



MEETING MINUTES

CITY OF SAN ANGELO, TEXAS
ZONING BOARD OF ADJUSTMENT
MONDAY, December 4, 2023, AT 1:30 P.M.
72 W. College Avenue
City Hall East Mezzanine Meeting Room

BOARD PRESENT: Gary Cortese, Chairperson
Don Barnhart
Stephanie Hamby
Teri Jackson
Bobby Guerrero
Julie Efferson
Mimi Clark

STAFF PRESENT: Aaron Vannoy, Assistant Director of Development Services
Rick Weise
Brandon Dyson, Assistant City Attorney
Sherry Bailey, Principal Planner
Rae Lineberry, Planner I
Austin Reed, Planning Technician
Olga Truman, Planning Technician

- I. Call to order and establish that a quorum is present.
- II. Review and take any action related to minute records of the regular meeting held on Monday, October 2, 2023. The Board has approved the correction of the minutes previously.
Review and take any action related to minute records of the regular meeting held on Monday, November 6, 2023.
Review and take any action related to minute records of the regular meeting held on Monday, November 6, 2023.

A motion to table the minutes was made by Don Bernhart and seconded by Julie Efferson.

November 6, 2023, minutes were tabled. The vote to approve was 7-0.

(After viewing the recorded meeting, staff has made the corrections to the November minutes as suggested and will file with the approved minutes when signed.per the motion)

- III. **ZBA23-33: 701 W 16th Street** **SMD #4 – Lucy Gonzales**
Request for a variance from 501.A Residential District Regulations to allow a 99 ft. lot depth in lieu of the 100 ft. depth requirement, and to allow 4950 sq. ft. in lieu of the required 5000 sq ft. per lot, and to allow a 15 ft. front yard setback in lieu of the required 25 ft. on N. Brown Street.

Principal Planner, Sherry Bailey, presented the request to the Board of Adjustment. The applicant has submitted a request for approval of a variance from Section 501 A. Residential Development Standards of the Zoning Ordinance to allow for a variance of a 99 ft. lot depth in lieu of the 100 ft. depth

requirement, and to allow 4950 sq. ft. in lieu of the required 5000 sq ft. per lot, and to allow a 15 ft. front yard setback in lieu of the required 25 ft. on N. Brown Street.

22 notifications mailed within a 200-foot radius. No responses either for or against the request.

Staff's recommendation is for the Board to approve all three variance requests including: 99 ft. lot depth in lieu of the 100 ft. depth requirement, and to allow 4950 sq. ft. in lieu of the required 5000 sq ft. per lot, and to allow a 15 ft. front yard setback in lieu of the required 25 ft. on N. Brown Street.

Questions from the Board:

Teri Jackson: Are there any houses out there that are 25 Feet setback?

Sherry Bailey: I have looked in that general area and I don't see any with that second front yard setback, because most of them are older buildings. If it is a newer home, they have already come and asked for the variance, so they are consistent with that area.

The Chair: How far does the house have to have the setback from the back property line?

Sherry Bailey: It has to be 20 Feet from the property line and it can be.

The chair: Is there is house behind it?

Sherry Bailey: Yes, there is.

The chair: Are they planning to build a fence in a back yard? How tall the fence will be? If they are planning to build the fence, does it stop at 25 feet or how far the fence can be from the property line?

Sherry Bailey: For the 25 Feet property line it is limited to 6 Feet in height, so that would be allowed.

The chair: Even in the back yard?

Sherry Bailey: Yes, except for the sight triangle.

Assistant Director, Aaron Vannoy: Mr. Cortese anything you see that is to the street side and 15 Feet building line or the 25 Feet building line is subject to be shorter than privacy fence. It has to be 4 Feet.

The Chair opened the Public Comment.

Jack Downey SKG: Do you have any questions?

The chair: Do you understand the fence rule?

Jack Doney: Yes, Sir.

The Chair called for a motion and discussion.

A motion to accept as presented by Teri Jackson and seconded by Julie Efferson. The motion passed 7-0.

IV. ZBA23-34: 1525 Paseo de Vaca

SMD #5 – Karen Hesse Smith

Request for a variance from Sec 501 to allow a 10' rear yard setback in lieu of the 20' setback requirement within the Single-Family Residential (RS-1) Zoning District located at 1525 Paseo de Vaca.

Planner Rae Lineberry presented this request to the Board of Adjustment. The applicant has applied for a variance from Sec 501 to allow a 10' rear yard setback in lieu of the 20' setback requirement within the Single-Family Residential (RS-1) Zoning District located at 1525 Paseo de Vaca. 15 notifications mailed within 200-foot radius on November 20, 2023.

Received 0 in support or opposition.

Staff's recommendation is for the Zoning Board of Adjustment (ZBA) to **deny** the requested variance from Section 501.A of the Zoning Ordinance to allow a 10' rear yard setback in lieu of the 20' setback requirement.

Questions from the Board:

Julie Efferson: Why does staff recommend denial?

Rae Lineberry: Simply because we cannot find the hardship. There is no reason why they should not follow the City Ordinance.

Brandon Dyson, Assistant City Attorney: I just want to clarify that hardship requirement that is analysis we go through on each case to show special circumstances. Granting the variance is the minimum action that will make it possible to use the land. It is part of the different factors you consider for granting the variance.

Julie Efferson: What do they want to build?

Rae Lineberry: Second garage.

The Chair opened the Public Comment.

David Mazur, general contractor: There were 2 variances granted on that street in the 90s. It was actually more of a variance than we are requesting on this one. There is 10 Feet utility easement, this to me will qualify as a special circumstances, because of the fence. The actual property line is 10 Feet behind the fence. Just the way Santa Rita was building years and years ago, some houses are built on the property line, or just off the property line, if you look down the whole street of Paseo, there is probably nine properties that have the garages, apartments and accessory buildings that was built on the property line. In this case we have a 10 Foot utility easement, that nothing can build on, as far as the fire issue. The reason I want to build on the back side, because if we put it in the back, we will have an approach from Avenue L, you will not be going to see it. If we put it at the front, that is the first thing you are going to see, and you will have all the cars on the front of the property. As far as the sight issue, we are going to make it blend with the original house.

Board Comments:

Teri Jackson: Rae, did you say it is 5 Feet easement or 10 Feet?

Rae Lineberry: It is 5 Feet according to our easement records.

Stephanie Hamby: So, it is two and a half on each side?

Rae Lineberry: Yes.

Teri Jackson: It is actually bigger than that if you go measure it.

Rae Lineberry: It may be but according to our Real State office, that has the easement release it says the 5 Feet. It was done back in 1966, I think. something might have changed.

The Chair called for a motion and discussion. A motion to approve the variance as requested but not the recommended denial by staff, by Teri Jackson and seconded by Julie Efferson. The motion passed for approval of the requested variance, 7-0.

V. ZBA23-35: 3013 Red Bluff Circle SMD # 1 – Tommy Hiebert

Asst. Dir. Vannoy presented the request to approve a request for a variance from Art. 4, Section 406 A.4 of the Zoning Ordinance to restrict the placement of any Short Term Rental within 500 feet of another Short Term Rental.

Assistant Director of Development Services, Aaron Vannoy presented this request to the Board of Adjustment. The applicant has applied for a variance from Sec 426 to allow a distance less than 500' between Short-Term Rentals in RS-1 zoning. 13 notifications mailed within 200-foot radius – November 2023. Received 0 in support, 0 in opposition.

City staff has no recommendation currently. Processing issue in October 2022; applicant email application to City of San Angelo. Application did not get processed. The applicant thought everything was ok and began operating. Since that time, a property at 2950 Red Bluff Circle has been issued a Conditional Use

for a Short-Term Rental. The Applicant reached out in November 2023 asking what it takes to renew their application. The properties are 195' apart.

Questions from the Board:

The Chair: is it currently operating as a Short-Term Rental?

Aaron Vannoy: Yes, it is. They did make an application back in 2022, an application did not get processed, it did not go forward to the Planning Commission.

The Chair: Have they followed the rules for the Short-Term Rental Ordinance while they were operating?

Aaron Vannoy: We checked to see if they had any complaints, they did not have any complaints. We checked if they paid HOT tax. There was not any HOT tax receipts that the tax had been paid.

Rick Wiese: When that application was turned in, was everything in place?

Aaron Vannoy: They were supposed to pay the application fee, they did not pay the fee for the application, so it did not move forward to the Planning Commission.

The Chair: There has been revenue generated then?

Aaron Vannoy: This question is for the applicant, we do not have any evidence or proof that they are operating and paying the fee, though they are advertising.

How we found out about that, they actually reached out to us about month ago and asked what to do to renew. That's when it was discovered that they did have a Conditional Use, so we started this process.

Teri Jackson: So, the other one is approved, when was it approved?

Aaron Vannoy: I will say it was approved in July or August of this Year. It has received a Certificate of Occupancy, and it is operating.

The Chair opened the Public Comment.

Cory Nelson, the applicant: I do maintenance on this Short-Term Rental. My wife was the one who turned in the application and did the emails, going back and forth, we mailed a check, they said you can start operating as a Short-Term Rental. It is going on for a year. When the year was up we start questioning the City staff about the renewal, that is when we found out we have no Conditional Use.

The chair: Can you give me an estimate about how many times it is being rented out?

Cory Nelson: My guess is 30.

The Chair: Do you have a copy of emails with you?

Cory Nelson: I do not.

The Chair: Are the owners local or do they live out of town?

Cory Nelson: They live in Houston.

The Chair: Do they know about Hotel Tax and all this situation what is going on?

Cory Nelson: I would assume he is keeping up on taxes. He is aware of what is going on. What I was told it is not going to be a big deal since I've got prove they are messed up; it's not going to a big deal, and everything will be easy. We've been operating for the year and have no complaints from the neighbors.

The chair: You should have brought your emails.

Cory Nelson: I never thought it was such a big issue. Is this better to table this for next month?

Public comment was closed.

The Chair called for a motion and discussion. A motion to table for next meeting Stephanie Hamby and seconded by Julie Efferson. The motion passed to table the request to the first meeting in January, passed 7-0.

VI. Director's Report

Asst. Director Aaron Vannoy

Update on the possibility of an expansion of the Open Structure Overlay Zone.

Assistant Director of Development Services, Aaron Vannoy presented this report to the Board of Adjustment. I want to give you an update on open structures Overlay Zone and possibly extension. You have two cases now that is tabled for carports that are on, I think it is Cordell just north of Edmund and 29th St. We have talked to the Planning Commission, and they told us to move forward with an extension. I want to show you what it looks like, look at this area, as you can see there, everything up from this pink line up north is outside of Open Structure Overlay. That is in district 2- Tom Tompson, it is Angelo Heights neighborhood. Right now, we have identified 14 open structures, most of them are carports, there is a couple that are not. I would say all but maybe one are out of compliance. For the various reasons and there is various dates when they built. What is Open Structure and what is it really mean in that small section. Everything in pink has the Open Structure Overlay and Planning Commission was comfortable to bring it in, and to considered expanding it to this area. This is what our process is going to be. We drove down to Edmund St. and while it is in open structure overlay, the 8 that is on that street the only one of them that come into compliance. Not sure if we want to deal with that as well, but at least we know where we want to extend the Open Structure Overlay into. Open Structure Overlay Components are: Allows open carport structure to within 5' of front property line. Should be relative same pitch as the home roof. Should be same materials and color as the home roof. Was created to allow older homes on smaller lots where there may have been one garage or no garage structure to have covered parking. In this area that is not apply for any single one of those houses. They either have larger lots, or they built two car garages. They are adding on in front of their garages. Some of them still will need to ask for a variance.

Our plan is: Notice Property Owners and bring case to Planning Commission in Jan 2024. The case would go before City Council in February 2024. City Staff would notice property owners of open structures in February. In March 2024 have a special ZBA meeting to address any non-conformities. That is probably 200-225 property owner's rite in that area. They are going to get a notice; we are going to find out very quickly from them if they want that or they don't want that. We need to educate them and explain on what it is.

The Chair: Will they grandfather the design if the Overlay gets approved?

Aaron Vannoy: There is an opportunity for them to come to ZBA and ask for variance. The question is: Does that rule meet with our criteria?

Brandon Dyson: It will definitely be a separate action from expanding the boundaries.

Aaron Vannoy: They don't have permits either, so they still have to go through that separate process.

Stephanie Hamby: Does the Overlay benefit the neighborhood?

Aaron Vannoy: Yes. It gives them opportunities to build the open structure. They will have opportunities to build the carport if they choose to. It depends on how everything goes at the Planning Commission, we will present this case to the City Council. To expand the boundaries if they say yes after the two readings, and they approve this. Probably after the first reading we will send the notice to the property owners and start working on helping those who need it through the processes.

VII. Public Comment

Issues or concerns not on the Regular Agenda may be raised by the public at this time. Citizens should speak from the podium, address all comments to the dais, and begin by stating their name and address or Single Member District number. Please limit all remarks to less than three minutes.

VIII. Next Meeting Agenda

The next regular meeting of the Zoning Board of Adjustment is scheduled to begin at 1:30 p.m. on **Monday, January 8, 2024**, in the City Hall East Mezzanine Meeting Room.

- X. Adjournment** Teri Jackson moved to adjourn, and Julie Efferson seconded. All present voted aye. The meeting was adjourned at 2.40 PM.

This notice of the meeting was posted on the bulletin board at the City of San Angelo's City Hall before 1:30 p.m. on or before the 30th day of November 2023, in accordance with Chapter 551 in the Government Code of the State of Texas.

Gary Cortese, Chairman