

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

August 15, 2018 – 12:00 p.m.

The Board of Adjustment of the City of Jersey Village, Texas, convened on August 15, 2018, at 12:00 p.m. in the Fire Department Training Room, 16501 Jersey Drive, Jersey Village, Texas.

A. The meeting was called to order by Chairman Tom G. Simchak at 12:01 p.m. and the roll of appointed officers was taken. Board Members present were:

Thomas G. Simchak, Chairman	Doyle Stuckey, Board Member
Henry Hermis, Vice Chairman	Ken Nguyen, Board Member
Joe Pennington, Board Member	M. Reza Khalili, Board Member

Board Member Debra Sappington was not present at this meeting.

Council Liaison, Gary Wubbenhorst was present.

City Staff in attendance: Leah Hayes, City Attorney; Lorri Coody, Board Secretary; Danielle Amason, Assistant City 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 Members.

Chairman Simchak appointed Alternate Board Member No. 1, Doyle Stuckey as a voting member in the absence of Board Member, Debra Sappington.

C. Consider approval of the minutes for the meeting held on April 18, 2018.

Board Member Hermis moved to approve the minutes for the meeting held on April 18, 2018. Board Member Pennington seconded the motion. The vote follows:

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

Nays: None

The motion carried.

D. Conduct a public hearing on Maria Monreal's request for a variance to the Jersey Village Code of Ordinances at Chapter 14, Article IV, Section 14-88(a)(26) to allow the applicant to erect a nonresidential, one-story building on a lot abutting a subdivision containing residential structures by encroaching the 50 foot setback requirement for the property located at 17300 Jersey Meadow Drive, Jersey Village, Texas.

Chairman Simchak opened the public hearing at 12:01 p.m. in order to receive written and oral comments from any interested person(s) concerning Maria Monreal's request for a variance to the Jersey Village Code of Ordinances at Chapter 14, Article IV, Section 14-88(a)(26) to allow the applicant to erect a nonresidential, one-story building on a lot abutting a subdivision containing residential structures by encroaching the 50 foot setback requirement for the property located at 17300 Jersey Meadow Drive, Jersey Village, Texas.

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

Christian Somers, Building Official, provided background information on the request as follows:

- 1) By right, the applicant may develop a building, which fronts to the east (facing Lakes of Jersey Village). Developing as such will result in a parking lot and vehicular drive being constructed between the building and the residential properties. Mr. Somers explained that the vehicular drive, eventually, will tie all the way to iShine and beyond, once the lot between CVS and iShine is developed. Ms. Monreal has appealed to HSPNT to eliminate the shared access driveway, to no avail.
 - a. Lakes of Jersey Village residents may not recall iShine’s proposed revision to the approved set of development / construction documents, one showing development of the drive, and this prior to development of all the lots, I rejected, taking the position that the City hasn’t the responsibility to facilitate development of what was and is, essentially, a private access agreement, until all contiguous lots have been developed. iShine’s appeals were not successful; hence, a driveway through to Jersey Meadow wasn’t permitted for construction.
- 2) This iteration of the site development plan, the one before the BOA today, will not allow for “back-loading” to the building, either. Locating the building such that it fronts to the west will result in the following:
 - a. Mitigating some of the noise results of development adjacent to any given properties (often referred to, economically-speaking, as a “negative exaction”), such as:
 - i. Additional buffering of vehicular traffic noise – especially that associated with the completion of the entire development’s through driveway.
 - ii. Ditto any associated lighting. Lighting, often, even when oriented away from one’s property, can still be bothersome. I do require that the developer install lighting that does not exceed Exterior Lighting Zone Level 2 (whereas a Level 4 is for High-Activity commercial districts in major metropolitan areas, as determined by the local planning authority).
 - b. Eliminating pavement over the City’s U.E. (Sanitary Sewer Main). We allow for pool decks, etc., driveway approaches over same – and also where many of our commercial properties were adversely affected by TxDOT’s takings for the 290 Expansion Project – but prefer we not have to bust through or bore under paving.
 - c. It trigger ours development codes’ enhanced buffer-yard criteria (essentially, denser landscape screening).
 - d. Development will proceed, variance or not, but development of the building such that the front is oriented toward Jones Road is more economically viable, since that’s a building with more exposure and one that would be less likely to result in a moribund development, one that could be shuttered and abandoned, at worse.

Without the variance, the building will be developed as previously shown within what was – and still is – an inchoate and incomplete development review (we pursued same since the primary motivation on the part of the applicant was to ensure that a building footprint and associated paving meets the development code prior to committing money to further design work, whichever iteration they may legally pursue).

The applicant, Maria Monreal, explained that she purchased this piece of land to expand her business, Brass Thimble, which specializes in tailoring services. Ms. Monreal worked with her architect to develop plans for locating the building on the property. Two sets of plans were developed. One of the plans requires a variance in order to locate the building toward the back part of the property within the 50' setback of the neighboring residential properties. Situating the building on the property in this manner, shielded the neighbors from lighting and traffic noise. The other plan does not require a variance and locates a parking lot between the building and the residential neighbors. The characteristics of the proposed building are similar to the homes in the area. In connection with the characteristics of the proposed building, City Attorney, Leah Hayes, pointed out that the request presented before the Board was only related to the location of the proposed building on the property.

With no other input from the applicant, Chairman Simchak called upon those signing up to speak at the public hearing as follows:

Deborah Finlay, 30 Cherry Hills, Jersey Village, Texas (713) 816-2088: Ms. Finlay suggested the Board deny the variance request. She explained that the business would be too close to her home and pointed out that the proposed building will be 50' from her backdoor.

Marsha Webb, 5 Spyglass Court, Jersey Village, Texas (281) 736-0961: Ms. Webb suggested the Board deny the variance request.

James Fields, 16413 Saint Helier, Jersey Village, Texas (713) 466-0804: Mr. Fields suggested the Board deny the variance request. He felt it would affect the values of the neighboring properties. Additionally, he stated that he felt that Board Member Stuckey has a conflict of interest because he was the developer of this subdivision.

Bill Schuster, 8 Peachtree Court, Jersey Village, Texas (832) 407-9011: Mr. Schuster suggested the Board deny the variance request. He stated home values started to decline after commercial properties were built in the area. He also expressed concern for drainage issues.

Robert Castillo, 100 Cherry Hills, Jersey Village, Texas (281) 653-2776: Mr. Castillo suggested the Board deny the variance request. He explained that the proposed location of the business on the property could potentially bring crime, traffic and noise to the subdivision. He is also concerned about drainage issues.

Luisa Lago, 117 Cherry Hills, Jersey Village, Texas (713) 392-2004: Ms. Lago suggested the Board deny the variance request. She referenced the City Ordinance that prevents commercial property from building closer than 50' to a home.

Lois Moncrief, 67 Cherry Hills, Jersey Village, Texas (281) 413-9643: Ms. Moncrief suggested the Board deny the variance request. She explained the desire to keep the area safe and secure.

Lindy Mandy, 7 Peachtree Court, Jersey Village, Texas (713) 816-8955: Ms. Mandy suggested the Board deny the variance request. She explained that she is in favor of the City's strict ordinances and is concerned about issues with flooding.

Sylvia Barnes, 10 Peachtree Court, Jersey Village, Texas (713) 906-8013: Ms. Barnes suggested the Board deny the variance request. She is of the opinion that an exception to the ordinance will lead others to request similar variances in the future.

Joy Priest, 32 Cherry Hills, Jersey Village, Texas (281) 890-6601: Ms. Priest suggested the Board deny the variance request. She referenced the ordinance preventing commercial properties from being built 50' from residential homes and expressed a concern for flooding.

Leslie Wenske, [REDACTED]: Ms. Wenske suggested the Board deny the variance request.

Brook Cunningham, [REDACTED]: Ms. Cunningham suggested the Board deny the variance request. She expressed the feeling of discomfort having a business close to her home.

Stephen Reid, 52 Cherry Hills, Jersey Village, Texas (281) 461-4406: Mr. Reid suggested the Board deny the variance request. He explained that does not want a business at his doorstep.

Carlos Pereira, 80 Cherry Hills, Jersey Village, Texas (281) 381-2125: Mr. Pereira suggested the Board deny the variance request.

Simon Rowe, 1 Spyglass Court, Jersey Village, Texas (713) 449-3799: Mr. Rowe suggested the Board deny the variance request.

Maria Rowe, 1 Spyglass Court, Jersey Village, Texas (713) 280-9113: Ms. Rowe suggested the Board deny the variance request. She asked that the Board consider the residents over a business.

Dilip Amin, 33 Cherry Hills, Jersey Village, Texas (832) 287-1188: Mr. Amin suggested the Board deny the variance request. He expressed concern that a building blocking the view from the street will lead to possible home break-ins.

Marilyn Schuster, 8 Peachtree Court, Jersey Village, Texas (832) 594-1310: Ms. Schuster suggested the Board deny the variance request. She is of the opinion that the applicant did not do due diligence before purchasing the property and wants to protect the value of the homes in the area.

With no one else seeking to speak at this public hearing, Chairman Simchak closed the public hearing concerning Maria Monreal's request for a variance to the Jersey Village Code of Ordinances at Chapter 14, Article IV, Section 14-88(a)(26) to allow the applicant to erect a nonresidential, one-story building on a lot abutting a subdivision containing residential structures by encroaching the 50 foot setback requirement for the property located at 17300 Jersey Meadow Drive, Jersey Village, Texas at 12:44 p.m.

- D1 Discuss and take appropriate action on Maria Monreal's request for a variance to the Jersey Village Code of Ordinances at Chapter 14, Article IV, Section 14-88(a)(26) to allow the applicant to erect a nonresidential, one-story building on a lot abutting a subdivision containing residential structures by encroaching the 50 foot setback**

requirement for the property located at 17300 Jersey Meadow Drive, Jersey Village, Texas.

Building Official Somers explained that development of this property is by right. It can either be developed with a parking lot at the setback or with a building encroaching the 50' setback by 25'. He explained that the first review for this property was with the parking lot at the setback, but after much discussion concerning traffic noise and lighting, the requestor came back with a plan to place the building into the 50' residential setback.

Mr. Somers explained the benefits of having the building encroach the residential setback. He called the Board's attention to the initial comment letter, which was included in the meeting packet and he told the Board that the other issues such as drainage and lighting will be considered during the development process. He stated that the request before the Board is only to decide if the development can encroach the 50' setback.

City Attorney Hayes explained the conflict of interest statute and that a Board Member would be disqualified only if he/she has a substantial interest in the property in question. If not, then the Board Member is not disqualified under the conflict of interest statute and can participate in the vote.

City Attorney Hayes also explained property rights and the definition of the term hardship. This applicant meets the hardship requirement due to the size and location of the property. Financial concerns are not hardships. She further explained that each variance request considered by the Board is on a case-by-case basis so there is no need to be concerned about setting a precedence. Ms. Hayes explained that the Board in making its decision on this request for variance must consider:

- 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(a)(26) would result in an unnecessary hardship; and
- that in granting the variance, the spirit of this chapter would be upheld and observed.

In connection with the public comments about traffic noise, crime, etc., City Attorney Hayes explained a recent Court ruling that found that a business/building cannot be found to be a nuisance before it is built.

The Board discussed the variance request. Basically, the issue at hand concerns which way the building is situated on the property. If it is set to the east, than no variance is needed. The Board also discussed the shape and contour of the property and the location of the building on the property in connection with the subdivision.

Some wondered about the various uses allowed in the Code of Ordinances for this property. In connection with same, City Attorney Hayes read the various uses for Zone F from the City's Code of Ordinances and stated that all those listed are allowed by right to a property owner. The Brass Thimble fits within the uses prescribed for Zoning District F.

The Board discussed the various types of businesses permitted. There was also discussion that the Board must decide if the application for variance meets the threshold to grant a variance. In considering same, there was discussion about the location of the building on the

property and benefits of each location. The Board also took into consideration the comments made during the public hearing.

With no further discussion on the matter, Board Member Pennington moved to deny the request of Maria Monreal for a variance to the Jersey Village Code of Ordinances at Chapter 14, Article IV, Section 14-88(a)(26) to allow the applicant to erect a nonresidential, one-story building on a lot abutting a subdivision containing residential structures by encroaching the 50 foot setback requirement for the property located at 17300 Jersey Meadow Drive, Jersey Village, Texas. Board Member Hermis seconded the motion. The vote follows:

Ayes: Board Members Pennington, Hermis, Nguyen, and Stuckey

Nays: Chairman Simchak

The motion carried.

E. Adjourn

With no other business before the Board, Chairman Simchak adjourned the meeting at 1:16 p.m.



Lorri Coody, City Secretary