MINUTES OF THE BOARD OF ZONING APPEALS MEETING
JULY 27TH, 2015

The regular meeting of the City of Mission Board of Zoning Appeals was called to order by Chair Jim Brown at 6:30 PM Monday, July 27th, 2015. Members also present: Mike Lee, Robin Dukelow, Stuart Braden and Carla Mills. Also in attendance: City Planner Danielle Murray and Board of Zoning Appeals Secretary Nakeisha Cooper.

APPROVAL OF MINUTES OF JUNE 22, 2015

Mrs. Dukelow moved and Mr. Braden seconded a motion to approve the minutes of the June 22nd 2015 meeting. The vote was taken (5-0-0). The **motion carried**.

Jim Brown read the BZA rules of procedures into the record.

CASE#15-02 VARIANCE - PUBLIC HEARING
5605 W. 49TH STREET- FRONT YARD SETBACK

Ms. Murray presented the staff report.

The existing building was constructed in 1956 as a residential home. The application indicates that the home has been in the current owner's family since that time. Over the years, the homeowner has made interior alterations to adapt the space for his use. Following a recent hospitalization, the homeowner is requesting that exterior alterations be allowed to continue the same. Information submitted by the homeowner's doctor and brother is included in the packet. The proposed alteration includes a front deck and handicap accessible ramp which extends into the required front yard area.

The subject property is zoned Single-Family Residential "R1" district. The Comprehensive Plan indicates this area is appropriate for residential low density development.
The adjacent properties are all developed. To the north is a sewage treatment facility, to the
east/west/south are detached residential homes similar to the subject property.

The "R1" District requires that front yard a minimum of 20'30' in depth be maintained. This request is to allow the construction of a deck and ramp on the subject property with a reduction to the setback . The applicant is requesting the the setback from the property line be reduced from 30' feet to 16' to accommodate the deck and ramp. Approval of this variance does not constitute approval of the specific structure shown, only the change in the zoning code requirements which would allow the applicant to submit a building permit application that meets the new standards.

Due to the nature of this request, the City's attorney has advised that the following three criteria be used to make a determination on this case instead as there appears to be adequate evidence to demonstrate a medical/physical need for the alteration. The City's attorney has indicated that Federal Disability and Fair Housing laws require public entities to make reasonable modifications in policies, practices or procedures when the modifications are necessary to avoid discrimination on the basis of disability.

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1. Is the applicant or person to be accommodated disabled?

The City's attorney has reviewed the materials submitted and agrees that adequate evidence
has been presented to establish a medical or physical need for a ramp entrance.

2. Is the variance reasonably necessary to accommodate the disability?
In order to construct any addition to the existing building a variance would be required as the current home is already located at the limit of the front setback. The variance requested is no more than the minimum needed to add a front deck and ramp. A variance is the appropriate zoning relief to be requested.

3. Would the variance fundamentally and unreasonably alter the nature or purposes of the zoning ordinance?

In land use , a front setback is the distance which a building or other structure is set back from a street or road. The purpose of establishing a zoning setback standard is both to provide a uniform open area or front yard and to control the density of development in a neighborhood by establishing a maximum buildable area. The requested variance to add a front entry feature would not increase the density (number of housing units per acre) of the lot nor significantly alter the open area of the front yard.

Paul Lillig, agent for the property owner came forth and explained that the homeowner contracted them to construct a new handicapped ramp that will allow easy access to the entrance of the residence. Mr. Lilling submitted photos to show an example of what the scope of work would look like.

Ms. Dukelow asked Mr. Lillig if he would keep the existing stoop and the walls around the stoop.

Mr. Lilling stated that here will be an extension on the deck and the walls will be removed.
Mr. Dukelow asked the applicant how the excavation will be maintained.

Mr. Lilling explained that they will be installing landscaping timbers.

Mr. Dukelow asked the applicant if the handrails would be constructed with wood and if the applicant would consider using a visual lighter material or iron.

Mr. Brian Sunday with Accessibility remodeling came forth and explained that the material has not been chosen and explained that rails over time will become hard to maintain. They will use a material that will be long lasting.

Ms. Dukelow reiterated her question about the walls along the ramp.

Mr. Brown opened that Public Hearing, with no public comments Mr. Brown closed the Public Hearing.

Mr. Braden moved and Mrs. Dukelow seconded a motion to accept findings of fact presented in the staff report and approve the proposed variance as requested reducing the front setback for property located at 5605 W. 49th Street from 30" to 16' for the construction of a front deck and ramp. **The vote was taken** (5-0-0). The **motion carried**.

Mr. Brown asked what steps would be necessary if agreed and approved by the BZA panel, to allow staff to approve or disapprove an applicant by allowing them to put the ramp portion of an access ramp in an area beyond the front setback; as long as it is for accessibility purposes and is offered with the condition that the accessibility is no longer required.

Ms. Murray explained that is an approach that can be made by the Planning Commission there could be an amendment to the Zoning Code that allows for that type of structure.

CASE#15-03 VARIANCE - PUBLIC HEARING
5820 LAMAR AVENUE- MONUMENT SIGN

Due to conflict of interest, Mr. Lee recused himself from this Public Hearing case.

Ms. Murray presented the staff report.

The subject property is currently zoned Pedestrian Oriented Business District "C2A" and is located mid block north of Johnson Drive between Lamar Avenue and Russell Street on Lot 3 of the Holly Grove subdivision. The property was developed as an office building in 2002. In 2003 sign permit applications were received and approved for wall signs. Signs are not approved at the time of site plan review but by the sign permit application process. At this time the applicant is requesting a variance in order to allow for the addition of a monument sign to the site consistent with the monument sign dimensional requirements of the current sign code 430.090(B)(2). This zoning district does not allow for monument signs by right.

Mr. Brown asked staffed if the applicant is requesting an additional sign for the property and not a sign in exchange of another sign. The MS2 language discusses signs in exchange for other signs.

Mr. Murray replied yes, that is her interpretation, in the sign code typically a monument sign is allowed in lieu of another kind of sign, however she suggests that Mr. Brown receive clarity from the applicant.

Mr. Brown also asked if the applicant is currently employing all of the signs that they would be allowed to on the building facades.

Ms. Murray stated that she doesn't believe so. Maybe one of the tenants, but she can't say for sure.

Laura McConwell agent for Dr. Raymond Brill came forth and explained that the subject property was built in 2002 and predates the city's current zoning, Form Based Code and the West Gateway. When the building was built the Brill investors were required to set the

building back significantly far on the property, they were also required to make a number of accommodations because it buts against a neighborhood, such as fencing and landscaping.
The ordinance did not preclude a monument sign back then it just didn't allow for it.
In other areas of the the ordinance it allows to substitute a wall sign for a monument sign. In the zoning code this building is allowed to have 3 different wall signs and it currently has two signs, one on the east face and one on the south face. The applicant is not asking for something separate he is asking for something consistent with what's happened on other buildings throughout the City of Mission, such as Mission West, the Pawn Shop, Fire Department and the previous Back Yard Burger sign. The applicant is asking to substitute a monument sign for that third phase sign. The property has plenty of room to comply with the setbacks, the mounting requirements and additionally to perform the landscaping that is required by the City. There is also additional room on the property if the city requires the sign to be set back further.

Ms. McConwell also addressed the 5 conditions listed in the attached staff report.

Mr. Braden asked how many tenants are leasing space in the building.

Ms. McConwell replied 3 total, and they have 1 additional vacant office.

Ms. Mills asked why the applicant waited until now to request the monument sign.

Ms. McConwell explained that the applicant believed that he was already approved for the sign. The electricity has been in place to provide service for the sign. Mr. Brill was not clear on the process to be granted a monument sign. The sign has always been in discussion and it was just presented to the city with a sign application. There were also some land parcel discussions in process and the applicant decided to wait until that particular business was handled.

Mr. Brown opened the Public Hearing and with no public comment Mr. Brown closed the Public Hearing.

Mr. Braden moved and Mrs. Dukelow seconded a motion to accept the applicant's findings and fact and approve the proposed variance as requested allowing for a monument sign for property located at 5820 Lamar Avenue. **The vote was taken** (4-0-0). The **motion carried**

ADJOURNMENT

With no other agenda items, **Mrs Mills moved and the Commission seconded a motion to adjourn.** The vote was unanimous. The **motion carried**. The meeting adjourned at 7:18 P.M.

ATTEST: _____ Jim Brown, Chair

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Nakeisha Cooper
Board of Zoning Appeals Secretary