

**MINUTES OF THE MEETING OF THE JERSEY VILLAGE
BOARD OF ADJUSTMENT**

March 7, 2017 – 12:00 p.m.

The Board of Adjustment of the City of Jersey Village, Texas, convened on March 7, 2017, at 12:00 p.m. in the Civic Center Meeting Room, 16327 Lakeview Drive, Jersey Village, Texas.

A. The meeting was called to order by Chairman Henry Hermis at 12:00 p.m. and the roll of appointed officers was taken. Board Members present were:

Henry Hermis, Chairman	Thomas Simchak, Vice Chairman
Ken Nguyen, Board Member	Joe Pennington, Board Member
Debra Sappington, Board Member	Doyle Stuckey, Alternate 1, Board Member
M. Reza Khalili, Alternate 2, Board Member	

Council Liaison, Gary Wubbenhorst was present.

City Staff in attendance: Eric Foerster, Interim City Manager; Leah Hayes, City Attorney; Lorri Coody, Board Secretary; Kevin T. Hagerich, Public Works Director; Christian Somers, Building Official; and Jim Bridges, Engineering Technician.

B. Designate Alternate Members to serve in place of any absent Board Member.

No action was taken on this item.

C. Consider approval of the minutes for the meeting held on October 31, 2016.

Board Member Simchak moved to approve the minutes for the meeting held on October 31, 2016. Board Member Sappington seconded the motion. The vote follows:

Ayes: Board Members Simchak, Nguyen, Pennington, and Sappington
Chairman Hermis

Nays: None

The motion carried.

D. Conduct a public hearing on Randy Moon's request for a variance to the Jersey Village Code of Ordinances at Chapter 14, Article IV, Section 14-101(b)(2)(b) to allow the applicant to exceed the maximum 1,000 square feet of ground floor area for detached private garages for the property located at 16316 Lewis Street, Jersey Village, Texas, 77040.

Chairman Hermis opened the public hearing at 12:01 p.m. on Randy Moon's request for a variance to the Jersey Village Code of Ordinances at Chapter 14, Article IV, Section 14-101(b)(2)(b) to allow the applicant to exceed the maximum 1,000 square feet of ground floor area for detached private garages for the property located at 16316 Lewis Street, Jersey Village, Texas, 77040.

The Board found that all notification requirements for both the City and the applicant have been met for this public hearing.

Building Official, Christian Somers, gave a brief description of the applicant's request, stating that the applicant desires to add a patio and patio cover to a detached garage. He explained that the current standard is a maximum of 1,000 SF for a detached garage with a monolithic slab. The patio and patio cover will feature separately placed concrete in the same manner as the driveway, save for piers for the patio posts / columns.

Chairman Hermis called upon the applicant for comments. The applicant was not present when called upon.

Mr. Somers continued by stating that the size of the garage is 996 SF and the patio is 228 SF with a contiguous roof. City Attorney, Leah Hayes, added that in terms of design, the patio is a part of the garage. Some members of the Board wondered about the large 16 foot door opening toward the patio. Mr. Somers explained that the requestor needs a shop for projects.

There were questions about the site plan presented in the application packet. City Attorney Hayes cautioned the Board that the plan review is a separate process and is not to be considered during deliberations concerning the variance request.

The applicant joined the meeting in progress. He stated that he thought the meeting was in the Civic Center and realized he was in the wrong room. Chairman Hermis asked him to state his request. Mr. Moon told the Board that he was building a new home and would like to have a three car garage plus a work shop, but the initial design structure was too large to comply with City Ordinances. Accordingly, he pared down the size of the building and decided upon a patio to serve as a workshop that will have no walls, and be connected to the garage by a cement floor.

In concluding Mr. Moon's statement of his request, Chairman Hermis asked if there was any one else desiring to speak at this public hearing. Hearing none, Chairman Hermis closed the public hearing at 12:15 p.m. and called the next item on the agenda as follows:

E. Discuss and take appropriate action on Randy Moon's request for a variance to the Jersey Village Code of Ordinances at Chapter 14, Article IV, Section 14-101(b)(2)(b) to allow the applicant to exceed the maximum 1,000 square feet of ground floor area for detached private garages for the property located at 16316 Lewis Street, Jersey Village, Texas, 77040.

The Board engaged in discussion about when patio covers are a separate structure. The Building Official explained that if the roof and concrete slab are attached to the garage then the patio is not separate; rather, in this instance, it is a part of the garage and would be limited to the 1,000 SF of ground floor area for detached private garages.

The Board then discussed undue hardship. There were also individuals in the audience who stated that they did not get a chance to comment during the public hearing portion of this request. The City Attorney advised that it would be appropriate to re-open the public hearing in order to give those attending the opportunity to provide comment. Accordingly, Chairman Hermis re-opened the public hearing at 12:30 p.m. and called upon the following individuals for their comments:

Jason Manlove wanted to know the hardship for this request.

Bruce Bowden stated that the proposed structure is not a two (2) story structure and he is “okay” with the proposed construction.

Jason Manlove had another comment. He stated that he would rather see a continuous roof than a structure that has a gap or void.

Joe Campbell stated that he would like to see the plans included in the letters that are mailed to property owners located within 200 feet of the proposed request.

Ray Mendez, a neighbor, stated that he does not have a problem with the proposed structure.

With no one else desiring to speak at the public hearing, Chairman Hermis closed the public hearing at 12:35 p.m.

The Board again discussed hardship. It was the consensus of the Board that no hardship exists in connection with the request.

With no further discussion, Board Member Simchak moved to deny the request of Randy Moon for a variance to the Jersey Village Code of Ordinances at Chapter 14, Article IV, Section 14-101(b)(2)(b) to allow the applicant to exceed the maximum 1,000 square feet of ground floor area for detached private garages for the property located at 16316 Lewis Street, Jersey Village, Texas, 77040. Board Member Sappington seconded the motion. The vote follows:

Ayes: Board Members Simchak, Nguyen, Pennington, and Sappington
Chairman Hermis

Nays: None

The motion carried.

- F. Conduct a public hearing on Gary and Nancy Manuel’s request for a variance to the Jersey Village Code of Ordinances at Chapter 14, Article XII, Section 14-309(a)(1), allowing the applicants to exceed the requirement that residential lots shall have landscaped areas which in the aggregate include not less than 50 percent of the area contained within the building setbacks for the property located at 15714 Honolulu Street, Jersey Village, Texas, 77040.**

Chairman Hermis opened the public hearing at 12:42 p.m. on Gary and Nancy Manuel’s request for a variance to the Jersey Village Code of Ordinances at Chapter 14, Article XII, Section 14-309(a)(1), allowing the applicants to exceed the requirement that residential lots shall have landscaped areas which in the aggregate include not less than 50 percent of the area contained within the building setbacks for the property located at 15714 Honolulu Street, Jersey Village, Texas, 77040.

The Board found that all notification requirements for both the City and the applicant have been met for this public hearing.

Building Official Christian Somers gave a short introduction and turned the floor over to Applicant Gary Manuel who had a PowerPoint presentation detailing his request for variance. The presentation consisted of several pictures of the property and the proposed construction. Each picture was explained by Mr. Manuel in detail.

In concluding the presentation, the Board asked for the current percentage of landscape coverage for the back yard. Mr. Manuel stated that it is currently at 40 percent and with the proposed addition it will be at 62 percent and exceed the landscape requirement by 12 percent. Mr. Manuel outlined his hardship as follows:

1. His lot size is smaller than his neighbors. If it were the same or similar size, he would not have to ask for the variance;
2. His lot is at an angle which prevents maximum usage of the property;
3. He has physical/health needs for a swimming pool. He has had four knee surgeries and the doctor has stated that a swimming pool capable of providing low impact exercise will improve his quality of life; and
4. The addition will be aesthetically pleasing.

The Board engaged in discussion about the proposed construction, specifically, the material to be used around the proposed pool. The utility easement at the back of the property was also discussed. This is 16 feet and limits the use of the property as he cannot build on the easement.

Discussion was had about drainage. The owner explained that he has been in contact with Harris County Flood Control District (HCFCD) about running the drainage to the back of the property into the by-pass channel as opposed to running the drainage to the front into the street. He stated that HCFCD has approved same.

Discussion was also had about the pool and whether or not is it considered permeable. The Building Official stated that he has calculated it as not permeable. However, given the proposed square footage of the pool, if it is considered permeable the applicant would only exceed the landscape requirement by five percent. The Board discussed the standard for calculating the permeability of swimming pools.

Chairman Hermis called for comments by the public as follows:

Jason Manlove stated that the landscape coverage requirement in the City of Houston is 65 percent compared to that in Jersey Village which is 50 percent.

With no one else desiring to speak at the public hearing, Chairman Hermis closed the public hearing at 1:08 p.m. and called the next item on the agenda.

- G. Discuss and take appropriate action on Gary and Nancy Manuel's request for a variance to the Jersey Village Code of Ordinances at Chapter 14, Article XII, Section 14-309(a)(1), allowing the applicants to exceed the requirement that residential lots shall have landscaped areas which in the aggregate include not less than 50 percent of the area contained within the building setbacks for the property located at 15714 Honolulu Street, Jersey Village, Texas, 77040.**

The Board engaged in discussion about the 50 percent landscape coverage requirement and the reasons for same (green space and runoff). There was also discussion about the large utility easement of 16 feet at the back of the property.

The Board also discussed the pool's permeability. If it is considered permeable than approving a variance could carry a restriction that the landscape requirement only be exceeded by five percent. The City Attorney cautioned the Board about considering restrictions based upon project design and added that restrictions can be added if they are regulatory in nature such as drainage.

With no further discussion on the matter, Board Member Simchak moved to grant the request of Gary and Nancy Manuel for a variance to the Jersey Village Code of Ordinances at Chapter 14, Article XII, Section 14-309(a)(1), allowing the applicants to exceed the requirement that residential lots shall have landscaped areas which in the aggregate include not less than 45 percent of the area contained within the building setbacks for the property located at 15714 Honolulu Street, Jersey Village, Texas, 77040, with the additional requirements that an engineered drainage plan be approved for the proposed development. Board Member Nguyen seconded the motion. The vote follows:

Ayes: Board Members Simchak, Nguyen, Pennington, and Sappington
Chairman Hermis

Nays: None

The motion carried.

H. Conduct a public hearing on Nick Miihlbach's request, filed on behalf of David Wagner, for a variance to the Jersey Village Code of Ordinances at Chapter 14, Article IV, Section 14-101(b)(1)(a)(2) to allow the applicant's add on construction to exceed the maximum building height of 35 feet without satisfying the requirement of additional side setback to offset the additional height above 35 feet for the property located at 15502 Lakeview Drive, Jersey Village, Texas 77040.

Chairman Hermis opened the public hearing at 1:17 p.m. on Nick Miihlbach's request, filed on behalf of David Wagner, for a variance to the Jersey Village Code of Ordinances at Chapter 14, Article IV, Section 14-101(b)(1)(a)(2) to allow the applicant's add on construction to exceed the maximum building height of 35 feet without satisfying the requirement of additional side setback to offset the additional height above 35 feet for the property located at 15502 Lakeview Drive, Jersey Village, Texas 77040.

The Board found that all notification requirements for both the City and the applicant have been met for this public hearing.

Building Official Somers explained the variance request for the proposed slab elevation project stating that the existing home is located 10 feet from the side lot line and with the slab elevation it will need to be located 10 feet 8 inches from the side lot line in order to comply with the City's height ordinance. With the slab elevation, the structure will be 37 and half feet in height.

Applicant Nick Miihlback spoke to the Board, stating that this home has previously flooded four times. The reason for the slab elevation is for protection against future flooding. Accordingly, flooding is the hardship in this case. In order to protect against future flooding, the home will be raised four and half feet.

With no one else desiring to speak at the public hearing, Chairman Hermis closed the public hearing at 1:20 p.m.

- I. Discuss and take appropriate action on Nick Miihlbach's request, filed on behalf of David Wagner, for a variance to the Jersey Village Code of Ordinances at Chapter 14, Article IV, Section 14-101(b)(1)(a)(2) to allow the applicant's add on construction to exceed the maximum building height of 35 feet without satisfying the requirement of additional side setback to offset the additional height above 35 feet for the property located at 15502 Lakeview Drive, Jersey Village, Texas 77040.**

With limited discussion on the matter, Board Member Pennington moved to grant Nick Miihlbach's request, filed on behalf of David Wagner, for a variance to the Jersey Village Code of Ordinances at Chapter 14, Article IV, Section 14-101(b)(1)(a)(2) to allow the applicant's add on construction to exceed the maximum building height of 35 feet without satisfying the requirement of additional side setback to offset the additional height above 35 feet for the property located at 15502 Lakeview Drive, Jersey Village, Texas 77040. Board Member Sappington seconded the motion. The vote follows:

Ayes: Board Members Simchak, Nguyen, Pennington, and Sappington
Chairman Hermis

Nays: None

The motion carried.

Chairman Hermis called for a short recess at 1:22 p.m. and resumed the meeting with a quorum present at 1:25 p.m. He called items J and L together as follows:

- J. Conduct a public hearing on Landmark Industries Energy's request for a variance to the Jersey Village Code of Ordinances at Chapter 14, Article IV, Section 14-105(b)(3) to allow the applicant's 3,960 square foot structure to be located closer than ten feet to the side lot line or street line for the property located at 17438 Northwest Freeway, Jersey Village, Texas 77040.**
- L. Conduct a public hearing on Landmark Industries Energy's request for a variance to the Jersey Village Code of Ordinances at Chapter 14, Article IV, Section 14-105(b)(3) to allow the applicant's 3,960 square foot structure to be located closer than ten feet to the rear lot line for the property located at 17438 Northwest Freeway, Jersey Village, Texas 77040.**

Chairman Hermis opened the public hearings at 1:26 p.m. on Landmark Industries Energy's request for a variance to the Jersey Village Code of Ordinances at Chapter 14, Article IV, Section 14-105(b)(3) to allow the applicant's 3,960 square foot structure to be located closer than ten feet to the side lot line or street line and the rear lot line for the property located at 17438 Northwest Freeway, Jersey Village, Texas 77040.

The Board found that all notification requirements for both the City and the applicant have been met for this public hearing.

Building Official Somers explained the requests and introduced Mark Thompson who was present representing Landmark Industries. The request is to exceed the side and rear lot line requirements by seven feet. The site plan was reviewed by the Board to get an idea of how the property will be re-developed as a result of the US HWY 290 expansion. Mr. Thompson explained that the lot will be entirely re-developed, placing the convenience store at the back of the property. There will be eight pumps (16 dispensers) compared to the current six pumps (12 dispensers).

The Board asked about the amount of property taken by the US HWY 290 expansion. Mr. Thompson stated that it took 18 and ½ feet off the front of the property plus the ten foot city utility easement. He stated that the lot was small to begin with and the taking has made it that much more difficult. The Board wondered if not for the US HWY 290 expansion could the proposed construction fit on the property without variance. Mr. Thompson stated that it could and sees the taking as a hardship.

The Board engaged in discussion about the current parking availability compared to the proposed parking. Also, discussion was had that the proposed construction eliminates the car wash. Since the proposal is to locate the convenience store three feet from the rear lot line, the Board confirmed that proper notice was given to the property owners within 200 feet of the proposed change. Ms. Coody confirmed the mailing of the notices and called the Boards' attention to the City's Certification of Mailing included in the meeting packet.

With no one else desiring to speak, Chairman Hermis closed the public hearings at 1:38 p.m.

Chairman Hermis then called K and M together as follows:

- K. Discuss and take appropriate action on Landmark Industries Energy's request for a variance to the Jersey Village Code of Ordinances at Chapter 14, Article IV, Section 14-105(b)(3) to allow the applicant's 3,960 square foot structure to be located closer than ten feet to the side lot line or street line for the property located at 17438 Northwest Freeway, Jersey Village, Texas 77040.**
- M. Discuss and take appropriate action on Landmark Industries Energy's request for a variance to the Jersey Village Code of Ordinances at Chapter 14, Article IV, Section 14-105(b)(3) to allow the applicant's 3,960 square foot structure to be located closer than ten feet to the rear lot line for the property located at 17438 Northwest Freeway, Jersey Village, Texas 77040.**

Discussion was had about the need of the property owner to re-develop the property as a result of the US HWY 290 expansion project. It was the consensus of the Board that the taking of the property by the State and the City for the expansion project caused a hardship for the applicant.

With no further discussion on the matter, Board Member Pennington to GRANT the request of Landmark Industries Energy for a variance to the Jersey Village Code of Ordinances at Chapter 14, Article IV, Section 14-105(b)(3) to allow the applicant's 3,960

square foot structure to be located no closer than three feet to the side lot line and no closer than three feet to the rear lot line for the property located at 17438 Northwest Freeway, Jersey Village, Texas 77040. Board Member Sappington seconded the motion. The vote follows:

Ayes: Board Members Simchak, Nguyen, Pennington, and Sappington
Chairman Hermis

Nays: None

The motion carried.

N. Adjournment

With no other business before the Board, Chairman Hermis adjourned the meeting at 1:57 p.m.

Lorri Coody, Board Secretary