



**City of Harker Heights**  
**Zoning Board of Adjustment Minutes**  
**February 16, 2017**

Present:	Chris Diem	Chairman
	David Brown	Vice Chairman
	Raymond Hamden	Alternate Board Member
	Paul Perugini	Alternate Board Member
	David McClure	Board Member
Staff:	Joseph Molis	Director of Planning & Development
	Leo Mantey	City Planner
	Steve Philen	Building Official
	Ty Hendrick	Administrative Assistant
		Planning & Development

A quorum was established, and the meeting was called to order at 6:00 p.m.

The first item on the agenda was the swearing in of new members and the appointment of officers. Mr. Hendrick for the City had all new members stand and raise their right hand and take the Oath of Office. Following the swearing in, Mr. Chris Diem was appointed Chairman with a unanimous vote (5-0) and Mr. David Brown was appointed Vice Chair with a unanimous vote (5-0).

The next item on the agenda was the approval of the minutes from the August 3, 2016 meeting. Mr. Brown made the motion to approve the minutes and Mr. McClure seconded the motion. The motion passed unanimously (5-0).

Mr. Molis presented Case #2017-01, to discuss and consider a request for a variance from the required 20' side yard setback to a 13' side yard setback on the West side of the property located at 1609 Gold Splash, described as Lot 11, Block 3, Evergreen Subdivision Phase V, Harker Heights Bell County, Texas. Mr. Molis stated that per Section §155.039 Setback Required (Table 21-A) side yard setbacks required for this lot zoned R-1 (One Family Dwelling District) is 20' because of a side-entry garage that fronts a side street. Additionally, the plat indicates a 15' utility easement along the property line adjacent to the side street from which the side-entry garage fronts. However, due to a survey error, the building was constructed as to encroach 7' into the 20' yard side setback. This encroachment is on the west side of the building where the side entry garage is located off Alpine Fir Drive as indicated on the attached site plan. Mr. Molis stated that Staff met with the applicant and informed him that for a variance to be granted, a hardship or necessity needs to be established per §155.222 (A) (3) in the Code of Ordinances. The applicant informed staff the reason for the variance was a gross oversight in the drafting stages of the plan. The initial plan was to build in accordance to the city regulation but was slightly deviated from the regulations due to human error. The variance, if granted, will allow the building to stay as it is without having to undergo any



demolition. If the variance were denied, significant remodeling and possible demolition of the entire structure would be required.

Mr. Molis stated that on August 3, 2016, the case was presented to the Zoning Board of Adjustment (ZBA) to grant a variance for the encroachment in the setback as well as the 1.7' encroachment into the 15' utility easement. At the meeting, ZBA deliberated and had concerns with the encroachment into the easement. After much discussion, the board motioned to table the case and tasked the applicant and City with obtaining easement abandonment from utility companies before presenting it to them for future consideration.

The Public Works Director, Mark Hyde, reached out to all city affiliated utility companies: Oncor Electric Delivery, Charter Communications (formerly Time Warner Cable, Inc.), Atmos Energy, Century Link, as well as City of Harker Heights utilities with regards to abandoning the easement encroached by the house. None of these companies or the City objected to abandon 2' of the existing 15-foot public utility easement. Following the decision of the utility companies, on January 10, 2017, the City Council in turn approved an ordinance to abandon 2' of a 15' wide utility easement for the property in question. The City Council voted unanimously (5-0) to approve the request.

Mr. Molis stated that staff sent out thirty (30) notices to property owners within the four-hundred foot (400') notification area. There were a total of nine (9) responses received in favor and no responses received in opposition of the request.

Mr. Molis stated that staff has reviewed the request submitted by M A Hoard Construction for a variance from the required 20' side yard setback to a 13' side yard setback on the west side of the property, located at 1609 Gold Splash, described as Lot 11, Block 3, Evergreen Subdivision Phase V, Harker Heights, Bell County, Texas, and has noted the following:

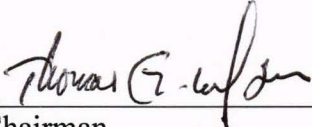
1. The reason for the variance is a drafting error. The plot plan was submitted and approved by the city. The drafter missed the required side yard setback requirement. The building is completed and ready for habitation.
2. The granting of the variance would not cause substantial detriment to the public good. The front setback that is addressed off Gold Splash meets the required setback regulation. The encroachment is on the side yard setback, which will only be used to access the garage. Staff believes the use of the side yard will not have any significant impact on traffic, safety and compatibility of land uses since all other activities of a house takes place in the front yard. Staff therefore believes granting this variance will not have any adverse impacts on the adjoining property.
3. The property complies with all other aspects of the Zoning Ordinance.
4. A portion of the easement has been abandoned.

Mr. Diem then opened the public hearing and asked if there was anyone to speak in favor or against the variance being passed. No one was present to speak for or against the variance. Mr. Diem then closed the public hearing.


Mr. Diem then asked if there was any discussion between the commissioners. Mr. Brown and Mr. Diem both stated that they felt much better about granting the variance now that the portion of the easement that had been encroached upon had been abandoned. Mr. McClure stated that he agreed with both Mr. Brown and Mr. Diem.

After the discussion Mr. Diem asked if there was a motion to approve or disapprove a request to consider a request for a variance from the required 20' side yard setback to a 13' side yard setback on the West side of the property located at 1609 Gold Splash, Described as Lot 11, Block 3, Evergreen Subdivision Phase V, Harker Heights Bell County, Texas.

Mr. Brown then made a motion to approve the variance and Mr. McClure seconded the motion. The request for a variance was unanimously approved (5-0). Mr. Hamden then made a motion to adjourn the meeting and Mr. Brown seconded the motion. The meeting was adjourned at 6:19 pm.

  
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Chairman

ATTEST:

  
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Vice Chairman