



ZBA Members

Gerardo Arzate, Chairman
Tim Harry, Vice Chairman
Kyle Newton, Member
Kirk Strahan, Member
Paul Anthony Rios, Member
Mark Windham, Member
Craig Stoker, Member (Alternate)
Pricilla Contreras, Member (Alternate)

Zoning Board of Adjustments, Minutes
City Hall, 411 W 8th St.
CITY COUNCIL CHAMBERS – FIFTH FLOOR

January 3, 2024
8:30 A.M.

OPENING ITEMS

- II. **Call to Order**
- III. **Invocation**

CONSENT ITEMS

1. Motion to approve the Zoning Board of Adjustments minutes for December 20, 2023.
2. CASE FILE NO. 2023-10-V
Consider a request for a variance from Section 14-7-5 of the City of Odessa Zoning Ordinance to allow a detached structure (carport) to be built at a (0') zero-foot front yard setback instead of the required (20') twenty-foot front yard setback and from Section 14-7-8(h) to allow said structure to be built at a (0') zero-foot side yard setback instead of the required (6') six-foot side yard setback in a General Residence, (GR) Zoning District, being Lot 10, Block 11, Patterson Addition, 4th Filing. (200 Fitch Ave.)
3. **ADJOURN**

Be it said and remembered that at 8:33 a.m. on the 3rd day of January 2024, there came on and was held a Zoning Board of Adjustments meeting in the Council Chambers, 5th Floor, 411 W. 8th St., Odessa, Texas.

MEMBERS PRESENT: Tim Harry, Vice Chairman
Kyle Newton
Priscilla Contreras
Kirk Strahan

MEMBERS ABSENT: Gerardo Arzate, Chairman
Mark Windham
Craig Stoker
Paul Anthony Rios

OTHERS PRESENT: Elizabeth Shaughnessy, Director of Development; Maria Prieto, Planning Manager; Jeff Fisher, Statistic Manager; James Reber, Planner; Cheynna Torres, Planning Tech, Gracie Rodriguez, Planning Tech

The minutes of the December 20, 2023, Zoning Board of Adjustments Commission meet were approved, motion for approval being made by Commissioner Kyle Newton, seconded by Tim Harry, with the vote being a unanimous “aye”.

OTHERS PRESENT: Elizabeth Shaughnessy, Director of Development; Maria Prieto, Planning Manager; Jeff Fisher, Strategic Development and Policy Manager; James Reber, Planner; Cheynna Torres and Gracie Rodriguez, Planning Tech; Cristina Burns, Assistant City Manager; Dan Jones, City Attorney

DOCKET NO. 2023-10-V (Approved)

Consider a request for a variance from Section 14-7-5 of the City of Odessa Zoning Ordinance to allow a detached structure (carport) to be built at a (0') zero-foot front yard setback instead of the required (20') twenty-foot front yard setback and from Section 14-7-8(h) to allow said structure to be built at a (0') zero-foot side yard setback instead of the required (6') six-foot side yard

setback in a General Residence, (GR) Zoning District, being Lot 10, Block 11, Patterson Addition, 4th Filing. (200 Fitch Ave.)

Ms. Prieto Presents: Sent out 19 Notices, 1 returned, 2 protest and 0 approvals.

The property involved in this request is located at 200 Fitch Ave. This site is currently zoned General Residence (GR) and is occupied by a single-family residence. The property is surrounded by residential development to the east, south and west and industrial development to the north. The applicant is Jose Natividad (correction **Navidad**), owner and the purpose of the request is for a variance to allow a detached structure (enclosed garage) to be built with a zero-foot (0') front yard setback instead of the required twenty-foot (20') front yard setback, and to allow a zero-foot (0') side yard setback instead of the required six-foot (6') side yard setback. The revelation sections of the Odessa Zoning Ordinance are as follows: For Front yard in the following Districts- the minimum required shall be in ordinance with the following schedule. No building or structures 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 hereinafter provided. This property is located in a General Residence Zoning District which requires 20-foot front yard setback. From 14-7-8 (h) **Special Side Yard Regulations**. A Minimum side yard of six (6) feet shall be provided for any mobile/Hud-code manufactured home located as a fixed dwelling and any structure attached to a mobile/HUD-code manufactured home. The minimum side yard space provided for a mobile/HUD-code Manufactured home located in a Mobile/Hud-code Manufactured home park shall comply with the side yard space shown on the approved site plan for the mobile/HUD-code manufactured home park. This is not in a mobile home park as this property is in a residential area lot, as so for the six (6') foot side yard setback applies. 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's 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 of others in the area. The applicant's request to reduce the front yard setback to zero feet (0') instead of the required twenty feet (20') and reduce the side yard setback to zero feet (0') instead of the required six feet will create issues related to light, air, or open space. The property is located at the intersection, which might hinder visibility of traffic and is in close proximity to a since-family residence toward the south elevation of the property. The attached photos show the garage already under construction. Staff recommends **Denial** of this request for not satisfying the above variance criteria outlined in the Zoning Ordinance. Alternatively, Planning staff recommends placing the structure (enclosed garage) to the rear yard of the property as indicated in Section 14-7-13 (a) Code of Ordinance (exhibit C), Which would not require a variance.

However, should the board choose to approve this request, Planning staff would

recommend adoption of the following conditions:

1. No other structures or additions may be placed within the 20-foot front yard setback.
2. No other structures or additions may be placed within the 6-foot side yard setback.

As staff is here for further questions.

Vice-Chairman ask Board Members for any staff questions, hearing none, opens the public comment for questions or concerns. As Ms. Prieto states the owner is present for any questions for him. As Mr. Strahan questions the owner if they applied for permits for the construction. As the Owner, Jose Navidad, approached the podium stated yes he did not, stating his name and address. "I had a gentleman who was recommended to me for the installing our fence on the property, as in the process of this I decided to build a garage, as I started in the trucking industry. As I needed a place to place my truck, tools and other accessories. I went with his recommendation and starting building and it was shut down for those reasons". "The mobile home located on the property is facing Pearl Street, in our minds we figured this would work since thinking this was the back side of the property, to which is actually towards the front". Mr. Tim Harry ask for any other questions, hearing no one, closes the public hearing with the exception of one question. We did have notices for protest, as could we detail who they were from. (Maria Prieto presented those notices to the board to read) Mr. Harry states the protest main concern is the property values and nothing in demanding of problems, as the protest no main problem with structural. As id like to open a discussion for the board, as reading over the note cards. Mr. Newton noted safety would be a main concern. With a property to have a zero setback, would more than likely be a safety hazards with the corner being blocked, to which you are creating a Y spot. Mr. Tim Harry mentions previous cases with zero setback and how this would be a hindering spot, which is defiantly an issue. Mr. Harry mentions his problem with that setback, with zero on both. 1. Water shed on the roof will impede with the neighbor's property to create other issues for the neighbor. As for the zero setback for traffic, I am not on board with the location as the visibility could be impeded as well. Mr. Pricilla Contreras ask if this is going to be a commercial? As when you purchased the property you were aware of residential location. As Mr. Navidad, Owner, stated not necessarily as I do want to be able to have my tools and park a truck nearby if I need to such as maintenance, to which will not be a commercial property. As the owner steps away from the podium. As Mr. Harry motions for any more comments or concerns.

As the Owner, Jose Navidad, steps back up wanting to include something "as your comments in the safety aspect, if you take a look at the photos as I am to modify the first section, which is 18-19 feet. Leave the cover on top and the front open, to which would leave it open to give others access to reverse out of the driveway. Mr. Harry states this may help as this is zero foot from their property, where we are on the property line with that. Biggest part of problem that I see is the water from the shed, which we do not receive much rain in Odessa and could be a problem you would give to your neighbors. As the owner mentions, not even with Gutters? Mr. Harry mentions if you were to move twenty years from now, this would still be a problem for your neighbor as the new owner will not

meet the same recommendations, we give you. Mr. Harry ask about the exhibit that we can put up.

Mr. Prieto mentioned the Zoning Ordinance, the place this garage without having to obtain a variance exhibit 14-7-13-a Code of Ordinance, which indicated that he can place it at the rear of the property.

Mr. Harry ask if there is a area to place that size of structure, of what he is wanting, maybe without requesting a variance. Ms. Prieto corrects question by saying yes as not the exact same size but room to place a structure there. Mr. Tim Harry ask how big the structure could go? Ms. Prieto answers as she did not measure property as they could place a garage or an accessory building for storage. As Maria Prieto opens up the photo to indicate the location of existing and said measurements of rear. Mr. Harry ask if the structure was rotated 90 degrees, to come in the front and from the where the existing driveway is. Ms. Prieto mentions the side yard setback of 10-feet. Mr. Harry Clarifies ten-foot (10') side yard between the residence, is that correct? Ms. Prieto answers 10 ft side yard between the property line and the building. To which she clarifies "Street Side". Mr. Harry ask if we rotate ninety degrees, would that be close as that would be twenty foot off the property line off the front. Ms. Prieto answers if he were to leave 20 ft unobstructed, he may be able to place it however garages are not allowed on the front yard. He may place a attached structure, for an addition to which it would have to be completely enclosed to be a part of home as it still may not obstruct the 20 feet. (Front yard setback 20 ft) Mr. Harry ask as he has other options? To which Ms. Prieto answers yes.

Mr. Harry turns to his members and ask if they would like to place a motion. Kirk Strahan moves to deny the motion, and Priscilla Contrerars seconds the motion with an anonymous "aye".

There being no further business to come before the Board, the meeting was adjourned at 8:50 a.m.

Cheyenna Torres, Planning Technician, placed the minutes in the Minute Book on January 04, 2024.

Gerardo Arzate, Vice Chairman