

Be it said and remembered that at 8:30 a.m. on the 3<sup>rd</sup> day of February, 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: Mark Windham, Vice Chairman  
Geraldo Arzate  
Brooke Harper  
Kyle Newton  
Anthony Rios

MEMBERS ABSENT: Ludie Warner

OTHERS PRESENT: Randy Brinlee, Director of Development; Lorraine Quimiro, Planning Manager; Tim McDaniel, Planner; Jan Baker, Senior Assistant City Attorney; and Anne Roney, Secretary.

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

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The minutes of the January 20, 2021 Zoning Board of Adjustment meeting were approved, motion for approval being made by Member Harper, seconded by Member Arzate, with the vote being a unanimous "aye".

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DOCKET NO. 2021-04-V (approved with conditions)

Open a public hearing to consider approval of the request of Jose L. Dominguez Jr., owner, for a variance from Section 14-7-8 (4) of the City of Odessa Zoning Ordinance to locate a patio with a zero foot (0') side yard setback instead of the five foot (5') side yard setback in a Single Family-Three (SF-3) Zoning District, Lot 6, Block 38, Scharbauer Place Addition (311 N Lauderdale)

Mr. Brinlee gave the following presentation: There were 20 notices mailed to surrounding property owners, with 1 notice returned, no written protests and no written approvals.

The property involved in this request is located at 311 N Lauderdale. 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 Jose L. Dominguez Jr., owner, and the purpose of the request is to allow a patio to be placed five feet (5') forward of the five feet (5') side yard setback. In order to allow the structure five feet (5') forward in the five feet (5') setback, the applicant is

requesting a variance from Section 14-7-8(4) of the City of Odessa Zoning Ordinance, which states:

On a corner lot used for one-family, two-family, or multiple-family dwellings, a minimum side yard of ten (10) feet shall be observed. On lots which were official lots of record prior to December 28, 1971, the minimum side yard adjacent to a side street shall comply with the required side yard for the respective districts as specified in section 14-7-7 or with any side yard shown on a plat of record.

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 the applicant's request to reduce the side yard to zero feet (0') 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 the right-of-way along the side yard is twenty feet (20'). As there is a right-of-way adjacent to the property, adequate distance is given for fire separation as well.

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 5' side yard setback.
- 2. Water runoff from the roof should be directed away from City right-of-way.

There being no questions for City Staff, Vice Chairman Windham opened the public hearing. Mr. Jose Dominguez applicant in this request, approached the lectern. He stated he was available to answer any questions. Mr. Brinlee asked if the applicant was agreeable to the conditions recommended by the Planning Staff. Mr. Dominguez indicated he would have to be able to see the proposed conditions. Mr. Brinlee suggested the applicant contact the office. Mr. Dominguez asked if he had to remove the patio, with Mr. Brinlee stating the Board still has to make their decision. There being no further questions or comments, Vice Chairman Windham closed the public hearing.

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

1. No other structures or additions may be placed within the 5' side yard setback.
2. Water runoff from the roof should be directed away from City right-of-way.

Member 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:

1. No other structures or additions may be placed within the 5' side yard setback.
2. Water runoff from the roof should be directed away from City right-of-way.

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There being no further business to come before the Board, the meeting was adjourned at 8:36 a.m.

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Anne Roney, Secretary, placed the minutes in the Minute Book on February 3, 2021.

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Mark Windham, Vice Chairman