

AGENDA
ZONING BOARD OF ADJUSTMENT
COUNCIL CHAMBER
OCTOBER 19, 2022
8:30 A.M.

1. Invocation
2. Approve the minutes of the August 17, 2022, Zoning Board of Adjustment meeting
3. DOCKET NO. 2022-04-V
Open a public hearing to consider approval of the request of Raul Y. Guerrero, owner, for a variance from Section 14-7-8(9) of the City of Odessa Zoning Ordinance to allow a storage to be located with a zero feet (0') side yard setback instead of a five feet (5') side yard setback in a Special Dwelling (SPD) Zoning District, Lot 17 Block 3, Mardi Gras Estates, 3rd Filing (1306 Big Easy St.)
4. Other business
5. Adjourn

Be it said and remembered that at 8:37 a.m. on the 19th day of October, 2022, there came on and was held a Zoning Board of Adjustment meeting in the Council Chamber, 5th Floor, 411 W. 8th St., Odessa, Texas.

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

MEMBERS ABSENT: Craig Stoker (Alternate)

OTHERS PRESENT: Randy Brinlee, Director of Development; Maria Prieto, Planner; Cheynna Torres, Planning Tech.

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

The minutes of the August 17, 2022 Zoning Board of Adjustment meeting were approved, motion for approval being made by Member Arzate, seconded by Member Harper, with the vote being a unanimous "aye".

DOCKET NO. 2022-04-V (denied)

Open a public hearing to consider approval of the request of Raul Y. Guerrero, owner, for a variance from Section 14-7-8(9) of the City of Odessa Zoning Ordinance to allow a storage to be located with a zero feet (0') side yard setback instead of a five feet (5') side yard setback in a Special Dwelling (SPD) Zoning District, Lot 17 Block 3, Mardi Gras Estates, 3rd Filing (1306 Big Easy St.).

Mr. Brinlee approached the podium and advised the board that applicant was not present for the meeting and they could table or proceed. Board unanimously decided to proceed without the applicant being present.

Ms. Prieto gave the following presentation: There were 23 notices mailed to surrounding property owners, with no notices returned, two (2) written protests and no written approvals.

The property involved in this request is located at 1306 Big Easy St. This site is currently zoned Special Development (SPD) and is occupied by a single-family residence. The property is surrounded by residential development.

The applicant is Raul Y. Guerrero, owner, and the purpose of the request is for a variance to allow a structure (storage) to be built zero feet (0') on a five feet (5') required side yard setback. In order to allow the structure (storage) zero feet (0') forward on the five feet (5') side yard setback, the applicant is requesting a variance

from Section 14-7-8(9) of the City of Odessa Zoning Ordinance. (see attached site plan) which states:

14-7-8 (9) SPECIAL SIDE YARD REGULATIONS

Special side yard arrangements, such as a zero lot line, may be provided for when the Site Plan or Plat designates the special side yard condition and such Site Plan or Plat is approved by the Planning and Zoning Commission and filed for record. Special side yard arrangements show on an approved Site Plan shall be observed by the Building Official in issuing Building Permits.

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. A Site Plan was approved (Case No. 2019-73-SP(A)) that provides for five feet (5') side yard setback. Considering the size of the storage (approx. 61 square feet) and the lot (5,980 square feet) there is adequate space to fit the storage correctly in the rear of the property according to ordinance requirements. The Planning Staff cannot support the variance request, and recommends that the request be denied, and that the storage be placed on the lot to meet building setback requirements.

Chairman Windham opened the floor to the public to speak for or against the variance case. Seeing that no one came to the podium, Chairman Windham closed the public hearing and motioned for discussion.

Member Strahan asked staff if protest were both from neighbors, to which Ms. Prieto stated yes, they are from the surrounding area of 200 ft. Ms. Prieto proceeded to present pictures of the storage which was already built. Chairman Windham asked if they had already built the storage. Mr. Brinlee indicated that yes, they had built it. Ms. Prieto also confirmed yes, the applicant had already built the storage without a permit, the homeowner was advised by a city building inspector to obtain a building permit. Building Inspections was unable to issue a permit due to customer having built the storage on the side yard setback.

Member Strahan stated that he has had variances but this is a disregard of the setback. Member Harry indicated this is his neighborhood, everything is very tight in that area. This was a blatant disregard of what can be done and the process to do it. But to build lessening space is someone who just disregards ordinance. Chairman Windham asked if applicant has plenty of space of yard in the back. Mr.

Brinlee answered that it was pointed out on several occasions that there was ample space in the back yard to place it legally. Member Harper stated, if you approve this variance, we will have to approve every other one that comes thru for this area. Member Arzate stated there are no special conditions that allows them to place this in the setback.

Vice Chairman Windham moved the request for a motion.

Member Arzate motioned the request for variance to be denied and 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 failed to sustain 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 six (6) members of the Board hereby orders the variance sought by the applicant in this case be, in all things denied.

There being no further business to come before the Board, the meeting was adjourned at 8:44 a.m.

Maria Prieto, Planner, placed the minutes in the Minute Book on October 28 2022.

Mark Windham, Chairman