposed building was chosen for minimal impact on utility lines from the house to the alley. Staff analysis of this request is that the applicant's request to reduce the side yard to two feet (2') is reasonable and will not create any hazards or hardships to surrounding properties related to light, air, or open space. Driver vision will not be impacted any more than existing conditions, as there is an existing fence along the property line in this location. There will also be adequate separation from neighboring properties, as the proposed location of the building is alongside the right-of-way for Penbrook St.

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

- 1. No other structures or additions may be placed within the 15' side yard setback.

Mr. McDaniel stated the storage building is not on the property and the variance is being requested prior to the purchase of the building.

There being no questions for City Staff, Chairperson Warner opened the public hearing. Mr. Wayne Squiers, applicant, stated he wishes to purchase the storage building and this is the only place the building can be placed because of gas lines and overhead lines. There being no questions or comments, Chairperson Warner closed the public hearing.

Member Arzate moved the variance be approved with the following condition:

1. No other structures or additions may be placed within the 15' side yard setback.

Member Harpers 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: Approved with the following condition:

1. No other structures or additions may be placed within the 15' side yard setback.

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There being no further business to come before the Board, the meeting was adjourned at 8:41 a.m.

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Anne Roney, Secretary, placed the minutes in the Minute Book on January 20, 2021,

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Ludie Warner, Chairperson