

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

June 8, 2020 – 12:00 p.m.

The Board of Adjustment of the City of Jersey Village, Texas, convened on June 8, 2020 at 12:00 p.m. in the Civic Center Auditorium at 16327 Lakeview Drive, Jersey Village, Texas 77040.

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

Thomas G. Simchak, Chairman	M. Reza Khalili, Board Member
Joe Pennington, Board Member	Nester Mena, Alternate Place 1
Ken Nguyen, Board Member	Judy Tidwell, Alternate Place 2

Council Liaison, Gary Wubbenhorst was present.

Board Member, Henry Hermis was not present at this meeting.

City Staff in attendance: Scott Bounds, City Attorney; Lorri Coody, City Secretary; Christian Somers, Building Official and Harry Ward, Public Works Director.

**B. Designate alternate members to serve in place of any absent Board Members.**

Chairman Simchak designated Nester Mena, Alternate Place 1 to serve in the place of Board Member Henry Hermis.

**C. Consider approval of the minutes for the meeting held on February 12, 2020.**

Board Member Khalili moved to approve the minutes for the meeting held on February 12, 2020. Board Member Mena seconded the motion. The vote follows:

Ayes: Board Members Pennington, Nguyen, Khalili and Mena  
Chairman Simchak

Nays: None

The motion carried.

**D. Conduct a public hearing on Robert Sanders' request for variance, filed on behalf of BHA Real Estate Holdings, LLC, owner, to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Section 14-88(a)(19), requiring an obscuring wall for development of nonresidential lots directly abutting and adjacent to residential zoning districts for the property located at 16634 Northwest Freeway, Jersey Village, Texas 77040.**

Chairman Simchak opened the public hearing at 12:03 p.m. in order to receive written and oral comments from any interested person(s) concerning Robert Sanders' request for variance, filed on behalf of BHA Real Estate Holdings, LLC, owner, to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Section 14-88(a)(19), requiring an obscuring wall for development of nonresidential lots directly abutting and adjacent to residential zoning districts for the property located at 16634 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.

Chairman Simchak called upon the applicant to present his case and supporting evidence concerning the variance request.

Applicant, Robert Sanders, on behalf of BHA Real Estate Holdings, LLC, stated that the property located at 16634 NW FWY, known as Joe Meyers Dealership, abuts the Jersey Village City Hall, Police Department, and Fire Department Property. The zoning for the City property was changed from commercial to residential back in 2019. The zoning change placed a heavy financial burden on the dealership, as it now requires an obscuring wall at a cost of \$250,000. Currently, there is considerable landscaping separating the two properties. This landscaping buffer is to be enhanced during the renovations of the dealership. Mr. Sanders presented the Board with Pictures that show what it currently looks like. He feels it is pleasing and would meet typical visual separation between two (2) commercial properties. He stated that the main reason for the variance request is financial. The required wall would need to be 1050 linear feet and the cost would be a hardship at \$250,000. He stated that a soundwall in a commercial application is not warranted.

He told the Board that he researched the zoning change by reviewing the City Council Meeting archives. During the zoning change discussions, City Council discussed the TxDOT requirements for continuation of the soundwall, which currently will stop at the Joe Meyers Dealership property line and not continue along the property line that is the subject of this variance request.

The Board asked the applicant about the statement in the application that states there is not enough room for the wall. Mr. Sanders replied by stating that the area where the wall would need to be placed is very limited and tight and would encroach upon the overall available space in that the wall must be eight (8) inches thick. Nonetheless, he again stated that the main reason for the variance request is the cost involved in constructing the wall.

With no further comments from the Applicant, Board Chairman Simchak called Christian Somers, the City's Building Official, to present any information that he deemed necessary, appropriate, or relative to the application.

Mr. Somers stated that this request is for a variance to the required 6' masonry-screening wall between the non-residential Joe Myers Ford redevelopment projects and the adjacent residential zoning district.

He gave some background information about the 2019 zoning change, stating that the intent of the change was to align our zoning districts. The City property was currently zoned District G and is now zoned residential.

As to the status of the development permit, Mr. Somers stated that the Code of Ordinances will not allow release of a construction / building permit until a Certificate of Compliance has issued for all zoning and floodplain requirements – such as providing the required 6' masonry wall. Nonetheless, a Phase I permit was issued for the Ford dealership project for an 8-week span on Friday, March 20, 2020, then extended last month (since today we are nearing the 11-week mark) and convening a meeting with the SARS CoV2 pandemic seemed unlikely in the

near-term. Work had yet to commence given COVID 19 and the economic uncertainty, but it was recently learned from Mr. Aaron Davis with BHA that work will ensue on the addition and remodeling components in early June of 2020.

The Board discussed the zoning change. It was noted that when the change in zoning occurred, that is when the requirement for the obscuring wall came into play. After the zoning change was made, the City posted notice of the change in the Houston Chronicle. The Board wanted to know why this is a problem now since the change occurred in 2019. Building Official Somers explained that the redevelopment of the property has prompted the need for the obscuring wall that must be eight (8) inches wide and six (6) feet high.

Building Official Somers suggested that in considering the variance request, the Board could require an enhanced landscape buffer, which would accommodate the obstacles on both sides of the property, as well as those listed in the application.

The Board discussed the TxDOT soundwall and why TxDOT is not continuing the soundwall along the stretch of property the subject of this variance. City Attorney Bounds stated he suspects that the soundwall by TxDOT is only for residential property. Applicant Sanders told the Board that according to his research, City Council made the zoning change back in 2019 in hopes that TxDOT would continue the wall between the City property and the dealership property.

The Board engaged in discussion about the obscuring wall and the reasons for the obscuring wall. There were many questions to which Building Official Somers responded. Additionally, the TxDOT soundwall was discussed.

With no further discussion or questions, the Board Chairman called if there was anyone else desiring to speak in favor or opposed to the granting of the application. The following individuals were called to speak:

**Greg Holden, 16429 Jersey Hollow, Jersey Village, Texas:** Mr. Holden stated that he is a City Council Member. He stated that the zoning change was done at the request of the City. The Planning and Zoning Commission reviewed the request in April of 2019 and it was approved by City Council in June of 2019. The change was made in hopes that TxDOT would extend the soundwall; however, TxDOT will not extend the soundwall along the property that is the subject of this variance. Without the TxDOT soundwall being built, Council Member Holden stated that he feels the requirement for the dealership to build an obscuring wall is punitive.

The Board asked Council Member Holden if there were any grandfathering provisions included in the zoning change. Council Member Holden stated that there were no grandfather provisions.

**Gloria McKay, 16313 Lakeview Drive, Jersey Village, Texas:** Ms. McKay stated that her neighbors Mary Joe Dupre and Lucille Mitchel had sent the Board their written comments opposing the granting of the variance request. She wanted to make sure the Board had received them. Chairman Simchak stated that they had received these written comments.

Ms. McKay stated that a number of her neighbors are present in the audience and she asked them to raise their hand if they opposed the granting of this request. All raised their hands

indicating that they opposed the granting of the variance request. Ms. McKay went on to state that she has lived in her home for over 40 years. She told the Board that her home was built when the City Hall property and the dealership property were just open fields.

She stated that she has been working with the dealership for some 24 years in order to keep the residential properties separated from the commercial property. She gave the Board copies of two flyers that she used back in 1996 to show the need for the separation. Her written comments outlined that she was able to get the landscape buffer that currently exists between the two properties. Her objective was to deter noise and maintain a good visual separation between the two properties.

She went on to say that she believes that the obscuring wall is necessary to protect property owners.

**George Moore, 16303 Lakeview Drive, Jersey Village, Texas** – Mr. Moore has lived in his home since 1977. He believes that we all need to look at the big picture, to protect the integrity of our community. We need to remain consistent in our policymaking. We need to look at what the future use of the City Hall Property might bring. It is very possible, given the plans to build a new City Hall on the South side of US HWY 290, that the existing building could be demolished and the property could be used for a City Park. If so, and there is no substantial barrier between the two properties, this could be a problem. Accordingly, he requested that the Board deny the request.

**Kay Vaccaro, 16301 Lakeview Drive, Jersey Village, Texas** – Ms. Vaccaro had the following comments about the variance request.

1. **The Zoning Change:** While the zoning change may have made it more difficult for the dealership to redevelop, it now exists and it is a requirement they should have to meet.
2. **Financial Burden:** She made mention that there is a discrepancy in the cost numbers being presented by the dealership; however, it makes no matter since all property owners must meet the City's codes when remodeling and so should the dealership.
3. **TxDOT Soundwall:** Given that TxDOT will not continue the soundwall, the dealership should extend a wall along their portion of the property line in accordance with the Code requirements.
4. **No Room:** The dealership needs to revise their remodel plans if there is not enough room.
5. **Just Visual:** No it is not just a visual issue. It is a safety issue as well.

Ms. Vaccaro closed stating that she opposes the granting of this variance.

With no further public comments, the Board Chairman called upon the applicant to make any rebuttal statements.

Mr. Sanders stated that BHA Real Estate Holdings, LLC has only owned the property since 2015. Many of the issues stated by the property owners are being taken care of by the TxDOT soundwall. The two existing commercial properties are being separated by a fence with plans to repair the existing fence where there is no opportunity to make entry into the dealership property. There is also landscaping that will be enhanced during the redevelopment process.

In terms of building the obscuring wall, there are circulation issues as well as room issues. The land in the area where the obscuring wall will be placed is very tight and circulation will be

impacted. The body shop has been relocated to another location so the issue of noise has been diminished. In response to the discrepancy in the remodel costs, initially the dealership had planned for a remodel project at a cost of \$6.5 million, but because of the economic times, the remodel project has been scaled back to \$3.5 million. As part of the planned project, all sight lighting will be replaced with LED lighting with zero light pollution across property lines. In making their remodel of the dealership, they are trying to be a good neighbor and citizen. In closing, he asked the Board to grant the variance request.

The Board discussed the request. Some wondered if the dealership got a property tax abatement and, if so, is the abatement still in effect. City Attorney Bounds stated that property tax abatements must have a (7) years end date.

The logistical challenge was discussed. Applicant Sanders explained that on the other side of the landscape the existing building is almost on the property line with a fire lane. If required to build the obscuring wall, the wall will encroach the fire lane.

With no other comments, Chairman Simchak closed the public hearing on Robert Sanders' request for variance, filed on behalf of BHA Real Estate Holdings, LLC, owner, to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Section 14-88(a)(19), requiring an obscuring wall for development of nonresidential lots directly abutting and adjacent to residential zoning districts for the property located at 16634 Northwest Freeway, Jersey Village, Texas 77040 at 1:09 p.m.

**(1) Discuss and take appropriate action on Robert Sanders' request for variance, filed on behalf of BHA Real Estate Holdings, LLC, owner, to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Section 14-88(a)(19), requiring an obscuring wall for development of nonresidential lots directly abutting and adjacent to residential zoning districts for the property located at 16634 Northwest Freeway, Jersey Village, Texas 77040.**

The Board had questions about the landscaping option mentioned by Building Official Somers. Mr. Somers explained that for new construction where a masonry wall of at least six feet in height exists in the residential lots abutting a nonresidential development, the nonresidential developer shall provide a buffer yard one and one-half times the width required with two times the landscaping requirements in lieu of a second masonry wall. He suggested that while no residential wall exists, the Board could use this landscaping requirement as an alternative option to requiring an obscuring wall. With this suggestion, the Board confirmed that it could consider alternative options.

The zoning change was discussed. Mr. Somers explained that the change was from residential lots to residential zoning districts as follows:

**“For development of nonresidential lots directly abutting and adjacent to residential ~~lots~~ zoning districts, an obscuring wall shall be required. The required wall shall be located inside the nonresidential lot lines abutting and adjacent to the residential ~~lots~~ zoning districts. . . .”**

The Board further discussed the required wall and where it should be placed. It was decided that the redevelopment project triggered the need for the wall and that the wall would need to be 1050 linear feet in length.

The size of the dealership property was discussed as it compares to the size of lots of individual property owners. Some Board Members felt that requiring the wall is the right decision.

The Board had questions about TxDOT's policy on building a soundwall. City Attorney Bounds stated that a residential lot with no structure was still consider residential property. He also explained the obscuring wall requirement.

The reasons for the zoning change were discussed again by the Board.

With no further discussion on the matter, Board Member Pennington moved to deny Robert Sanders' request for variance, filed on behalf of BHA Real Estate Holdings, LLC, owner, to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Section 14-88(a)(19), requiring an obscuring wall for development of nonresidential lots directly abutting and adjacent to residential zoning districts for the property located at 16634 Northwest Freeway, Jersey Village, Texas 77040 in that the applicant failed to prove the requirements the Board must consider in granting a variance. Board Member Mena seconded the motion. The vote follows:

Ayes: Board Members Pennington, Khalili, and Mena  
Chairman Simchak

Nays: Board Member Nguyen

The motion carried.

*The Board's Original Order No. 2020-06 is attached to and made a part of these minutes.*

## **E. Adjourn**

With no other business before the Board, Chairman Simchak adjourned the meeting at 1:21 p.m.



---

Lorri Coody, City Secretary



**CITY OF JERSEY VILLAGE  
BOARD OF ADJUSTMENT  
ORDER NO. 2020-06**

**WHEREAS**, on April 20, 2020, Robert Sanders filed a request for variance, on behalf of owner BHA Real Estate Holdings, LLC, to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Section 14-88(a)(19), requiring an obscuring wall for development of nonresidential lots directly abutting and adjacent to residential zoning districts for the property located at 16634 Northwest Freeway, Jersey Village, Texas 77040.

**WHEREAS**, the Board conducted a Public Hearing and received evidence from the Public and from the Applicants on June 8, 2020; and

**WHEREAS**, after closing the hearing, the Board found:

- the request for variance is contrary to the public's interest;
- there were no special conditions that would justify a variance;
- the enforcement of Chapter 14, Article IV, Section 14-88(a)(19) would not result in an unnecessary hardship for BHA Real Estate Holdings, LLC;
- the granting of the variance would not be in the spirit of the ordinance; and
- the granting of the variance would not result in substantial justice being done.

**NOW THEREFORE, BE IT ORDERED BY THE BOARD OF ADJUSTMENT OF THE CITY OF JERSEY VILLAGE THAT:**

**SECTION 1.** In consideration of the evidence before the Board, with a concurring vote of at least four (4) members, the Board voted to DENY the request of BHA Real Estate Holdings, LLC, owner, for a variance to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Section 14-88(a)(19), requiring an obscuring wall for development of nonresidential lots directly abutting and adjacent to residential zoning districts for the property located at 16634 Northwest Freeway, Jersey Village, Texas 77040.

**PASSED, APPROVED, AND ORDERED** this 8th day of June 2020.

s/Thomas G. Simchak, Chairman

**ATTEST:**

s/Lorri Coody, City Secretary

