

MINUTES OF THE MEETING FOR THE BOARD OF ADJUSTMENT OF THE CITY OF JERSEY VILLAGE, TEXAS, HELD ON SEPTEMBER 9, 2020 AT 1:00 P.M. PURSUANT TO SECTION 418.016 OF THE TEXAS GOVERNMENT CODE.

Pursuant to Section 418.016 of the Texas Government Code, on March 16, 2020, the Governor of the State of Texas granted the Office of the Attorney General's request for the temporary suspension of certain provisions of the Texas Open Meetings Act to allow for telephonic or videoconference meetings of governmental bodies that are accessible to the public in an effort to reduce in-person meetings that assemble large groups of people, as a precautionary measure to contain the spread of novel coronavirus COVID-19.

Accordingly, the public was not allowed to be physically present at this 2020 Charter Review Commission Meeting for the City of Jersey Village, Texas, but the meeting was available to members of the public and allowed for two-way communications for those desiring to participate via telephone with the following toll-free number: **346-248-7799 along with Webinar ID: 913 2407 8054.**

A. The meeting was called to order by Chairman Tom G. Simchak at 1:07 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 June 8, 2020.

Board Member Khalili moved to approve the minutes for the meeting held on June 8, 2020. Board Member Nguyen 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 Joe Brothers' request for variance to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Section 14-88(b), to encroach the 25 foot rear setback by up to nine (9) feet for the property located at 15710 Australia, Jersey Village, Texas 77040.

Chairman Simchak opened the public hearing at 1:11 p.m. in order to receive written and oral comments from any interested person(s) concerning Joe Brothers' request for variance to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Section 14-88(b), to encroach the 25 foot rear setback by up to nine (9) feet for the property located at 15710 Australia, 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.

Mr. Brothers presented his request. He told the Board that he wants to build a patio cover at the rear of his home. The cover will encroach the rear setback by up to nine (9) feet. He shared his screen with the Board in order to show pictures of what he wants to do and how his plans affect the rear setback. He also showed a site plan which depicts his lot size and shape. The lot is an odd shape.

The Board wondered about the square footage of the area that will be encroached. City Building Official Somers stated that the problem is not so much the square footage of the encroachment, rather the two to three columns that will encroach the rear setback.

There were questions about where the columns will be placed upon the property. Mr. Brothers showed another site plan of the roof line and the columns that will encroach the rear setback.

City Building Official Somers gave City Code information about primary structures and lot lines. The Board wondered what would happen if the patio cover was free standing and not attached. Mr. Somers explained that such a structure would be allowed to be three (3) feet from the lot line but would not be permitted to encroach any easements unless it was placed on skids or was a pool deck.

There was discussion about the rear building line, which is the issue that encroaches the rear setback.

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 the Board has granted requests in the past for carports that encroach the side setbacks. There was another request where steel I beams were used where the right front pole encroached the setback. In this case, the structure in question is the rear of the home and is not visible from the right of way. So given past rulings and the fact that it will not be visible from the right of way, this request should be granted.

City Attorney Bounds stated that what is distinguishing about this case is the dimensions of the lot and that the lot shape is unique. He also stated that the structure is unlikely to affect any privacy issues. He cautioned the Board that variances are determined on a case by case bases and any rulings by the Board will not affect other cases.

The Board wanted to know if there are any negatives to granting this request. City Building Official Somers stated that he cannot see any negatives. If the variance is granted and the patio is built, there will still be 50% of permeable cover in Mr. Brothers' back yard.

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.

Hearing no one desiring to speak, the Board Chairman called upon the applicant to make any rebuttal statements.

Mr. Brothers stated he would like the variance granted.

The Board then discussed the request, and with no other comments, Chairman Simchak closed the public hearing on Joe Brothers' request for variance to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Section 14-88(b), to encroach the 25 foot rear setback by up to nine (9) feet for the property located at 15710 Australia, Jersey Village, Texas 77040 at 1:29 p.m.

(1) Discuss and take appropriate action on Joe Brothers' request for variance to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Section 14-88(b), to encroach the 25 foot rear setback by up to nine (9) feet for the property located at 15710 Australia, Jersey Village, Texas 77040.

Some Board Members felt that the variance should be granted because of the irregular shape of lot and because the planned structure will not be enclosed.

With no further discussion on the matter, Board Member Pennington moved to grant Joe Brothers' request for variance to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Section 14-88(b), to encroach the 25 foot rear setback by up to nine (9) feet for the property located at 15710 Australia, Jersey Village, Texas 77040. Board Member Khalili seconded the motion. The vote follows:

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

Nays: None

The motion carried.

The Board's Original Order No. 2020-07 is attached to and made a part of these minutes.

E. Conduct a public hearing on Elizabeth Earnest's request for variance to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Section 14-88(b), to encroach the 7 and 1/2 foot side setback by 1 and 1/2 feet for the property located at 16210 Singapore, Jersey Village, Texas 77040.

Chairman Simchak opened the public hearing at 1:31 p.m. in order to receive written and oral comments from any interested person(s) concerning Elizabeth Earnest's request for variance to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Section 14-88(b), to encroach the 7 and 1/2 foot side setback by 1 and 1/2 feet for the property located at 16210 Singapore, 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 her case and supporting evidence concerning the variance request.

Ms. Earnest explained her request for variance. She plans to add onto her home and wants a variance to encroach the side setback. She shared pictures of her plans that depict her remodel. The new structure will meet with the existing structure that already encroaches the side setback by 1 and ½ feet.

The Board had a few questions for the applicant about the plans she shared. She responded accordingly.

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 when the home was built, it encroached the side setback. If the variance is not granted, the remodel would have to move left and would not be pleasing from the right of way. He reported that the City has not received any complaints about the existing home encroaching the side setback. Accordingly, the City does not object to the request.

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.

Hearing no one desiring to speak, the Board Chairman called upon the applicant to make any rebuttal statements.

Ms. Earnest stated she checked with the neighbors and they did not have any problems with her plans to add onto her existing home.

With no other comments, Chairman Simchak closed the public hearing on Elizabeth Earnest's request for variance to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Section 14-88(b), to encroach the 7 and 1/2 foot side setback by 1 and 1/2 feet for the property located at 16210 Singapore, Jersey Village, Texas 77040 at 1:38 p.m.

(1) Discuss and take appropriate action on Elizabeth Earnest's request for variance to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Section 14-88(b), to encroach the 7 and 1/2 foot side setback by 1 and 1/2 feet for the property located at 16210 Singapore, Jersey Village, Texas 77040.

Chairman Simchak asked the City Attorney for input. City Attorney Bounds stated that he is not aware of any City Ordinances that address additions onto non-conforming structures so there is no further guidance.

With no further discussion on the matter, Board Member Pennington moved to grant Elizabeth Earnest's request for variance to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Section 14-88(b), to encroach the 7 and 1/2 foot side setback by 1 and 1/2 feet for the property located at 16210 Singapore, Jersey Village, Texas 77040. Board Member Khalili seconded the motion. The vote follows:

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

Nays: None

The motion carried.

The Board's Original Order No. 2020-08 is attached to and made a part of these minutes.

F. Adjourn

With no other business before the Board, Chairman Simchak adjourned the meeting at 1:40 p.m.

s/Lorri Coody, City Secretary





**CITY OF JERSEY VILLAGE
BOARD OF ADJUSTMENT
ORDER NO. 2020-07**

WHEREAS, on August 17, 2020, Joe Brothers filed a request for variance to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Section 14-88(b), to encroach the 25 foot rear setback by up to nine (9) feet for the property located at 15710 Australia, Jersey Village, Texas 77040.

WHEREAS, the Board conducted a Public Hearing and received information from the Public and from the Applicants on September 9, 2020; and

WHEREAS, after closing the hearing, the Board in making its decision considered:

- if the request for variance is contrary to the public's interest;
- if, due to special conditions, enforcement of Chapter 14, Article IV, Section 14-88(b) will result in an unnecessary hardship for Joe Brothers; and
- that in granting the variance, the spirit of this chapter will be upheld and observed;

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

SECTION 1. In consideration of the information before the Board, with a concurring vote of at least four (4) members, the Board voted to GRANT the request of Joe Brothers for variance to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Section 14-88(b), to encroach the 25 foot rear setback by up to nine (9) feet for the property located at 15710 Australia, Jersey Village, Texas 77040.

PASSED, APPROVED, AND ORDERED this 9th day of September 2020.

s/Thomas G. Simchak, Chairman

ATTEST:

s/Lorri Coody, City Secretary





**CITY OF JERSEY VILLAGE
BOARD OF ADJUSTMENT
ORDER NO. 2020-08**

WHEREAS, on August 21, 2020, Elizabeth Earnest filed a request for variance to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Section 14-88(b), to encroach the 7 and 1/2 foot side setback by 1 and 1/2 feet for the property located at 16210 Singapore, Jersey Village, Texas 77040.

WHEREAS, the Board conducted a Public Hearing and received information from the Public and from the Applicants on September 9, 2020; and

WHEREAS, after closing the hearing, the Board in making its decision considered:

- if the request for variance is contrary to the public's interest;
- if, due to special conditions, enforcement of Chapter 14, Article IV, Section 14-88(b) will result in an unnecessary hardship for Elizabeth Earnest; and
- that in granting the variance, the spirit of this chapter will be upheld and observed;

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

SECTION 1. In consideration of the information before the Board, with a concurring vote of at least four (4) members, the Board voted to GRANT the request of Elizabeth Earnest for variance to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Section 14-88(b), to encroach the 7 and 1/2 foot side setback by 1 and 1/2 feet for the property located at 16210 Singapore, Jersey Village, Texas 77040.

PASSED, APPROVED, AND ORDERED this 9th day of September 2020.

s/Thomas G. Simchak, Chairman

ATTEST:

s/Lorri Coody, City Secretary

