

**CITY OF SANTA FE  
ZONING BOARD OF ADJUSTMENT  
JULY 10, 2023 7:30 P.M.  
COUNCIL CHAMBERS  
12002 HWY. 6, SANTA FE, TEXAS**

**MINUTES**

The meeting was called to order at 7:30 p.m. by Chairperson Dawn Sharp.

Roll Call: Present: Chairperson Dawn Sharp  
Commissioner David Unger  
Commissioner Raymond "Tommy" Gass

Absent: Commissioner Alec Dobson  
Commissioner Samuel "Jack" Helton

Upon initial roll call, there were only three Commissioners in attendance, so there was no quorum. Once the two new Alternate Commissioners were sworn in, roll was called again, and there was then a quorum, with five Commissioners in attendance.

Roll Call 2: Present: Chairperson Dawn Sharp  
Commissioner David Unger  
Commissioner Raymond "Tommy" Gass  
Alternate Commissioner Ron Dailey  
Alternate Commissioner Tim Clark

Absent: Commissioner Alec Dobson  
Commissioner Samuel "Jack" Helton

**III. Invocation and Pledge of Allegiance to the U.S. Flag and to the Texas Flag**

The Invocation was given by Chief Building Official Ray Burgess and Chairperson Dawn Sharp led the Pledge of Allegiance to the U.S. Flag and to the Texas Flag.

**IV. Citizens' Comments**

There were no citizen comments.

**V. Approval of the Minutes from the May 15, 2023, Regular Meeting and the May 8, 2023, Cancelled Meeting**

Commissioner Gass made a motion to approve the Minutes of the May 15, 2023, Regular Meeting and the May 8, 2023, Cancelled Meeting. Commissioner Unger seconded the motion, and the motion passed unanimously.

**VI. Business:**

**A. New Business:**

**1. Administration of the Oaths of Office for newly appointed and reappointed members of the Zoning Board of Adjustment: Commissioner Dawn Sharp, Commissioner David Unger, Alternate Commissioner #1 Ron Dailey, and Alternate Commissioner #2 Tim Clark; each for a two-year term to expire July 2025**

City of Santa Fe Communications Specialist Laurie L. Tollett received Statements of Officer and formally administered the Oaths of Office to Commissioner Dawn Sharp, Commissioner David Unger, Alternate Commissioner #1 Ron Dailey, and Alternate Commissioner #2 Tim Clark, each for a two-year term to expire in July, 2025.

After administering the Oaths of Office, the two new Alternate Commissioners, Ron Dailey and Tim Clark, took their respective seats on the bench at the dais.

**2. Election of Chairperson and Associate Chairperson for the 2023-2024 year**

Commissioner David Unger made a motion to elect Commissioner Sharp for the position of Chairperson for the 2023-2024 year. Commissioner Tim Clark seconded the motion, and the motion passed unanimously.

Commissioner Gass volunteered to fill the position of Associate Chairperson. Chairperson Sharp then made a motion to elect Commissioner Gass for the position of Associate Chairperson for the 2023-2024 year. Commissioner Unger seconded the motion, and the motion passed unanimously.

**3. Public Hearing: BOA230601 - Request for a variance regarding Santa Fe City Ordinance Section 4.02.06, which states that the rear setback of an accessory building requires a five-foot (5') setback and the side setback of an accessory building requires a six-foot (6') setback. The building in question is 1'5" into the required rear setback and 2'5" into the required side setback.**

**a. Request: To allow a variance of 1'5" into the rear setback and 2'5" into the side setback**

**b. Location: 12141 23<sup>rd</sup> Street, Santa Fe, Texas, legally described as ABST 149 E MITCHELL SUR LOT 11 & 12 BLK 36 ALTA LOMA TOWNSITE**

At 7:46 p.m., Chairperson Dawn Sharp closed the Regular Session of the Meeting of the Commissioners of the Zoning Board of Adjustment and opened a Public Hearing to hear comments on the request for a variance regarding Santa Fe City Ordinance 4.02.06, which states that the rear setback of an accessory building requires a five-foot (5') setback and the side setback of an accessory building requires a six-foot (6') setback. The building in question is 1'5" into the required rear setback and 2'5" into the required side setback.

- Pam Schwertner, who resides at 4322 Jensen St., Santa Fe, Texas, told the Commissioners that she owns a rental property adjacent to the property in

question and her issue is with the 2'5" into the side setback that the building was constructed in. Ms. Schwertner's concern is that the extra concrete due to the building's location, along with the building itself, would cause water displacement onto her property. Ms. Schwertner is also concerned that the homeowners of the property in question would store items between the building and the fence dividing the two properties, and would thus create an eyesore, resulting in difficulty in renting or selling her property. Ms. Schwertner proposed a compromise of building a wooden fence along the property line and installing a French drain to remedy any potential drainage issues.

Ms. Schwertner added that the homeowners and builders continually used her driveway as a U-turn, which resulted in gravel and debris on her property without the area being brought back to its original condition.

Ms. Schwertner concluded her public comments by distributing photos of the two properties to the Commissioners.

- Gary Freeze, of 12120 24<sup>th</sup> Street, Santa Fe, Texas, told the Commissioners that he lives behind and diagonal to the property in question and requests that the homeowners' variance request be granted. Mr. Freeze noted that he has seen the building and that it seems to be structurally sound. Mr. Freeze stated that a variance was granted back in 1989 on the property just south of the property in question, saying that the home and garage on that property is in the same easement as the property in question.

Mr. Freeze also gave a letter to the Commissioners from a neighbor who lives at 23<sup>rd</sup> St. @ Avenue L, Staci May, who also is agreeable to the variance being granted.

- Bo Gregory, co-applicant who is seeking the variance, lamented that he was unaware that he was supposed to pull permits at the City for the construction of the building and agreed to put a wooden fence on the property line between his and Ms. Schwertner's property.
- Mr. Gregory stated that on May 15, 2023, after the construction was complete, he received a certified letter from Chief Building Official Ray Burgess informing him that the building was constructed without permits. Mr. Gregory stated that he then contacted the builders, TXR Construction, who instructed him to submit a permit application and emailed him a permit application and a hand-drawn, not-top-scale plot of the property where the building was to be constructed, showing that the building was six feet from the property line. Mr. Gregory was then informed by Building Inspector Jim Wedergren that the building was actually 3'7" from the side property line. He then procured a survey.

- Mia Johnson, co-owner of TXR Construction & Concrete, addressed the Commissioners, stating that she believes that the permits not getting pulled for this project was a miscommunication between the company and the homeowner, as the contract explicitly states that the permit is the responsibility of the homeowner.

Ms. Johnson stated that the building was built to code and should not be considered an eyesore, and that the variance will not affect drainage, due to its being built eighteen inches (18") above the road, per the Flood Map and Flood District requirements.

Commissioner Dailey asked Ms. Johnson what kind of insurance TXR carries, to which she responded that the company carries a \$2,000,000.00 General Liability insurance policy as required by the State. When Commissioner Dailey advised Ms. Johnson that the policy would be sufficient to cover this incident, Ms. Johnson responded that, if TXR received instruction to remove the building, the company would do so out of pocket. Ms. Johnson added that the posts are in the ground five feet (5'), so moving the building would compromise the aesthetic of the building.

Ms. Johnson added that while TXR constructed the building in the spot that the homeowners chose, all future construction by the company will abide strictly by the Santa Fe Code of Ordinances, including pulling permits. Ms. Johnson concluded by saying that, while there were mistakes made by both parties, she is educating herself on behalf of TXR Construction & Concrete to ensure that the homeowners have the quality building that they purchased and that the company will not find itself in this position in the future.

Chairperson Sharp closed the Public Hearing at 7:57 p.m.

**4. Consideration and possible action: BOA230601 – Request for a variance regarding Santa Fe City Ordinance Section 4.02.06, which states that the rear setback of an accessory building requires a five-foot (5') setback and the side setback of an accessory building requires a six-foot (6') setback. The building in question is 1'5" into the required rear setback and 2'5" into the required side setback.**

- a. Request: To allow a variance of 1'5" into the rear setback and 2'5" into the side setback**
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Commissioner Dailey asked Ms. Johnson about the type of insurance coverage that TXR Construction & Concrete holds, to which Ms. Johnson responded that theirs is a standard General Liability \$2,000,000.00 policy. Ms. Johnson added that if the TXR were to be directed to make any changes to the building that they would do so personally and not use the insurance.

Ms. Johnson informed the Commission that the building was constructed in the location that the customers requested; however, Ms. Johnson stated that, going forward, TXR will only construct buildings within the setbacks outlined in the Santa Fe City Ordinances. Ms. Johnson affirmed that this incident was a good-faith mistake.

The Commission asked the applicants' neighbor, Ms. Schwertner, if she would be agreeable to a variance being granted with stipulations. Ms. Schwertner agreed, asserting that she does not want Mr. and Mrs. Gregory to incur the expense of tearing the building down. Commissioner Unger added that the potential issue of water runoff could possibly be prevented with the installation of a gutter.

Santa Fe Chief Building Official Ray Burgess gave an overview of the building and does not believe the location to be of negative consequence to the property, with the exception of water runoff, which he offered could be remedied with a gutter or French drain.

Mr. Burgess advised the Commission that he is working with the Community Services Department Director and City Manager to devise an Ordinance that explicitly define which party is responsible for pulling permits. Mr. Burgess recommended the Zoning Board of Adjustment issue the variance with stipulations.

Commissioner Tim Clark made a motion to issue the variance to the applicants with three conditions:

- erect a wooden fence along from the back of the property, along the mutual property line the entire length of the building;
- install a French Drain; and
- restore Ms. Schwertner's driveway to its original state within nine months.

Associate Chairperson Gass seconded the motion and the motion passed unanimously.

##### **5. Consideration and possible action: Reconsideration of the regular meeting time of 7:30 p.m. for the Zoning Board of Adjustment**

Chairperson Sharp explained that the Zoning Board of Adjustment had, in the past, met at 7:00 p.m. on the second Monday of each month as needed, but there were continual issues making quorum, so, earlier this year, the meeting time had been changed to 7:30 p.m. The Commission wanted to revisit the time and date again since there are two newly appointed Commissioners.

Commissioner Dailey made a motion to change the start time for Zoning Board of Adjustment meetings back to 7:00 p.m. Commissioner Gass seconded the motion and the motion passed unanimously.

**VII. Adjournment**

Chairperson Sharp adjourned the meeting at 8:19 p.m.



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ATTEST: Communications Specialist Laurie L. Tollett



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Chairperson Dawn Sharp