

**City of Alamo Heights
BOARD OF ADJUSTMENT
MINUTES**

October 02, 2019

The Board of Adjustment held a regularly scheduled meeting at the Council Chambers of the City of Alamo Heights located at 6116 Broadway St, San Antonio, Texas on Wednesday, October 02, 2019, at 5:30 p.m.

Members present and composing a quorum of the Board:

David Rose, Acting Chairman
Lott McIlhenny
Jimmy Satel
Sean Caporaletti, Alternate

Members absent:

Bill Orr, Chairman
Wayne Woodard
Hall Hammond, Alternate

Staff members present:

Nina Shealey, Director of Community Development Services
Lety Hernandez, Planner

The meeting was called to order by Chairman Rose at 5:35p.m.

Mr. McIlhenny moved to approve the meeting minutes of August 07, 2019 as presented. Mr. Caporaletti seconded the motion.

The motion was approved with the following vote:

FOR: Orr, McIlhenny, Satel, Caporaletti
AGAINST: None

Case No. 2299 – 615 Austin Hwy

Application of Kenneth M. Smith, owner, requesting the following variance(s) in order to add an attached carport to the existing commercial structure at the property located at 615 Austin Hwy, zoned B-3:

1. A proposed front yard setback of 5ft 3-3/8 inches instead of the minimum 8ft required per Section 3-64(7)(a),
2. A proposed side yard setback of 1ft 4 inches instead of the minimum 15ft required per Section 3-65(1)(a)
3. A proposed overall height of 15ft instead of the minimum 28ft required per Section 3-68(2), and
4. No proposed landscaping as required per Section 3-70 of the City's Zoning Code.

Ms. Shealey presented the case. Victor Hinojosa, representing the owner, addressed the board.

Those present and speaking regarding the case were as follows:

Gordon Braswell, 340 Redwood (opposed)

Mark Brewster, Attorney (opposed)

Randall Ratcliff, Manager at Texaco (in favor)

Mr. Brewster, representing Gordon and Angela Braswell, addressed the board regarding the proposed stating that the carport would be to the north of where the carport would be located, behind what was described as a drainage ditch that they felt was a utility easement and, although unsure, felt that further investigation was required. He added that in addition to their concerns was that the trees depicted in the illustration, behind the carport, would be removed destroying the view of the Braswells'. He went on to speak regarding floodplain and those affected. He added that the purposed of the proposed was purely for financial gain which was not the standard for granting variances. Chairman Rose asked Mr. Braswell to clarify regarding the property in question. Mr. Braswell pointed out the property and provided an aerial view of the area. He went on to speak regarding the properties that would be affected by the view of the canopy, specifically the Braswell residence.

Mr. Caporaletti asked Mr. Brewster to clarify regarding the easement between the properties and Mr. Brewster responded that historically the water line has been in that area and possibly a gas line but had not had time to investigate.

Mr. Braswell addressed the board and provided an image viewing the business from his property. He expressed concerns regarding the removal or trees. He added that the vegetation would be removed. He went on to say that the water meters had been relocated to the front but thought that the gas line might still be located in the easement. He added that he did not have a problem with the improvement so long as it was kept on their easement.

Chairman Rose asked staff for clarification regarding the easement and property line. Ms. Shealey responded that access to the easement would not be affected as the improvements would be within the property lines.

Mr. Ratcliff informed that there were two (2) Crepe Myrtles and a Hackberry tree in the area between the two properties that they maintain to avoid contact with the building. He went on to say that there were no trees on the right side of the fence line and did not understand why it would be their responsibility to create foliage for Mr. Braswell as no trees would be removed, they would only be trimmed. He went on to say that would make it easier for access to the easement.

Mr. Braswell questioned if the 15ft setback designed to protect a business from a residence per the current city ordinances. Chairman Rose deferred to staff and Ms. Shealey responded that the purpose was to minimize the impact of one property on another. Mr. Brewster added that the addition could be placed behind the structure where current ordinances require parking to be placed for that zoning district affecting multi-family as opposed to single family. He went on to say none cited health, education, or welfare of the community in general which was the legal standard set forth in the preamble to the zoning ordinances.

Their purpose was regarding the beautiful piece of property and that the owners did not want an auto garage being operated right in their back yard. Chairman Rose stated that the auto garage was currently being operated behind the Braswell property and were only discussing the carport and felt that the argument was not a valid one as the business was already in existence when the Braswells' purchased the property. However, he felt that they had a valid point and asked if the carport had been considered on the other side and would pose that question. He added that the addition of the four (4) stalls and trimming of trees would not be changing the current use and assumed that the business was already working on vehicles with no cover in that area. Mr. Brewster responded that the amount of work would likely change because of the carport and that the application specifically stated that the purpose was to be able to service customer vehicles there and would be 14ft closer that what it currently is.

Mr. Satel asked for clarification regarding the addition of concrete and Mr. Hinojosa responded that they were not proposing additional concrete and would be utilizing the current area and adding footings to support the structure.

Chairman Rose asked if placement of the structure had been considered on the side and/or rear of the property. Mr. Hinojosa responded that they had considered placement but that preference of Mr. Smith, owner, was placement that was street-facing. Mr. Caporaletti questioned if there would be less of an encroachment in another area. Mr. Ratcliff informed that on the Albany side there were four (4) existing 5,000 gallon fuel tanks and could not build anything over them.

The board questioned the differences between residential and commercial districts and the amount of notices that had been mailed. Ms. Shealey responded informing of the residential setback of six (6) feet and that twenty-one (21) notices had been mailed in addition to the notice being posted on the City's website.

Mr. Brewster addressed the board and stated that case law is abundantly clear that when someone buys their property, like the Braswells, they have the right to expect that the zoning that is in place is going to remain in place or that, if it is going to be changed, it would be changed on what the law requires and urged the board to consider what the law requires and is clear that the purpose of the proposed was economic and financial and the improper standard. Lastly, he added that, from a neighbor's standpoint, if this was their backyard would they want the awning built in their backyard to where it became part of the view and the business would be operating closer to the Braswells' property.

Chairman Rose spoke regarding the concerns of those speaking in opposition. He added that the residence was purchased knowing the existing use of the business and went on to say that the concern was not valid reason in his opinion.

After further discussion, Mr. Satel moved to table the case for the November 06, 2019 meeting. Mr. Caporaletti seconded the motion.

The motion was approved with the following vote:
FOR: Rose, McIlhenny, Satel, Caporaletti
AGAINST: None

Case No. 2300 – 601 Ciruela

Application of Avril & Edward Byrne, owners, requesting the following variance(s) in order to install two (2) gates at the property located at 601 Ciruela, zoned SF-A:

1. Proposed 6ft 4 inch high gates instead of the maximum 3ft allowed per Section 3-81(7) of the City's Zoning Code.

Ms. Shealey presented the case. Mrs. Byrne, owner, was present and addressed the board. The gates would be an addition to an existing front wall on the property that is covered with foliage.

Those present and speaking regarding the case were as follows:
Claiborne Gregory, 636 Lamont (in favor)

Mr. Satel moved to approve the variance as requested. Mr. McIlhenny seconded the motion.

The motion was approved with the following vote:
FOR: Rose, McIlhenny, Satel, Caporaletti
AGAINST: None

Case No. 2301 – 116 Tuxedo

Application of Elizabeth Dullye, owners, requesting the following variance(s) in order to construct a parking pad at the property located at 116 Tuxedo, zoned SF-A:

1. A proposed circular driveway/parking pad within the front yard setback on a 50ft wide lot instead of the minimum 66ft required per Section 3-21 of the City's Zoning Code.

Ms. Shealey presented the case. Ms. Dullye, owner, was present and addressed the board. She informed that the property did have a garage for covered parking but it was not accessibly by vehicles and that the current tenant was parking on the neighboring property that is a four (4) unit multi-family building that she currently owns.

Mr. Satel expressed concerns regarding the turning radius and if they would be able to utilize it. Mr. McIlhenny questioned if the owner had considered a parking pad. Ms. Dullye responded that she had but felt that it would be more dangerous to back into Tuxedo due to the amount of traffic in the area.

Mr. Satel moved to approve the variance as requested. Mr. Caporaletti seconded the motion.

The motion was approved with the following vote:
FOR: Rose, McIlhenny, Satel, Caporaletti
AGAINST: None

Case No. 2302 – 223 Allen

Application of Jorge Cavazos & Yvette Almendarez, owners, requesting the following variance(s) in order to demolish the existing main structure and construct a new single family residence with attached garage at the property located at 223 Allen, zoned SF-A:

1. A proposed front yard setback of 13ft-1/2 inch to the main structure instead of the minimum 30ft required per Section 3-14,
2. The proposed attached garage is towards the front of the main structure instead of to the rear, is located 79ft-2 inches beyond the midpoint of the main structure, and is 13ft-1/2 inch from the front property line instead of the minimum 50ft required per Section 3-21,
3. A proposed impervious coverage of 50.7% within the front yard setback instead of the maximum 30% allowed per Section 3-18,
4. A proposed driveway width of 40ft 6 inches instead of the maximum 14ft allowed per Section 3-21, and
5. A proposed 0ft side yard setback to the main structure instead of the minimum 6ft required per Section 3-15 of the City's Zoning Code.

Ms. Shealey presented the case. Mr. Cavazos, owner, was present and addressed the board.

The proposed impervious coverage in the front was decreased from the existing 59% to 49%.

Those present and speaking regarding the case were as follows:

Richard Calvert, 224 Allen (in favor)

Mel Weingart, 220 Allen (in favor)

Mr. Satel expressed concerns regarding the proposed 0ft setback to the side yard. Staff clarified. He also expressed concerns regarding the possibility of a tall fence in the front yard. Staff informed that only a three (3) foot high fence would be allowed within the front yard setback area.

Mr. Satel moved to approve the variances as requested. Mr. Caporaletti seconded the motion.

The motion was approved with the following vote:

FOR: Rose, McIlhenny, Satel, Caporaletti

AGAINST: None

Case No. 2303 – 316 La Jara

Application of Kristen & Charlie Robison, owners, requesting the following variance(s) in order to construct a fence at the property located at 316 La Jara, zoned SF-A:

1. A proposed 6ft high fence within the front yard setback instead of the maximum 3ft allowed per Section 3-81(7) of the City's Zoning Code.

Ms. Shealey presented the case. Mrs. Robison, owner, was present and addressed the board.

There were concerns regarding visibility at the intersection with the proposed fence. An open discussion followed. Staff clarified regarding the proposed placement of the fence and existing location of a tree near College. She felt that a wrought iron fence would not impede visibility.

Mr. McIlhenny moved to approve the variances with stipulations as follows: 1) use wrought iron fence on sides facing College and La Jara to not obstruct visibility. Mr. Caporaletti seconded the motion.

The motion was approved with the following vote:
FOR: Rose, McIlhenny, Satel, Caporaletti
AGAINST: None

Case No. 2304 – 512 Patterson

Application of Michelle & Troy Foote, owners, requesting the following variance(s) in order to expand the existing driveway at the property located at 512 Patterson, zoned SF-A:

1. A proposed 17ft wide driveway within the front yard setback instead of the maximum 14ft allowed per Section 3-21 of the City's Zoning Code.

Ms. Shealey presented the case. The owners, nor a representative, were present.

A discussion followed regarding the proposed.

Mr. McIlhenny moved to approve the variance as requested. Mr. Caporaletti seconded the motion.

The motion was approved with the following vote:
FOR: Rose, McIlhenny, Satel, Caporaletti
AGAINST: None

Case No. 2305 – 315 Alta

Application of Maivu Plumbing & Construction, applicant, representing Mary Gaski, owner, requesting the following variance(s) in order to add to the existing residence at the property located at 315 Alta, zoned SF-B:

1. A proposed one (1) car covered parking space instead of the minimum two (2) required per Section 3-21 and
2. A proposed attached garage is 28.5ft beyond the midpoint of the main structure, is located towards the front instead of to the rear, and is 32ft from the front property line instead of the minimum 50ft required per Section 3-21 of the City's Zoning Code.

Ms. Shealey presented the case. Theresa McFaul, applicant, was present and addressed the board.

The existing house is being preserved but due to its current placement, there is no vehicular access to the rear. Chairman Rose expressed concerns regarding access to the rear on the west side and the applicant responded.

Mr. Satel moved to approve the variances as requested. Mr. Caporaletti seconded the motion.

The motion was approved with the following vote:
FOR: Rose, McIlhenny, Satel, Caporaletti
AGAINST: None

There being no further business, Mr. Satel moved to adjourn the meeting. Mr. McIlhenny seconded the motion. The meeting was adjourned at 6:55p.m.

THE PROCEEDINGS OF THE MEETING ARE ALSO DIGITALLY RECORDED, AND THESE MINUTES ARE ONLY A SUMMARY OF THE MEETING. THESE MINUTES ARE NOT A VERBATIM TRANSCRIPT OF THE PROCEEDINGS AND DO NOT PURPORT TO INCLUDE ALL IMPORTANT EVIDENCE PRESENTED OR STATEMENTS MADE.



David Rose, Acting Chairman
(Board Approval)

11/06/2019
Date Signed & Filed



Cety Hernandez, Planner
Community Development Services

