

**ZONING BOARD OF ADJUSTMENTS
MARCH 13, 2025
CITY HALL'S COUNCIL CHAMBERS**

ZBA PRESENT

Alberto Salazar
Heraclio Flores, Jr.
Dolly Elizondo
William Ueckert Jr.

ZBA ABSENT

Humberto Garza

STAFF PRESENT

Susie De Luna
Irasema Dimas
Jessica Munoz
Alex Hernandez
Patricio Martinez

GUESTS PRESENT

Maria Botello
Conne A. Gomez
Patricia Gomez
Anna Silva Cantu

CALL TO ORDER

Chairman Heraclio Flores called the meeting to order at 4:43p.m.

CITIZENS PARTICIPATION

Chairman Heraclio Flores asked if there was anyone in the audience that had anything to present or express that was not on the agenda.

There was none.

APPROVAL OF MINUTES FOR FEBRUARY 22, 2025

Chairman Heraclio Flores asked if there were any corrections to the minutes. Mr. Salazar moved to approve the minutes as presented. Ms. Elizondo seconded the motion. Upon a vote, the motion passed unanimously.

ITEM #1.1

TO ALLOW A TOTAL OF 1,257.15 SQ.FT. INSTEAD OF THE MAXIMUM 800 SQ. FT. ALLOWED FOR AN ACCESSORY STRUCUTRE (BBQ TERRACE/SPA) AT 3104 GRANITE DRIVE, LOT 15, STONEGATE SUBDIVISION PH. I AS REQUESTED BY CARLOS RAINHA

Ms. De Luna stated that the subject site is located approximately 220' north of Stonegate Drive along the east side of Granite Drive. The irregular lot has a total 18,148.97 sq.ft.

The applicant would like the Board to consider the above-mentioned variance to construct a BBQ Terrace/SPA 457.15 sq.ft. over the 800 sq.ft. maximum allowed. Staff notes that the proposed structures would be meeting the required setbacks.

Accessory structures are allowed in lots zoned R-1 (Single Family Residential), however, they need to meet the requirements below.

On December 16, 2013 the City Council approved Ordinance #4044 which states: An accessory use customarily related to a principal use authorized in this district. Furthermore, any non-living accessory structure, such as a carport or a garage, whether as an addition or as a detached building, shall not exceed a maximum size equal to 40% of the primary structure's living area; and shall not exceed the primary structure's total height, as measured to the top of its roof. However, if the primary structure's living area totals less than 2,000 square feet, the accessory structure may be constructed to a

maximum size of 800 square feet. No carport, whether temporary or not, shall have a roof composed of tarp, canvas, or other similar fabric-like material. It is noted that the total living area for the home is 1,797 sq.ft.

Staff notes that ZBA has considered the following variances within this subdivision

Staff mailed out 13 notices to the surrounding property owners within 200' radius to get their input in regards to this request.

RECOMMENDATION: Denial.

Chairman Heraclio Flores asked if there was anyone in favor or against the variance request.

Mr. Carlos Rainha who resides at 3104 Granite Drive was present. He stated that his lot was a very large lot and had enough space to build another home. He added that what he was proposing to built was an open Bar-b-que area, a gym with two restrooms that his guest use and a spa.

Ms. Dolly Elizondo stated that Mr. Rainha was proposing to built a pergola with one enclosed area which was a spa.

Mr. Carlos Rainha replied yes.

Ms. Dolly Elizondo asked how was he proposing to build the roof?

Mr. Carlos Rainha replied that it was a covered roof to protect him from the heat. He added that the structure he wanted to built was only for him and his family. He added that he attended the gym on daily but would like one in the back of his house to wake up at whatever time in morning and just go.

Chairman Heraclio Flores entertained a motion to close the public hearing. Ms. Dolly Elizondo moved to close the public hearing. Mr. William Ueckert seconded the motion. Upon a vote, the motion passed unanimously.

Ms. Dolly Elizondo stated that the lot was an irregular lot and exceptions could be made. She added that it was a pergola and not a living area.

Mr. Alberto Salazar asked what was the propose of city council only approving 800sq.ft. for accessory structures.

Ms. Dolly Elizondo stated limit the accessory structures.

Ms. Susnana De Luna replied that it was to limit the size of the accessory structures.

Mr. Alberto Salazar stated that setbacks give you the limitations on what can be built.

Chairman Heraclio Flores entertained a motion. Ms. Dolly Elizondo moved to approve the variance request. Mr. Alberto Salazar seconded the motion. Upon a vote, the motion passed unanimously.

ITEM #1.2

TO KEEP A 11.5' SIDE SETBACK INSTEAD OF THE REQUIRED 18' AND A 1' REAR SETBACK INSTEAD OF THE REQUIRED 10' FOR A CARPORT, AT 1911 JOHNATHON DRIVE, BEING LOT 109, THE OAKS AT CIMARRON, AS REQUESTED BY MARIA BOTELLO

Ms. De Luna stated that the site is located at the northwest corner of Red River and Jonathon Drive. The lot measures 75'x 120' for a total 9,000 sq.ft.

The applicant would like the Board to consider the above-mentioned variance to keep a 20'x21.9' carport that was built without a permit. This violation was discovered by Code Enforcement while doing an inspection in the area.

Staff notes that ZBA has not approved or considered any variances within this subdivision. Staff mailed out 24 notices to the surrounding property owners within 200' radius to get their input in regards to this request.

RECOMMENDATION: Denial.

Chairman Heraclio Flores asked if there was anyone in favor or against the variance request.

Ms. Maria Botello who resides at 1911 Johnathon Drive was present. She mentioned that when she applied for her permit she said that it was a carport but she doesn't use it to park her cars. She added that she uses the structure, as a patio, shade for her dogs, parties, and bar-b-cue's. She stated that the cement was there already and she built the carport/patio the size of the cement.

Chairman Heraclio Flores asked if the cement had a permit.

Ms. Maria Botello replied that she purchased the home with the cement.

Mr. Alberto Salazar asked if she applied for a building permit.

Ms. Maria Botello replied that she was not aware that she needed a permit.

Mr. William Ueckert asked when was the carport/patio built?

Ms. Maria Botello replied that she had it built 6 months ago.

Ms. Dolly Elizondo stated that she was reading that the permit was denied.

Ms. Maria Botello replied that is what I was told.

Ms. Dolly Elizondo asked that if Ms. Maria Botello continued with the construction after the permit was denied.

Ms. Maria Botello replied that she was not aware she needed a permit. She mentioned that she applied for the permit after the carport/patio was build.

Chairman Heraclio Flores entertained a motion to close the public hearing. Ms. Dolly Elizondo moved to close the public hearing. Mr. William Ueckert seconded the motion. Upon a vote, the motion passed unanimously.

Chairman Heraclio Flores stated that it wasn't only a utility easement issue but also a fire hazard.

Chairman Heraclio Flores entertained a motion. Ms. Dolly Elizondo moved to deny the variance request as presented. Mr. Alberto Salazar seconded the motion. Upon a vote, the motion passed unanimously.

ITEM #1.3

TO KEEP A 0' FRONT SETBACK INSTEAD OF THE REQUIRED 20' AND A 1' SIDE SETBACK INSTEAD OF THE REQUIRED 6' FOR A CARPORT AT 114 RESPLANDOR, BEING LOT 6, BLOCK 8, TIERRA DORADA SECTION 2, AS REQUESTED BY IRMA EMMA GOMEZ

No Action was taken.

Chairman Heraclio Flores entertained a motion to un-table Item 1.4. Mr. Alberto Salazar moved to un-table the variance request. Ms. Dolly Elizondo seconded the motion. Upon a vote, the motion passed unanimously.

TABLED ITEM #1.4

TO KEEP A 5' SIDE SETBACK INSTEAD OF THE REQUIRED 6' AND A 5' REAR SETBACK INSTEAD OF THE REQUIRED 10' AT 1713 AUDREY DRIVE, BEING LOT 92, THE LEGENDS AT CIMARRON, AS REQUESTED BY CONNE A. GOMEZ

Ms. Deluna stated that This item was previously tabled during the January 22, 2025 meeting to allow the applicant time to call 811 to schedule an appointment to mark the utility lines and provide letters from the utility locator.

The subject site is located at the northwest corner of Princeton Drive and Audrey Drive. The irregular lot has a total area of 10,451.21 sq.ft.

The applicant would like the Board to consider the above-mentioned variance to keep the following: a 10'x55' canopy patio cover and a 21'x21' patio w/outdoor kitchen. Staff notes that a building permit for the patio w/outdoor kitchen was obtained on 1/29/10 and it was meeting setbacks. The applicant recently modified the patio w/outdoor kitchen and added the canopy patio cover without obtaining a permit. This violation was discovered by Code Enforcement while doing an inspection in the area. The applicant did mention that the canopy patio cover was added for privacy from the adjoining properties for the new swimming pool.

Staff mailed out 28 notices to the surrounding property owners within 200' radius to get their input in regards to this request. As of this writing staff has not received any comments in favor or against the request.

RECOMMENDATION: Denial. The structures must be modified to comply with the required setbacks.

However, if ZBA is inclined to approve this request then the applicant would need to comply with the following: 1) Signing a hold harmless agreement stating that the structures will remain perpetually "open and to its footprint" and if ever removed, the prevailing setbacks shall be complied thereafter, and 2) obtaining a building permit fee and pay a double permit fee.

Chairman Heraclio Flores asked if there was anyone in favor or against the variance request.

Mr. Conne Gomez who resides at 1713 Audrey Drive was present. He mentioned that the purpose for the canopy covered patio was for security/privacy purposes for the pool he had built. He added that his pool was not a public pool but a private one. He mentioned that when he hired the contractor to build the "canopy" he told him that he needed privacy from his neighbors that had a two-story house. He stated that later on he found out that the contractor he hired didn't obtain the proper permit for the canopy.

Ms. Dolly Elizondo asked if staff received the utility locator letter?

Ms. Susana De Luna replied that pictures were taken where the utilities were located.

Mrs. Anna Silva Cantu wife of Jose Manuel Cantu who resides at 1711 Audrey Drive was present. She mentioned that she was terrified when she received the notice of the public hearing, she stated that she didn't know what was going on. She added that she's resided at her home for last 14 years and no modifications had been done to her home. She mentioned that she was not present to harm anyone or to accuse anyone of anything, that she was invited to come to this meeting in reference to the item being presented. She stated that she doesn't agree with her neighbors comment that he needs privacy, but understands that everyone needs their privacy, when setback lines are respected. She added that Mr. Gomez would call her husband everyday to sign a document for him that he had no problem with the structure that was built. She mentioned that she called her insurance and her insurance informed her that if she would sign the document and something would happen her house the insurance would not be cover any damages. She added that her neighbors when they purchased their home knew she had a two-story home.

Chairman Heraclio Flores entertained a motion to close the public hearing. Ms. Dolly Elizondo moved to close the public hearing. Mr. Alberto Salazar seconded the motion. Upon a vote, the motion passed unanimously.

Chairman Heraclio Flores entertained a motion. Mr. William Ueckert moved to deny the variance request as presented. Ms. Dolly Elizondo seconded the motion. Upon a vote, the motion passed unanimously.

2.0 OTHER BUSINESS

There was none.

3.0 ADJOURNMENT

There being no further business, Ms. Dolly Elizondo moved to adjourn. Mr. William Ueckert seconded the motion. Upon a vote, the motion passed unanimously at 5:21 p.m.

Heraclio Flores, Chairman
Zoning Board of Adjustments