

**ZONING BOARD OF ADJUSTMENTS  
JANUARY 28, 2026  
CITY HALL'S COUNCIL CHAMBERS**

**ZBA PRESENT**

Alberto Salazar  
Humberto Garza  
Heraclio Flores  
Dolly Elizondo

**ZBA ABSENT**

William Ueckert Jr.

**STAFF PRESENT**

Alex Hernandez  
Xavier Cervantes  
Jessica Munoz  
Elisa Zurita  
Patricio Martinez

**GUESTS PRESENT**

Ramones Roberto  
Jacklyn Ramirez  
Juanita Garcia  
Jose Angel Cantu  
Rosana Ramirez  
Robert Acosta  
Roberto Gamez  
Gary Wood  
Ricardo Reyna  
Margarita Zamora  
Fidel Montiel  
Paulina Cardoza  
Bernando Guerra  
Enrique Castillo  
Cristine Esquivara  
Luis A. Rodriguez

**CALL TO ORDER**

Chairman Heraclio Flores called the meeting to order at 4:35 p.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 JANUARY 6, 2026**

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

**ITEM #5**

**ELECTION OF CHAIRMAN AND VICE-CHAIRMAN**

Mr. Cervantes stated it is a common procedure to elect a Chairman and Vice-Chairman Every Year. The Current Chairman is Heraclio Flores, and the Vice-Chairman is Humberto Garza. Mr. Cervantes stated that as the first meeting of the year, the board must hold its annual election of officers. He explained that the board has the decision to either retain the previous year's officers or elect new ones.

Ms. Elizondo nominated Mr. Albert Salazar for Chairman.

There being no further discussion, Chairman Flores entertained a motion. Ms. Elizondo moved to elect Mr. Albert Salazar as Chairman. Mr. Garza seconded the motion. Upon a vote, the motion passed unanimously.

Mr. Garza nominated Mr. Heraclio Flores for Vice- Chairman.

There being no further discussion, Chairman Salazar entertained a motion. Mr. Garza moved to elect Mr. Heraclio Flores as Vice-Chairman. Ms. Elizondo seconded the motion. Upon a vote, the motion passed unanimously.

Mr. Cervantes informed the applicants that they may request a hearing before a full board due to the absence of a board member.

Chairman Salazar entertained a motion. Ms. Elizondo moved to un-tabled item #6. Mr. Flores seconded the motion. Upon a vote, the motion passed unanimously.

#### **ITEM #6**

**TABLED: TO ALLOW A 10'-1 9/16" FRONT SETBACK INSTEAD OF THE REQUIRED 25-FOOT AND A 6-FOOT REAR SETBACK INSTEAD OF THE REQUIRED 10- FOOT AT 1212 POST OAK STREET, BEING LOT 103, BRYAN'S LANDING SUBDIVISION BY LUIS D. WALDO**

Mr. Alex Hernandez stated that this item was previously tabled on January 06, 2026. The applicant failed to obtain an approved H.O.A. letter of approval. The request is for a variance not to comply with Section 1.37 (5) (e) (f) of the Mission Code of Ordinances, which states: Minimum depth of front setback: 25 feet; Minimum depth of rear setback: 10 feet; and Where a building setback has been established by plat or ordinance and such setback requires a greater or lesser setback than is prescribed by this article for the district in which the building is located, the required front yard setback shall comply with the building line so established by such plat or ordinance. The site is located at the southwest corner of N. Bryan Road and Post Oak Street. The applicant is requesting a variance to construct a new dwelling facing N. Bryan Road with a 10'-1 9/16" front setback instead of the required 25-foot setback and a 6-foot rear setback instead of the required 10-foot setback. Bryan's Landing Subdivision was recorded on May 16, 2025. The subject property is a lot outside the subdivision walls. The subject lot has a total area of 6,661.01 square feet. The Planning staff has not received any objections to the request from the surrounding property owners. Staff mailed out 21 legal notices to surrounding property owners. The proposed house has 2,633.00 square feet and a 510.00 square feet garage.

#### **STAFF RECOMMENDATION:**

Staff recommends denial. This request does not constitute an undue hardship. However, if ZBA is inclined to approve this variance request then the applicant would need to comply with the following: 1) Sign a hold harmless agreement stating that the structure will remain perpetually "open and to its footprint," and if the structure is ever removed, the prevailing setbacks shall be complied with thereafter, and 2) obtaining a building permit fee.

Mr. Hernandez confirmed that the owner's permission had been received and proceeded to review the agenda items. He explained that the public hearing concerned a request for a 10-foot, 1-inch front setback and a 6-foot rear setback for Lot 103 in the Brian's Landing Subdivision, located at 1212 Post Oak Street. He noted that while the HOA approval letter was previously missing, the applicant, Mr. Luis De Waldo, had since submitted one from the HOA president. Mr. Hernandez described the lot as totaling 6,661 square feet and mentioned the proposed 2,633-square-foot home would include a two-car garage. He concluded by stating that staff is now recommending approval of the request.

Chairman Salazar inquired whether the applicant had obtained a letter from the owner.

Mr. Hernandez clarified that the applicant had provided a letter of approval from the HOA president, which was included in the board's packet.

Mr. Flores asked whether the applicant had obtained permission from the owner.

Mr. Hernandez explained that the applicant did get permission from the HOA since it is a new development, the developer serves as the HOA.

Mr. Eduardo Rodriguez, representing Fortis-Land co, clarified that the developer and the HOA are the same entity. He explained that the subdivision was specifically designed with a high-quality elevation facing Bryan Road to address previous concerns expressed by the City Council. He noted that while the city oriented the lots toward Post Oak Street by plat and address making Post Oak the legal front the project remains in compliance with the intent of the plat. Mr. Rodriguez stated that although staff recommended a variance based on their interpretation of the front setback, the design aligns with the original intent for the property to be aesthetically pleasing from Bryan Road. He confirmed the home would maintain a 25-foot setback from Post Oak Street, with the driveway also located there. He further explained that the subdivision's design features stacking and gates off Bryan Road, though the houses are accessed via Post Oak. He noted that the house at the entrance is intended to have a high-quality aesthetic facing Bryan Road. According to Mr. Rodriguez, the variance is specific to the three front lots, a unique arrangement intended to maintain the subdivision's long-term appearance. He indicated that the owners of the other two lots, Diana and Ingrid Izaguirre, may request similar variances in the future. Addressing the interpretation of the front elevation, Mr. Rodriguez maintained that since the legal address is on Post Oak, that remains the front. He argued that a lot cannot have two 25-foot setbacks and characterized the request as a clarification of the original design intent. He warned that if the homes were forced to face Post Oak, passersby on Bryan Road would see the side of the house rather than the intended front elevation. He highlighted the significant investment made in iron gates and landscaping totaling approximately \$500,000 to ensure the homes were visually integrated with Bryan Road.

Board member Garza asked why these specifications were not included during the initial planning process.

Mr. Rodriguez admitted that in 2020, the design had been discussed extensively in meetings with the Mayor, City Council, and staff. He asserted that renderings were submitted and that the current situation was not an oversight but a reflection of the subdivision's intended spirit. He acknowledged that while the process created some ambiguity, the design was explicitly discussed to address the concerns of Mission residents from the area.

Mr. Garza asked if there was any documentation or proof of these conversations.

Mr. Rodriguez questioned the specific nature of the concern and asked for clarification regarding which staff meetings were being referenced. Mr. Rodriguez stated that he had discussed the matter with the Mayor as recently as the previous week and throughout the previous year. He asserted that the Mayor agreed the current design aligned exactly with the original expectations of the City Council. He pointed out a disconnect in communication, noting that while the Council's intent seemed clear, staff was nonetheless recommending denial. He informed the Council that if the variance were denied, the developer would rotate the house to face Post Oak Street to comply with recommendations, regardless of the aesthetic impact. However, he emphasized publicly that the

staff's current position contradicted previous recommendations made by the City. Mr. Rodriguez noted that the lots had already been sold and that he had encouraged the builder, Mr. Waldo, to enter the community based on the understanding that his luxurious home designs would face Bryan Road. Mr. Rodriguez argued that the facts of the situation were self-evident. He warned that interpreting Bryan Road as the "front" of the property would create further complications, such as whether the city would then have to allow driveway access off Bryan Road, something staff had previously opposed. He maintained that the decision of which side of the house to decorate should be an HOA matter rather than a city decision, especially since the HOA had already approved the design. Finally, he insisted that the project remained in full compliance with the recorded plat, which requires a 25-foot setback from Post Oak and a 10-foot setback from Bryan Road.

Ms. Elizondo stated the documentation for the request for a variance is a 10-foot front setback instead of the required 25 foot setback which the layout strictly followed the setbacks established in the original plat.

Mr. Rodriguez contested the documentation, stating that it was incorrect. He clarified that the builder, Mr. Waldo, was requesting a 10-foot setback from Bryan Road while maintaining a 25-foot setback from Post Oak Street. He argued that if the city inferred Bryan Road was the front, it would grant the homeowner the right to build a house facing Bryan, which was an outcome staff originally sought to avoid.

Ms. Elizondo stated that the board only votes on the setback rather than the specific placement of the house.

Mr. Rodriguez explained that he was addressing the inaccuracies he found in the city's documentation.

Mr. Hernandez noted that the front setback for a house typically ranges between 20 and 30 feet depending on the plat, and in this specific case, the requirement is 25 feet.

Mr. Rodriguez then asked for a definitive clarification on whether Post Oak Street or Bryan Road is considered the legal front of the lot.

Mr. Hernandez confirmed that the lot is oriented toward Post Oak.

Mr. Rodriguez concluded that the 25-foot front setback must therefore apply to Post Oak.

Ms. Elizondo then inquired about the property's address.

Mr. Hernandez stated the lot would have a Post Oak address as required for emergency services, the house should naturally face that street. He stated that the plans maintain a 25-foot setback from Post Oak, though he acknowledged during a site plan review that certain elements do not maintain that same distance from Bryan Road. He added that the garage and concrete driveway appeared to be within the 25-foot setback area.

Mr. Luis Daniel Waldo of Waldo Homes explained his company's extensive building history in the Mission area and expressed his desire to build a high-end home with significant curb appeal facing Bryan Road. He noted that he sought a variance prior to purchasing the lot to ensure his design was feasible. Mr. Waldo stated he was willing to move the garage back to remain in compliance or create a "double facade" to maintain the subdivision's, emphasizing that his goal was to make the home

aesthetically pleasing for those driving by on Bryan Road. Mr. Waldo confirmed the project is currently a spec home intended to serve as a model for future sales.

Ms. Elizondo clarified that the board's responsibility was strictly to address the legal setbacks rather than the placement of the front door or the home's marketability.

There being no further discussion, Chairman Salazar entertained a motion. Ms. Elizondo moved to close public hearing. Mr. Garza seconded the motion. Upon a vote, the motion passed unanimously.

Ms. Elizondo requested to hear the staff's recommendation.

Mr. Hernandez stated staff recommended denial because the request did not represent a unique hardship. He explained that the front setback requirement is 25 feet regardless of whether the house faces Bryan Road or Post Oak Street. Additionally, he noted that the applicant requested a 6-foot rear setback instead of the standard 10 feet due to the proposed rotation of the house.

Ms. Elizondo clarified that the board was addressing two separate issues regarding these setbacks.

Mr. Hernandez confirmed that while the lot's legal orientation is toward Post Oak, the house's physical orientation toward Bryan Road effectively makes that the "front," triggering the 25-foot minimum.

During the discussion, Mr. Flores inquired about the compliance of the garage entrance.

Mr. Hernandez responded that the current plan showed an 18-foot garage setback, which failed to meet the required 25 feet for a front-facing orientation. He added that while the applicant could potentially adjust the garage to 25 feet, the primary issue remained the overall orientation of the house toward Bryan Road. In response to a query about whether this could have been resolved during the platting process, Mr. Hernandez explained that the city ordinance for an R1A zone requires a minimum 25-foot front setback. He clarified that even at the plat level, the city would not have allowed a setback less than what the ordinance requires, though the developer could have opted for a larger setback.

Ms. Elizondo concluded by asking for further details regarding the swing of the gate.

Mr. Hernandez explained that the gate swings outward toward the center of the road from the center monument, rather than toward the driveway.

Ms. Elizondo raised concerns regarding traffic and accessibility, noting that if a vehicle were parked near the garage, an outward-swinging gate might block access.

Mr. Hernandez agreed that this configuration could limit off-street parking options. He reiterated that regardless of which way the house faces, the access point remains the same as established in the approved plat, which prohibits access from Bryan Road.

Mr. Cervantes pointed out that these three lots are unique because they are located outside the main subdivision gate. He suggested that due to this unique situation, the board could determine that a legitimate hardship exists.

Board member Flores asked for clarification on the lot's uniqueness,

Mr. Cervantes reaffirmed that the specific positioning of these three lots outside the gate created a distinct scenario for the board to consider.

There being no further discussion, Chairman Salazar entertained a motion. Ms. Elizondo moved to approve the variance request as presented. Mr. Flores seconded the motion. Upon a vote, the motion passed unanimously.

**ITEM #7**

**TO ALLOW A 10-FOOT SIDE SETBACK INSTEAD OF THE REQUIRED 20-FOOT SETBACK AT 2601 SAN LORENZO STREET, BEING LOT 16, SHARYLAND PLANTATION VILLAGE SAN MIGUEL PHASE VI SUBDIVISION BY ROSANA RAMIREZ AND JOSE A. CANTU**

Mr. Alex Hernandez stated the request is for a variance not to comply with Section 1.46 (3) (b) of the Mission Code of Ordinances, which states: Any use of property that does not meet the required minimum lot size; front, side, and rear yard dimensions, and or lot width; or exceeds the maximum height, building coverage, or density per gross acre as shown in the recorded development plan, and approved by the planning and zoning commission. The site is located on the North side of San Lorenzo Street, approximately 460 feet West of Santa Monica Street. The applicant is requesting a variance to construct a new dwelling with a 10-foot side setback instead of the required 20-foot side setback. Sharyland Plantation Village San Miguel Phase VI Subdivision was recorded on December 17, 2021. The subject lot has a total area of 32,286.34 square feet. The Planning staff has not received any objections to the request from the surrounding property owners. Staff mailed out 13 legal notices to surrounding property owners. The proposed house has a total of 8,152.27 square feet. Staff notes that Z.B.A. has considered the following variances in this subdivision.

<u>Legal Description</u>	<u>Variance Request</u>	<u>Date of Meeting</u>	<u>Recommendation</u>
Lots 23-32, Phase I	30-foot rear	11-16-05	Approved
Lot 40, Phase II	33.9-foot rear	11-08-06	Approved
Lot 8, Phase II	45-foot front	02-06-07	Denied

**STAFF RECOMMENDATION:**

Staff recommends approval.

Mr. Hernandez stated that, according to the applicant, she intended to implement a 10-foot setback on one side of the property while maintaining the required 20-foot setback on the other. He confirmed he had spoken with the applicant and noted she had received the HOA letter that day.

Mr. Flores asked the leadership of the HOA.

Mr. Hernandez identified Gale Smith.

Mr. Jose Angel Cantu and Mrs. Rosana Ramirez, co-owners of Lot 16, requested a revision and approval for a variance regarding the side setback of their lot. They requested a 10-foot side setback instead of the 20-foot setback by the San Miguel Subdivision HOA guidelines. Mr. Cantu presented the layout for their future home and shared the HOA's written approval for the 10-foot setback. Additionally, Mr. Cantu submitted public records of previous variances granted by the City of Mission for the same subdivision. He noted that the neighbor at Lot 17 had been granted a 15-foot rear setback instead of the required 50 feet, as well as 10-foot side setbacks on both sides. He argued that their request was more limited in scope than these prior approvals and stated that the variance would not create any hardships for the subdivision or the city.

There being no discussion, Chairman Salazar entertained a motion. Ms. Elizondo moved to close the public hearing. Mr. Garza seconded the motion. Upon a vote, the motion passed unanimously.

There being no discussion, Chairman Salazar entertained a motion. Ms. Elizondo moved to approve the variance request as presented. Mr. Garza seconded the motion. Upon a vote, the motion passed unanimously.

#### **ITEM #8**

#### **TO ALLOW A 1'- 6" SIDE SETBACK INSTEAD OF THE REQUIRED 6' AND A 4' REAR SETBACK INSTEAD OF THE REQUIRED 10' SETBACK/UTILITY EASEMENT FOR A PROPOSED 12'X 36' CARPORT, AT 3405 DRIFTWOOD COURT, BEING LOT 25, MISSION VALLEY SUBDIVISION BY ROBERT ACOSTA**

Mr. Alex Hernandez stated the request is for a variance not to comply with Section 1.371 (5) (f) (g) of the Mission Code of Ordinances, which states: Minimum depth of the rear setback: 10 feet; Minimum depth of the side setback: 6 feet; Where a building setback has been established by plat or ordinance and such setback requires a greater or lesser rear and side yard setback than is prescribed by this article for the district in which the building is located, the required setback shall comply with the building line so established by such plat or ordinance. The site is located along the East side of Driftwood Court, approximately 110 feet South of Thompson Street. The applicant is requesting a variance to allow a 12' by 36' carport within the side and rear setbacks. The Mission Valley Subdivision was recorded on January 16, 2016. The subject property is an irregular shaped lot. The subject lot has a total area of 11,069 square feet. The Planning staff has not received any objections to the request from the surrounding property owners. Staff mailed out 31 legal notices to surrounding property owners. No variances have been processed in this subdivision.

#### **STAFF RECOMMENDATION:**

Staff recommends approval of the proposed side setback but denial of the proposed rear utility setback. This request does qualify as an undue hardship due to the irregular shape of the Lot. However, if ZBA is inclined to approve this variance request then the applicant would need to comply with the following: 1) Sign a hold harmless agreement stating that the structure will remain perpetually "open and to its footprint," and if the structure is ever removed, the prevailing setbacks shall be complied with thereafter, and 2) obtaining a building permit fee.

Mr. Hernandez informed the board that the applicant had provided a letter from AEP indicating the utility provider has no objection to the proposed rear setback. He confirmed for Chairman Salazar that the request involves a proposed utility easement.

Mr. Robert Acosta, residing at 3405 Driftwood Court, spoke in favor of the rear utility easement setback approval. He explained that a Texas 8-1-1 locate request confirmed no utilities are currently present in that area. Mr. Acosta stated that the variance is necessary to construct a cover for his motor home to improve the subdivision's aesthetics. He noted that without the variance, he would be forced to move his gate forward, which would create issues with the house's soffit and heat. He confirmed the structure would stand approximately 16 feet tall, which remains within the subdivision's maximum height guidelines.

Mr. Enrique Castillo, owner of Lot 26 in the same subdivision, expressed concerns regarding the project's impact on the neighborhood's uniform appearance. While he did not oppose the request entirely, he questioned whether such a structure would be permitted under Homeowners Association (HOA) guidelines, noting that he had to follow strict rules when planning his own home.

Ms. Elizondo clarified that while the board does not enforce HOA regulations, they do include the association in the process. She noted that 31 notification letters were sent to residents within the required radius.

Mr. Hernandez confirmed the HOA was notified, though he did not have an approval letter on hand at the moment.

Mr. Acosta asserted that he had already obtained HOA approval and followed their restrictions, such as the prohibition of metal roofs.

Mr. Castillo concluded by stating he is currently opposed to the variance until more information is provided. He emphasized that he wants to protect his investment and ensure that any new construction aligns with the standards expected by other property owners in the San Miguel Subdivision.

There being no further discussion, Chairman Salazar entertained a motion. Ms. Elizondo moved to close the public hearing. Mr. Garza seconded the motion. Upon a vote, the motion passed unanimously.

Ms. Elizondo expressed concern regarding a potential fire hazard due to the proposed carport's proximity to a zero-lot line. She noted that a fire could spread from the carport to the adjacent property and then back to the applicant's house.

Mr. Flores inquired if a variance had been granted for that specific lot, to which Mr. Hernandez responded that this would be the first variance in the subdivision.

Chairman Salazar asked if the board had received the Homeowners Association (HOA) letter.

Mr. Acosta stated he was forwarding the document to staff.

Chairman Salazar asked for the total number of lots in the subdivision.

Mr. Hernandez confirmed there were 33 lots.

Chairman Salazar proposed to table the item until the end of the meeting to continue with the agenda.

There being no further discussion, Chairman Salazar entertained a motion. Ms. Elizondo moved to table the item until they received the HOA letter. Mr. Garza seconded the motion. Upon a vote, the motion passed unanimously.

Chairman Salazar entertained a motion. Ms. Elizondo moved to un-tabled item 8. Mr. Garza seconded the motion. Upon a vote, the motion passed unanimously.

Chairman Salazar, noted an immediate issue with the letter provided. In their interpretation, the architectural review establishes rules regarding the aesthetic appearance of the structure. They pointed out that while the final item requires the member to comply with the mission, values, subdivision, and general covenants and restrictions, the document remains silent on the matter of setbacks. Consequently, they questioned whether the document constitutes a full architectural design approval, or if it is strictly an approval of the materials and the overall look of the project.

There being no further discussion, Chairman Salazar entertained a motion. Ms. Elizondo moved to deny the variance request as presented. Mr. Flores seconded the motion. Upon a vote, the motion passed unanimously.

**ITEM #9**

**TO KEEP A 1' FRONT SETBACK INSTEAD OF THE REQUIRED 18' FRONT SETBACK FOR A 20'X 20' CARPORT, AT 2016 E. 21ST STREET, BEING LOT 33, SUNRISE MEADOWS SUBDIVISION BY ROBERT RAMONES**

Mr. Alex Hernandez stated the request is for a variance not to comply with Section 1.371 (5) (h) of the Mission Code of Ordinances, which states: Minimum distance from the public right-of-way to the entrance to a garage or carport, unless otherwise approved by the zoning board of adjustments: 18 feet. Where a building setback has been established by plat or ordinance and such setback requires a greater or lesser garage/carport yard setback than is prescribed by this article for the district in which the building is located, the required setback shall comply with the building line so established by such plat or ordinance. The site is located along the South side of E. 21st Street, approximately 245 feet East of Cardinal Street. The applicant is requesting a variance to keep a 20' by 22' carport within the 18' front setback. The Sunrise Meadows Subdivision was recorded on August 24, 2004. The subject property is a regular lot with a depth of 125.00 feet and a width of 60 feet along East 21st Street. The subject lot has a total area of 7,500 square feet. The Planning staff has not received any objections to the request from the surrounding property owners. Staff mailed out 31 legal notices to surrounding property owners. No variances have been processed in this subdivision.

**STAFF RECOMMENDATION:**

Staff recommends denial. This request does not qualify as an undue hardship. However, if ZBA is inclined to approve this variance request then the applicant would need to comply with the following: 1) Sign a hold harmless agreement stating that the structure will remain perpetually "open and to its footprint," and if the structure is ever removed, the prevailing setbacks shall be complied with thereafter, and 2) obtaining a building permit fee.

Chairman Salazar asked staff to confirm if this would be the first variance granted in the subdivision, to which Mr. Hernandez responded in the affirmative.

Mr. Robert Ramones, residing at 2016 East 21st Street, requested consideration for a carport variance, noting that his home sits nearly flush against the current setback with only one foot of space. He explained that the carport was intended to shield his mother-in-law from the elements while she is transported to medical appointments. He noted that his wife, a nurse, provides significant care for her. Mr. Ramones further asserted that a precedent for such structures exists, stating there are already five other carports in the neighborhood.

In response to Ms. Elizondo's questioning, Mr. Ramones clarified that while his mother-in-law does not live in his home, she visits at least two or three times a week for care and recovery. He confirmed she is currently wheelchair-bound. He also mentioned that the variance application process was confusing, as different staff members provided him with conflicting information regarding requirements.

There being no further discussion, Chairman Salazar entertained a motion. Ms. Elizondo moved to close the public hearing. Mr. Garza seconded the motion. Upon a vote, the motion passed unanimously.

The board discussed the necessity of a medical hardship. Ms. Elizondo and Mr. Flores raised concerns regarding whether the mother-in-law's residence qualified as a homestead, noting that for a medical variance to apply, the individual requiring care typically needs to reside at the property.

Mr. Hernandez stated he was not aware of any approved variances for the other carports mentioned and offered to double-check the records. He suggested that those structures might have been built during a brief period when the city allowed a 10-foot front setback, a rule that has since been rescinded. The board then deliberated on whether to gather more information regarding the existing carports before making a final decision.

There being no further discussion, Chairman Salazar entertained a motion. Ms. Elizondo moved to deny the variance request as presented. Mr. Garza seconded the motion. Upon a vote, the motion passed unanimously.

**ITEM #10**

**TO ALLOW A 0' GARAGE SETBACK INSTEAD OF THE REQUIRED 18' FOR A 14' X 24' PROPOSED CARPORT, AT 1703 MERCEDES AVENUE, BEING LOT 37, BLOCK 16, FIESTA VILLAGE PHASE I SUBDIVISION BY GARRY WOOD**

Mr. Cervantes stated the request is for a variance not to comply with Section 1.40(5)(e & i) of the Mission Code of Ordinances, which states: Minimum depth of front setback: 20 feet, and Minimum width of side setback: 1) Internal lot: 6 feet; and 2) Corner lot: 10 feet. Minimum distance from the public right-of-way to the entrance to a garage or enclosed carport, unless otherwise approved by the Zoning Board of Adjustments: 18 feet. Where a building setback has been established by plat or ordinance and such setback requires a greater or lesser setback than is prescribed by this article for the district in which the building is located, the required setback shall comply with the building line so established by such plat or ordinance. The applicant is requesting a variance for a proposed 14' x 24' carport in front of the property. Fiesta Subdivision was recorded on January 23, 1978. The regular lot measures 35 feet in width by 55 feet in length for a total of 1,925 square feet. The site is located 35' from the northeast corner of Laredo Blvd. and Mercedes Avenue. There is currently an existing 981 square foot mobile home on the property. The lots to the east, west, north, and south are developed as Mobile & Modular Homes. The Planning staff has not received any objections to the request from the surrounding property owners. Staff mailed out 47 legal notices to surrounding property owners. Staff notes that ZBA has considered the following variance within this subdivision.

<b>Subdivision</b>	<b>Variance</b>	<b>Date</b>	<b>Recommendation</b>
Lot 5, Blk. 5	4' inner side yard setback	1/14/97	Approval
Lots 13, Blk. 1, Lot 1, Blk. 2, Lots 10 & 11, Blk. 3, Lots 1 & 38, Blk. 4, Lot 12, Blk. 5, Lot 1, Blk. 6, Lot 12, Blk. 7, Lot 1, Blk. 8, Lots 10 & 11, Blk. 9, Lots 1 & 38, Blk. 10, Lot 12, Blk. 11, Lot 1, Blk. 12, Lot 12, Blk. 13, Lot 1, Blk. 14, Lots 10 & 11, Blk. 15, Lots 1 & 38, Blk. 16, Lot 12, Blk. 17, Lot 12, Blk. 19, Lot 10, Blk. 20, Lot 1, Blk. 21	5' corner setback	4/10/01	Approval
Lot 4, Blk. 9	4.5' side setback	11/13/01	Approved
Lot 13, Blk. 18A	3' side setback	1/19/05	Approval

The City of Mission Code of Ordinances Appendix A – Zoning, Section 1.17 states ZBA may: “Permit the reconstruction, extension, or enlargement of a building occupied by a nonconforming use on the lot or tract occupied by such building provided such reconstruction does not prevent the return of

such property to a conforming use”, and “Authorize in specific cases a variance from the terms of a zoning ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done.” There is a state law, HB 1475, that allows variances to be granted if: The financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessors for the municipality under Section 26.01, Tax Code; Compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur; Compliance would result in the structure not complying with a requirement of a municipal ordinance, building code, or other department; Compliance would result in the unreasonable encroachment on an adjacent property or easement; or The municipality considers the structure to be nonconforming.

**STAFF RECOMMENDATION:**

Staff recommends disapproval of the variance request as: 1) The request does not meet the standards for the issuance of a variance as described in the City of Mission Code of Ordinances. However, if ZBA is inclined to approve this variance request then the applicant would need to comply with the following: 1) Sign a hold harmless agreement stating that the structure will remain perpetually “open and to its footprint” and if the structure is ever removed, the prevailing setbacks shall be complied with thereafter, and 2) obtaining a building permit.

Mr. Gary Woods presented a request for a variance to construct a carport, citing the need for shade on his porch from the afternoon sun and protection for his vehicle. He argued that the proposal would enhance the property's aesthetics, noting that neighboring properties already featured similar structures.

During the discussion, a clarification was made regarding the "zero lot line" terminology. While Mr. Woods believed the structure would stand two feet from the front, staff explained that because the property line typically begins two feet behind the curb, building at that point still constitutes a zero-foot setback from the property line.

Ms. Elizondo inquired about the construction materials, and Mr. Woods confirmed the use of "rhino panel," a galvanized aluminum material described as maintenance-free and fire-resistant.

There being no further discussion, Chairman Salazar entertained a motion. Mr. Garza moved to close the public hearing. Ms. Elizondo seconded the motion. Upon a vote, the motion passed unanimously.

There being no further discussion, Chairman Salazar entertained a motion. Mr. Garza moved to approve the variance request as presented. Ms. Elizondo seconded the motion. Upon a vote, the motion passed unanimously.

Mr. Woods expressed concern regarding the administrative fees associated with the process, noting they amounted to a significant portion of the project's total cost. The board advised him to contact staff the following morning for further clarification on financial matters.

**ITEM #11**

**TO ALLOW AN 8' FRONT SETBACK INSTEAD OF THE REQUIRED 20 FEET, AND A 1' SIDE SETBACK INSTEAD OF THE REQUIRED 6' FOR A 21' X 30' EXISTING CARPORT, AT 707 W. 30TH STREET, BEING LOT 81, TABASCO SUBDIVISION BY ROBERTO GAMEZ**

Mr. Cervantes stated the request is for a variance not to comply with Section 1.371(5)(e & g) of the Mission Code of Ordinances, which states: Minimum depth of front setback: 20 feet, and Minimum width of side setback: 1) Internal lot: 6 feet; 2) Corner lot: 10 feet. Minimum distance from the public right-of-way to the entrance to a garage or enclosed carport, unless otherwise approved by the Zoning Board of Adjustments: 18 feet. Where a building setback has been established by plat or ordinance and such setback requires a greater or lesser setback than is prescribed by this article for the district in which the building is located, the required setback shall comply with the building line so established by such plat or ordinance. The applicant is requesting a variance to keep a 21'x30' existing carport within the front and side setback. The Zoning Board of Adjustments previously considered this item on August 27, 2025 and it was denied. The request at that time was to allow a 4' front setback and a 1' side setback. Since the item was denied, he was asked to remove the structures within 30 days. The applicant would like the board to consider allowing him to reduce the existing carport by 4'. Tabasco Subdivision was recorded on May 14, 2003. The regular lot measures 60 feet in width by 107.50 feet in length for a total of 6,450 square feet. The site is located approximately 260 feet east of Nicholson Avenue along the south side of W. 30th Street. There is currently an existing 1,021 square foot single-family residence on the property. The applicant constructed the carport without obtaining the proper permits. The lots to the east, west, north, and south are developed as Single-Family Residences. City officials from the Code Enforcement Division noticed the carport and gave the property owner a notice of violation for the construction of the structure without a building permit. The Planning staff has not received any objections to the request from the surrounding property owners. Staff mailed out 40 legal notices to surrounding property owners. Staff notes that ZBA has considered the following variance within this subdivision.

<b>Subdivision</b>	<b>Variance</b>	<b>Date</b>	<b>Recommendation</b>
Lot 26	1.9' Corner side setback	7/18/18	Approval

The City of Mission Code of Ordinances Appendix A – Zoning, Section 1.17 states ZBA may: “Permit the reconstruction, extension, or enlargement of a building occupied by a nonconforming use on the lot or tract occupied by such building provided such reconstruction does not prevent the return of such property to a conforming use”, and “Authorize in specific cases a variance from the terms of a zoning ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done.” There is a state law, HB 1475, that allows variances to be granted if: The financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessors for the municipality under Section 26.01, Tax Code; Compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur; Compliance would result in the structure not complying with a requirement of a municipal ordinance, building code, or other department; Compliance would result in the unreasonable encroachment on an adjacent property or easement; or The municipality considers the structure to be nonconforming.

**STAFF RECOMMENDATION:**

Staff recommends disapproval of the variance request as: 1) The request does not meet the standards for the issuance of a variance as described in the City of Mission Code of Ordinances; 2) The structure was built without a permit, and 3) This is a self-imposed hardship. However, if ZBA is inclined to approve this variance request then the applicant would need to comply with the following: 1) Sign a hold harmless agreement stating that the structure will remain perpetually “open and to its footprint” and if the structure is ever removed, the prevailing setbacks shall be complied with thereafter, 2) obtaining a building permit, and 3) paying a double permit fee.

Mr. Cervantes explained that the item had previously come before the board in August 2025. He noted that the structure, a carport, had been built without a permit and that the applicant was seeking reconsideration by proposing to reduce the size of the original build.

In response to Mr. Flores's questions regarding safety, Mr. Cervantes confirmed that the applicant was willing to modify the structure and that any approved variance would require a permit and a subsequent safety inspection by a city inspector.

Chairman Salazar inquired about existing variances in the area, and Mr. Cervantes noted one prior approval in the same subdivision, though it was granted as a special accommodation.

Mr. Roberto Gamez, residing at 7th and Western Street, stated that during the first hearing, he did not understand the process and was unable to offer modifications. He explained that while changing the side setback would require a total demolition, he could increase the front setback to 10 feet instead of the required 20 without tearing the entire structure apart. He admitted to performing the initial work himself but expressed a willingness to hire a licensed contractor to ensure the modifications complied with city protocols.

There being no further discussion, Chairman Salazar entertained a motion. Ms. Elizondo moved to close the public hearing. Mr. Flores seconded the motion. Upon a vote, the motion passed unanimously.

Ms. Elizondo inquired about other similar approvals in the area.

Mr. Cervantes clarified that while a side setback was approved nearby, it was granted as a special accommodation. He noted that the other case had also been denied in August before returning for approval under that specific status the following month.

Chairman Salazar observed that while the applicant offered to move the front back, the side setback remained at zero feet.

Ms. Elizondo noted that the applicant could not modify the side without total demolition, leaving the structure only one foot from the property line. She expressed hesitation, stating that the details of the case had not significantly changed since the August denial, other than the applicant's willingness to reduce the size.

Mr. Gamez addressed the board's concerns by offering to sign a formal commitment promising never to enclose the carport or convert it into a living space or game room. He emphasized that the structure was strictly for his vehicles and to provide a shaded area for his children to play.

Chairman Salazar pointed out that the board has historically viewed one-foot setbacks as a significant fire safety concern.

Ms. Elizondo added that because the subdivision is 24 years old and has no history of such variances, approving the request would set a new precedent.

Mr. Garza contrasted the situation with older, 50-year-old subdivisions where such structures are more common.

In response, Mr. Gamez noted that many neighbors use the sides of their homes for vehicle parking, though he acknowledged the board's specific focus on the front-facing aspects of his request.

There being no further discussion, Chairman Salazar entertained a motion. Mr. Flores moved to deny the variance request as presented. Ms. Elizondo seconded the motion. Upon a vote, the motion passed unanimously.

**ITEM #12**

**TO ALLOW A 2' 5" REAR SETBACK INSTEAD OF THE REQUIRED 15-FOOT AND A 2' 5" SIDE SETBACK INSTEAD OF THE REQUIRED 6' FOR A 67'X19' EXISTING BATTING CAGE, AT 1701 LIZ DRIVE, BEING LOT 18, GIRASOL ESTATES SUBDIVISION BY MANUEL CARDOZA**

Ms. Jessica Munoz stated the request is for a variance not to comply with Section 1.371.- R-1 (Single Family Residential District), which states: Minimum Side Setback: 6 feet; Minimum Rear Setback: 15 feet. Where a building setback has been established by plat or ordinance and such setback requires a greater or lesser front yard setback than is prescribed by this article for the district in which the building is located, the required front yard setback shall comply with the building line so established by such plat or ordinance. The site is located on Lot 18, Girasol Estates Subdivision, at the intersection of Liz Drive and Beto Drive. There is currently an existing 2,039 square foot single-family residential home. The applicant is requesting a variance to keep an already constructed 67' x 19' batting cage within the 15' rear setback and the 6-foot side setback. The batting cage was built without obtaining a building permit. Las Misiones Estates Phase II Subdivision was recorded on June 11, 1996. The irregular lot measures 100' in width by 114 in depth for a total area of 14,387 square feet, located in a culde- sac. The lots to the north, south, east, and west are developed as Single-Family Residences. The Planning staff has not received any objections to the request from the surrounding property owners. Staff mailed out 28 legal notices to surrounding property owners. Staff notes that ZBA has considered the following variances within this subdivision.

<u>Subdivision</u>	<u>Variance</u>	<u>Date</u>	<u>Recommendation</u>
Lot 1	10' rear setback instead of the required 15.'	6/20/14	Approved
Lot 17	22'5" front setback instead of the required 25.'	2/16/05	Approved
Lot 19	18'9" front setback instead of the required 25.'	9/20/06	Approved
Lots A-F	5' rear setback instead of the required 15.'	10/25/02	Approved
Lot D	55' front setback instead of the required 60.'	02/06/07	Approved

The applicant would like the board to consider the above-mentioned variance for the construction of the accessory structure. The City of Mission Code of Ordinances Appendix A – Zoning, Section 1.17 states ZBA may: "Permit the reconstruction, extension, or enlargement of a building occupied by a nonconforming use on the lot or tract occupied by such building, provided such reconstruction does not prevent the return of such property to a conforming use", and "Authorize in specific cases a variance from the terms of a zoning ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done." There is a state law, HB 1475, that allows variances to be granted if: The financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal

roll certified to the assessors for the municipality under Section 26.01, Tax Code. Compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur; Compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other department; Compliance would result in the unreasonable encroachment on an adjacent property or easement, or the municipality considers the structure to be a nonconforming structure.

**STAFF RECOMMENDATION:**

Staff recommends denial. This request does not qualify as an undue hardship. However, if ZBA is inclined to approve this variance request then the applicant would need to comply with the following: 1) Signed a hold harmless agreement stating that the structure will remain perpetually "open and to its footprint", and if the structure is ever removed, the prevailing setbacks shall be complied thereafter, 2) obtaining a building permit, and 3) paying a double permit fee.

Chairman Salazar noted that there have been a series of previous approvals within the subdivision, with Ms. Elizondo identifying five such instances.

Ms. Munoz stated that the subdivision faces a commercial area.

Mr. Garza mentioned that the setup in question did not appear to be a permanent structure and suggested that any approval could include restrictions or a hold-harmless agreement to ensure the setup remains as is and is not enclosed or roofed.

Ms. Paulina Cardoza, co-owner of the property at 1701 Liz drive, stated that it was never the intention of her and her husband to bypass regulations or evade the permitting process regarding the batting cage. She apologized for the oversight, explaining that they would have submitted the required documentation had they known a permit was necessary, as they had done previously for their home and fence construction. Ms. Cardoza emphasized that the cage was intended as a safe space for their children and noted that their neighbor at property 15 expressed support for the setup.

In response to Ms. Elizondo's questions, Ms. Cardoza clarified that there is no electricity running to the rear of the property and that the turf is laid over gravel rather than concrete.

Ms. Juanita Garcia of 2307 Kim Marie avenue expressed concern that the notification circle on her paperwork, which covered part of her lot, implied the project might physically encroach on her land.

Ms. Elizondo reassured her that the variance would not take any space from her lot or affect her ownership, though it could set a precedent for future applications in the neighborhood. After receiving this clarification, Ms. Garcia stated she was in agreement with the request.

There being no further discussion, Chairman Salazar entertained a motion. Ms. Elizondo moved to close the public hearing. Mr. Garza seconded the motion. Upon a vote, the motion passed unanimously.

There being no further discussion, Chairman Salazar entertained a motion. Mr. Garza moved to approved subject to staff recommendation for the variance request as presented. Ms. Elizondo seconded the motion. Upon a vote, the motion passed unanimously.

**ITEM #13**

**TO ALLOW A 9-FOOT FRONT SETBACK INSTEAD OF THE REQUIRED 20 FEET, FOR A 29' X 25' EXISTING CARPORT, AT 212 N. NICHOLSON AVENUE, BEING LOT 1, BLOCK 44A, SOUTHWEST ADDITION SUBDIVISION BY FIDEL MONTIEL**

Ms. Jessica Munoz stated the request is for a variance not to comply with Section 1.371.- R-1 (Single Family Residential District), which states: Minimum Front Setback: 20 feet, Minimum Side Setback: 6 feet, Minimum Garage/Carport Setback: 18 feet. Where a building setback has been established by plat or ordinance and such setback requires a greater or lesser front yard setback than is prescribed by this article for the district in which the building is located, the required front yard setback shall comply with the building line so established by such plat or ordinance. The property is located approximately 227 feet North of West 3rd Street, along the East Side of Nicholson Avenue. The applicant is requesting a variance to keep a 29'x25' carport within the front and side setback. Southwest Addition Subdivision was recorded on April 7, 1953. The regular lot measures 50 feet in width by 150.00 feet in length for a total of 7,500 square feet. There is currently an existing 1,156 square foot single-family residence on the property. The applicant constructed the carport without obtaining the proper permits. The lots to the east, west, north, and south are developed as Single-Family Residences. City officials from the Code Enforcement Division noticed the carport and gave the property owner a notice of violation for the construction of the structure without a building permit. The Planning staff has not received any objections to the request from the surrounding property owners. Staff mailed out 25 legal notices to surrounding property owners. The City of Mission Code of Ordinances Appendix A – Zoning, Section 1.17 states ZBA may: “Permit the reconstruction, extension, or enlargement of a building occupied by a nonconforming use on the lot or tract occupied by such building, provided such reconstruction does not prevent the return of such property to a conforming use”, and “Authorize in specific cases a variance from the terms of a zoning ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done.” There is a state law, HB 1475, that allows variances to be granted if: The financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessors for the municipality under Section 26.01, Tax Code. Compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur; Compliance would result in the structure not complying with a requirement of a municipal ordinance, building code, or other department; Compliance would result in the unreasonable encroachment on an adjacent property or easement; or the municipality considers the structure to be nonconforming.

**STAFF RECOMMENDATION:**

Staff recommends disapproval of the variance request as: 1) The request does not meet the standards for the issuance of a variance as described in the City of Mission Code of Ordinances; 2) The structure was built without a permit, and; 3) This is a self-imposed hardship. However, if ZBA is inclined to approve this variance request then the applicant would need to comply with the following: 1) Sign a hold harmless agreement stating that the structure will remain perpetually “open and to its footprint” and if the structure is ever removed, the prevailing setbacks shall be complied with thereafter, 2) obtaining a building permit, and 3) paying a double permit fee.

Mr. Garza inquired about the safety of a metal building located near electrical lines, questioning if there was a required minimum distance from the high-powered lines or the adjacent substation.

Mr. Hernandez clarified that as long as the structure is not directly under the lines and maintains a minimum distance of six to eight feet, it meets safety requirements if it also aligns with standard setbacks.

Ms. Elizondo noted that the side setback would specifically impact the metal structure's front placement.

Mr. Fidel Montiel, residing at 212 North Nicholson Avenue, explained that the carport was constructed while he was out of town. He stated that his wife hired a contractor through social media who refused to obtain the necessary permits. Mr. Montiel, a drafter by profession, emphasized that he typically drafts his own floor plans and oversees the permitting process for any home additions, apologizing for his lack of involvement in this instance.

In response to Chairman Salazar's question, Mr. Montiel confirmed the structure was built in August 2025.

There being no further discussion, Chairman Salazar entertained a motion. Ms. Elizondo moved to close the public hearing. Mr. Garza seconded the motion. Upon a vote, the motion passed unanimously

Ms. Munoz stated that there are no other approved variances in the immediate neighborhood. She further clarified that the subdivision was recorded in 1953, making it part of an older section of the city where setbacks were established long ago.

There being no further discussion, Chairman Salazar entertained a motion. Mr. Salazar moved to approve subject to staff's recommendation to the footprint for the variance request as presented. Ms. Elizondo seconded the motion. Upon a vote, the motion passed unanimously.

#### **ITEM #14**

**TO ALLOW A 0-FOOT REAR SETBACK INSTEAD OF THE REQUIRED 10 FEET AND A 0' CORNER SIDE SETBACK INSTEAD OF THE REQUIRED 10 FEET FOR A 12'X12'-6" EXISTING STORAGE SHED, AT 1504 REBECCA STREET, BEING LOT 18, CRYSTAL ESTATES PHASE 1 SUBDIVISION BY LUIS A. RODRIGUEZ**

Ms. Jessica Munoz stated the request is for a variance not to comply with Section 1.371.- R-1 (Single Family Residential District), which states: Minimum Corner Side Setback: 10 feet, Minimum Rear Setback: 10 feet, Where a building setback has been established by plat or ordinance and such setback requires a greater or lesser front yard setback than is prescribed by this article for the district in which the building is located, the required front yard setback shall comply with the building line so established by such plat or ordinance. The property is located at the Northwest corner of Rebecca Street along Truman Avenue. The applicant is requesting a variance to keep a 12'x12'-6" shed within the rear and side setback. Crystal Estates Phase 1 Subdivision was recorded on July 30, 2008. The regular lot measures 70 feet in width by 126.50 feet in length, totaling 8,855 square feet. There is currently an existing 1,511 square foot single-family residence on the property. The applicant constructed the shed without obtaining the proper permits. The lots to the east, west, north, and south are developed as Single-Family Residences. City officials from the Code Enforcement Division noticed the shed and gave the property owner a notice of violation for the construction of the structure without a building permit. The Planning staff has not received any objections to the request from the surrounding property owners. Staff mailed out 27 legal notices to surrounding property owners. There is no history of variances in this subdivision. The City of Mission Code of Ordinances Appendix A – Zoning, Section 1.17 states ZBA may: "Permit the reconstruction, extension, or enlargement of a building occupied by a nonconforming use on the lot or tract occupied by such building provided such reconstruction does not prevent the return of such property to a conforming use", and "Authorize in specific cases a variance from the terms of a zoning ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done." There is a state law, HB 1475, that allows variances to be granted if: The financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most

recent appraisal roll certified to the assessors for the municipality under Section 26.01, Tax Code; Compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur; Compliance would result in the structure not complying with a requirement of a municipal ordinance, building code, or other department; Compliance would result in the unreasonable encroachment on an adjacent property or easement; or The municipality considers the structure to be nonconforming.

**STAFF RECOMMENDATION:**

Staff recommends disapproval of the variance request as: 1)The request does not meet the standards for the issuance of a variance as described in the City of Mission Code of Ordinances; 2) The structure was built without a permit, and 3) This is a self-imposed hardship. However, if ZBA is inclined to approve this variance request then the applicant would need to comply with the following: 1) Sign a hold harmless agreement stating that the structure will remain perpetually “open and to its footprint” and if the structure is ever removed, the prevailing setbacks shall be complied with thereafter, 2) obtaining a building permit, and 3) paying a double permit fee.

Chairman Salazar inquired whether the existing fence was being utilized as a wall for the structure and noted the apparent presence of electrical conduits and a junction box.

Ms. Munoz confirmed that while the applicant had not mentioned electricity, visual evidence suggested wiring was integrated into the building.

Ms. Cristine Esquivara representing her husband, Luis Angelo Rodriguez of 1504 Rebecca Street, explained that her husband’s frequent travel led to missed court dates and subsequent citations. She stated she was appearing on his behalf at the suggestion of a judge to seek a resolution. She confirmed that the structure does have lighting, an oversight she may have made during the initial information filing.

In response to Chairman Salazar’s questions, Ms. Esquivara clarified that the building is used strictly for storage and is not a living quarter. She stated it was constructed around the start of the COVID-19 pandemic and confirmed that the existing fence serves as two of the structure's walls.

Ms. Elizondo pointed out that the building sits within a utility easement and asked if any utility companies were contacted prior to construction, to which Ms. Esquivara replied that she was not aware of any such contact.

Ms. Esquivara further explained that the structure was built on a pre-existing concrete pad formerly used for a dog kennel. Regarding the electrical setup, she confirmed there are both internal and external lights operated by a switch, with the wiring housed inside conduit piping rather than being left exposed. She reiterated that the interior remains unfinished with no built-in shelving, used solely for storage.

There being no further discussion, Chairman Salazar entertained a motion. Mr. Garza moved to close the public hearing. Ms. Elizondo seconded the motion. Upon a vote, the motion passed unanimously

Ms. Elizondo stated that the primary issue was the availability of sufficient space on the property to relocate the structure.

There being no further discussion, Chairman Salazar entertained a motion. Ms. Elizondo moved to deny the variance request as presented. Mr. Garza seconded the motion. Upon a vote, the motion passed unanimously.

## **ITEM #15**

### **TO ALLOW A 7-FOOT REAR SETBACK INSTEAD OF THE REQUIRED 15 FEET FOR A 17'X17' EXISTING DETACHED PATIO, AND TO ALLOW A 0' SIDE SETBACK INSTEAD OF THE REQUIRED 6' FOR A 11'X7' EXISTING STORAGE SHED, AT 708 STACIE LANE, BEING LOT 7, THE OAKS AT HOLLAND SUBDIVISION BY RICARDO REYNA**

Ms. Jessica Munoz stated the request is for a variance not to comply with Section 1.371.- R-1 (Single Family Residential District), which states: Minimum Side Setback: 6 feet, Minimum Rear Setback: 15 feet, Where a building setback has been established by plat or ordinance and such setback requires a greater or lesser front yard setback than is prescribed by this article for the district in which the building is located, the required front yard setback shall comply with the building line so established by such plat or ordinance. The property is located along the North side of Stacie Lane, approximately 300 feet East of Holland Avenue. The applicant is requesting a variance to keep a 17'x17' Patio within the rear setback and an 11'x7' storage shed within the side setback. The Oaks at Holland Subdivision was recorded on February 22, 2006. The regular lot measures 60 feet in width by 105.00 feet in length, totaling 6,300 square feet. There is currently an existing 1,402 square foot single-family residence on the property. The applicant constructed the shed without obtaining the proper permits. The lots to the east, west, north, and south are developed as Single-Family Residences. City officials from the Code Enforcement Division noticed the shed and gave the property owner a notice of violation for the construction of the structure without a building permit. The Planning staff has not received any objections to the request from the surrounding property owners. Staff mailed out 20 legal notices to surrounding property owners. The City of Mission Code of Ordinances Appendix A – Zoning, Section 1.17 states ZBA may: “Permit the reconstruction, extension, or enlargement of a building occupied by a nonconforming use on the lot or tract occupied by such building provided such reconstruction does not prevent the return of such property to a conforming use”, and “Authorize in specific cases a variance from the terms of a zoning ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done.” There is a state law, HB 1475, that allows variances to be granted if: The financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessors for the municipality under Section 26.01, Tax Code; Compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur; Compliance would result in the structure not complying with a requirement of a municipal ordinance, building code, or other department; Compliance would result in the unreasonable encroachment on an adjacent property or easement; or The municipality considers the structure to be nonconforming.

#### **STAFF RECOMMENDATION:**

Staff recommends disapproval of the variance request as: 1) The request does not meet the standards for the issuance of a variance as described in the City of Mission Code of Ordinances; 2) The structure was built without a permit, and; 3) This is a self-imposed hardship. However, if ZBA is inclined to approve this variance request then the applicant would need to comply with the following: 1) Sign a hold harmless agreement stating that the structure will remain perpetually “open and to its footprint” and if the structure is ever removed, the prevailing setbacks shall be complied with thereafter, 2) obtaining a building permit, and 3) paying a double permit fee.

Chairman Salazar observed that there are two structures on the property.

Ms. Munoz clarified that one is a storage shed on the side and the other is a patio in the rear.

After reviewing an overhead view, the Chairman Salazar noted that nearly half of the backyard consists of a utility easement.

Mr. Ricardo Reyna, the homeowner at 701 Stacie Lane, explained that as a new owner, he was unaware of the specific permit requirements and fees. He stated that the rear structure was built by a contractor as an outdoor living area for his children to use as a play and television area. He noted that while a cable line exists in the area, he was informed it was no longer in use, and he confirmed there are no electrical lines or other utilities underneath. Regarding the side storage unit, he explained it is used for lawn equipment and toys and contains no electrical wiring or lighting other than a small solar-powered light. Mr. Reyna mentioned that a neighbor provided a letter of support, which is on file, and noted that several other homes in the neighborhood have similar storage units and metal patios with zero setbacks. He expressed a willingness to pay any necessary fees if the variance is approved. In response to questions about utility locates, he admitted he did not personally call 811, as he had relied on his contractor.

Ms. Elizondo inquired about the area behind the property.

Mr. Reyna explained that there is no residence immediately behind him; instead, there is a large open area of approximately 100 to 150 feet leading toward a body of water.

Chairman Salazar asked if he would be willing to move the storage unit.

Mr. Reyna stated that while it could be done with a forklift, he is physically limited by the small size of the yard and the presence of his children's swing set.

There being no further discussion, Chairman Salazar entertained a motion. Ms. Elizondo moved to close the public hearing. Mr. Garza seconded the motion. Upon a vote, the motion passed unanimously

Ms. Elizondo stated that she was inclined to support the variance at the rear of the property because the area behind it is an irrigation district, meaning no future residences will ever be built there. However, she expressed concern that the side setback creates a dangerous probability for fire and provided that as her primary input.

There being no further discussion, Chairman Salazar entertained a motion. Ms. Elizondo moved to approve the variance request for the rear setback for the patio as presented subject to staff's recommendation and to its foot print. Mr. Flores seconded the motion. Upon a vote, the motion passed unanimously.

There being no further discussion, Chairman Salazar entertained a motion. Ms. Elizondo moved to deny the variance request for the side setback for the storage shed as presented. Mr. Flores seconded the motion. Upon a vote, the motion passed unanimously.

## **ADJOURNMENT**

There being no further business, Chairman Salazar entertained a motion. Ms. Elizondo moved to adjourn the meeting. Mr. Garza seconded the motion. Upon a vote, the motion passed unanimously at 6:13 p.m.

---

Alberto Salazar, Chairman  
Zoning Board of Adjustments