

AGENDA
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
4:00 p.m. Wednesday, September 2, 2020
City Council Chambers, 2nd Floor of City Hall
823 Rosenberg, Galveston, Texas

In order to advance the public health goal of limiting face-to-face meetings (also called "social distancing") to slow the spread of the Coronavirus (COVID-19), the meeting will be held by videoconference and there will be no public access to the location described above.

Public Comment can be submitted on-line: <https://forms.galvestontx.gov/Forms/PublicComment> or by calling 409-797-3665.

1. Call Meeting To Order
2. Attendance
3. Conflict Of Interest
4. Approval Of Minutes: August 5, 2020

Documents:

[2020-08-05 ZBA MINUTES.PDF](#)

5. Meeting Format (Staff)
6. Public Comment

Members of the public may submit a public comment using the web link below. All comments submitted prior to the meeting will be provided to the Planning Commission.

<HTTPS://FORMS.GALVESTONTX.GOV/FORMS/PUBLICCOMMENT>

- a. Agenda Items
- b. Non-Agenda Items

7. New Business And Associated Public Hearings
 - A. 20Z-012 (2302 Wimcrest) Request For A Variance From The Galveston Land Development Regulations, Article 3, District Yard, Lot And Setback Addendum, For The Residential, Single-Family (R-1) Zoning District, To Reduce The Front Yard Setback. Property Is Legally Described As Lot 44, Wimcrest Addition, In The City And County Of Galveston, Texas. Applicant: Joshua Winkelmann Property Owner: Felicia Benavides

Documents:

[20Z-012 PKT.PDF](#)

8. Discussion Items
9. Adjournment

I certify that the above Notice of Meeting was posted in a place convenient to the public in compliance with Chapter 551 of the Texas Government Code on August 28, 2020 at 10:00 A.M.

Prepared by:  Karen White, Planning Technician

IN ACCORDANCE WITH THE PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT (ADA), PERSONS IN NEED OF A SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHALL, WITHIN THREE (3) DAYS PRIOR TO ANY PROCEEDING, CONTACT THE CITY SECRETARY'S OFFICE, SUITE 201, 823 ROSENBERG, GALVESTON, TEXAS 77550 (409-797-3510)

MEMBERS OF CITY COUNCIL MAY BE ATTENDING AND PARTICIPATING IN THIS MEETING

SEC. 13.401.B VARIANCES FROM DEVELOPMENT STANDARDS

Approval Standards. The Board of Adjustment may grant a variance under this Section only if the variance is not prohibited by Section 12.401.C, and if the Zoning Board of Adjustment makes a determination in writing that all of the following are demonstrated:

1. The request for the variance is rooted in special conditions of the applicant's property that do not generally exist on other properties in the same zoning district.
2. Due to said special conditions, the enforcement of the strict terms of these regulations would impose an unnecessary hardship on the applicant.
3. The variance is not contrary to the public interest, in that:
 1. It does not allow applicants to impair the application of these regulations for:
 1. Self-imposed hardships;
 2. Hardships based solely on financial considerations, convenience, or inconvenience; or
 3. Conditions that are alleged to be "special" but that are actually common to many properties within the same zoning district.
 2. The variance will not have a detrimental impact upon:
 1. The current or future use of adjacent properties for purposes for which they are zoned;
 2. Public infrastructure or services; and
 3. Public health, safety, morals, and general welfare of the community.
4. The degree of variance allowed from these regulations is the least that is necessary to grant relief from the identified unnecessary hardship.
5. The variance shall not be used to circumvent other procedures and standards of these regulations that could be used for the same or comparable effect (e.g., if alternative development patterns, alternative development standards, or other flexible measures in these regulations are available that would avoid or mitigate hardship without using a variance, then they must be used).
6. By granting the variance, the spirit of these regulations is observed and substantial justice is done.

APPEAL FROM DECISION OF BOARD

In accordance with Section 13-901 (I) of the Land Development Regulations, Should the applicant or City be aggrieved by or dissatisfied with the decision of the Zoning Board of Adjustment, the applicant or City may pursue all legal remedies to appeal the decision to a court of competent jurisdiction pursuant to Texas Local Government Code, Chapter 211.



City of Galveston

MINUTES OF THE ZONING BOARD OF ADJUSTMENT OF THE CITY OF GALVESTON REGULAR MEETING – August 5, 2020

CALL MEETING TO ORDER

The meeting was called to order at 4:00 p.m.

ATTENDANCE

Members Present via Videoconference: William Clement, Andrew Galletti, Robert Girndt, Jeff Patterson, Sharon Stetzel-Thompson, Alice Watford (Alternate), CM David Collins (Ex-Officio)

Members Absent: None

Staff Present: Catherine Gorman, AICP, Assistant Director/Historic Preservation Officer

Staff Present via Telephone: Tim Tietjens, Executive Director of Development Services; Karen White, Planning Technician; Donna Fairweather, Assistant City Attorney

CONFLICT OF INTEREST

None. [Jeff Patterson stated for the record that his wife is a member of the Landmark Commission.](#)

APPROVAL OF MINUTES

The July 8, 2020 minutes were approved as presented.

MEETING FORMAT

Staff explained the adjusted meeting format to the Commission and the public.

PUBLIC COMMENT

None

OLD BUSINESS AND ASSOCIATED PUBLIC HEARINGS

20Z-010 (1801 Avenue L) Request to appeal the City of Galveston Landmark Commission's decision regarding case 20LC-037: Request for a Certificate of Appropriateness for alterations to the structure including painting exterior masonry, replacing exterior doors, and removing exterior shutters. Property is legally described as M. B. Menard Survey, North 67-8 Feet of Lot 7 (7-1), Block 18, in the City and County of Galveston, Texas.

Applicant: Becky Jolin

Property Owner: Sam and Becky Jolin

Staff presented the staff report and noted that of thirty-three (33) notices of public hearing sent, one (1) had been returned in favor. Staff also noted public comment received in opposition.

Chairperson Andrew Galletti opened the public hearing on case 20Z-010. Property owner Sam Jolin presented to the Commission. The public hearing was closed and the Chairperson called for questions or comments from the Commission.

Vice-Chairperson Robert Girndt made a motion to affirm the Landmark Commission's decision. William Clement seconded, and the following votes were cast:

In favor:	Clement, Galletti, Girndt, Patterson, Stetzel-Thompson
Opposed:	None
Absent:	None
Non-voting participant:	Watford, CM Collins

The motion passed.

DISCUSSION ITEMS

THE MEETING ADJOURNED AT 4:23 PM





20Z-012

STAFF REPORT

ADDRESS:

2302 Wimcrest Street

LEGAL DESCRIPTION:

Property is legally described as Lot 44, Wimcrest Addition, a Subdivision in the City and County of Galveston, Texas.

APPLICANT/REPRESENTATIVE:

Josh Winkelmann

PROPERTY OWNER:

Felicia Benavides

ZONING:

Residential, Single-Family (R-1)

VARIANCE REQUEST:

Encroachment of Front Setback

APPLICABLE ZONING LAND USE

REGULATIONS:

Article 3, Addendum for Residential, Single-Family District, Setbacks

EXHIBITS:

- A – As-Built Survey
- B – Photos

STAFF:

Daniel Lunsford
 Planner
 409-797-3659
dlunsford@galvestontx.gov

Public Notice and Comment:

Sent	Returned	In Favor	Opposed	No Comment
16				

City Department Notification Responses:

Building Division: Building Board of Adjustment review is required.

Public Works: No comments



Background:

A building permit for the new construction at 2302 Wimcrest was issued in February 2020. However, an as-built survey submitted in July 2020 shows that the house was built approximately 0.3 feet into the front yard setback, and a staircase built approximately 18.7 feet into the front setback.

Executive Summary:

The applicant is requesting a variance from Article 3, Addendum in order to retain the front portion of the house that encroaches 0.3 feet into the front yard setback and the staircase, which encroaches approximately 18.7' into the front setback. The lot is 50 feet wide and 135 feet deep according to the survey (Attachment B).

Setback Requirements **Article 3, District Yard, Lot and Setback Standards, Addendum for Single-Family Residential (R-1)**
Front: 20 feet
Side: 3 feet
Rear: 10 feet

Requested Variance

Setback	Regulation	Proposed Variance
Front	20 feet	1.3 feet

Land Development Requirements

SEC. 13.401.B VARIANCES FROM DEVELOPMENT STANDARDS

Approval Standards. The Board of Adjustment may grant a variance under this Section only if the variance is not prohibited by Section 12.401.C, and if the Zoning Board of Adjustment makes a determination in writing that all of the following are demonstrated:

1. The request for the variance is rooted in special conditions of the applicant's property that do not generally exist on other properties in the same zoning district.
2. Due to said special conditions, the enforcement of the strict terms of these regulations would impose an unnecessary hardship on the applicant.
3. The variance is not contrary to the public interest, in that:
 - a. It does not allow applicants to impair the application of these regulations for:
 - a. Self-imposed hardships;
 - b. Hardships based solely on financial considerations, convenience, or inconvenience; or
 - c. Conditions that are alleged to be "special" but that are actually common to many properties within the same zoning district.
 - b. The variance will not have a detrimental impact upon:
 - a. The current or future use of adjacent properties for purposes for which they are zoned;
 - b. Public infrastructure or services; and
 - c. Public health, safety, morals, and general welfare of the community.
4. The degree of variance allowed from these regulations is the least that is necessary to grant relief from the identified unnecessary hardship.
5. The variance shall not be used to circumvent other procedures and standards of these regulations that could be used for the same or comparable effect (e.g., if alternative development patterns, alternative development standards, or other flexible measures in these regulations are available that would avoid or mitigate hardship without using a variance, then they must be used).
6. By granting the variance, the spirit of these regulations is observed and substantial justice is done.

Applicants' Justification

Approval Standards. The Board of Adjustment may grant a variance under this Section only if the variance is not prohibited by Section 12.401.C, and if the Zoning Board of Adjustment makes a determination in writing that all of the following are demonstrated.

Please note that while the applicant's justification focuses on the encroachment of the house, the front stair also encroach 18.7 feet into the required front setback.

- 1. The request for the variance is rooted in special conditions of the applicant's property that do not generally exist on other properties in the same zoning district.**

The home was inadvertently built about 3.5 inches over the city regulated building line.

- 2. Due to said special conditions, the literal enforcement of the strict terms of these Land Development Regulations would impose an unnecessary hardship on the applicant.**

Due to the strict terms of these regulations we are unable to procure a Certificate of Occupancy which will not allow the homeowner to take possession of the new Harvey Reconstructed Home built for her through the program. Her previous home was demolished and this new home was built in its place 3.5 inches over the build line.

- 3. The variance is not contrary to the public interest, in that:**

There is no significant difference between other homes in the same community because of the minimum distance over the build line.

- a. It does not allow applicants to impair the application of these regulations for:**

- i. Self-imposed hardships;**
- ii. Hardships based solely on financial considerations, convenience or inconvenience; or**
- iii. Conditions that are alleged to be "special," but that are actually common to many properties within the same zoning district.**

This is a program home that was inadvertently built about 3.5 inches over the city regulated build line. The homeowner did not build the home the program does not have a stake in the home. There is no "self-imposed hardships" for the homeowner. The homeowner is facing hardships of not having a home/displaced from her home during the process. To the conditions being called "special", I/we are not aware of any other home within the zoning district to have these specific considerations.

- b. The variance will not have a detrimental impact upon:**

- i. The current or future use of adjacent properties for purposes for which they are zoned;**
- ii. Public infrastructure or services; and**
- iii. Public health, safety, morals and general welfare of the community.**

The home was built to Americans with Disabilities Act (ADA) complaint. With this program home in the Homeowners Assistance Program for victims of hurricane Harvey it is structured around public health, safety, morals, and the general welfare of the community by taking homes

that are contaminated with asbestos, mold, damage, and/or otherwise unrepairable and rebuilds the home free of contamination, to code, that will have the ability to endure future natural disasters and provide safety for the homeowner. The home was inadvertently built 3.5 inches over the city regulated build line and does not encroach or impair the use of any adjacent properties.

- 4. The degree of variance allowed from these Land Development Regulations is the least that is necessary to grant relief from the identified unnecessary hardship.**

The house was only built about 3.5 inches over the build line the variance would only need to cover those few inches and front staircase if it is also against the regulations. To get this allowance would grant the homeowner the ability to move into her new home that is storm/disaster free.

- 5. The variance shall not be used to circumvent other procedures and standards of these Land Development Regulations that could be used for the same or comparable effect (e.g., if alternative development patterns, alternative development standards, or other flexible measures in these regulations are available that would avoid or mitigate hardship without using a variance, then they must be used).**

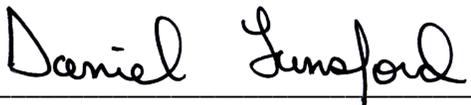
This variance would just be for the approximate 3.5 inches and front stairs. The minimal area in the front of the home has no room to circumvent other procedures. Since the home has already been erected and completed alternative development patterns, standards, or other measurements are not available.

- 6. By granting the variance, the spirit of these Land Development Regulations is observed and substantial justice is done.**

I/we believe that the building of this home over the build line was not intentional and granting the variance will very much help the life of Felicia Benavides (the homeowner) greatly, for she will finally be able to live in her home without the fear of a storm affected home.

Please see Agenda for Appeal from Decision of Board Process.

Respectfully submitted,



Daniel Lunsford
Planner

08/24/2020

Date



Catherine Gorman, AICP
Assistant Director/HPO

08/24/2020

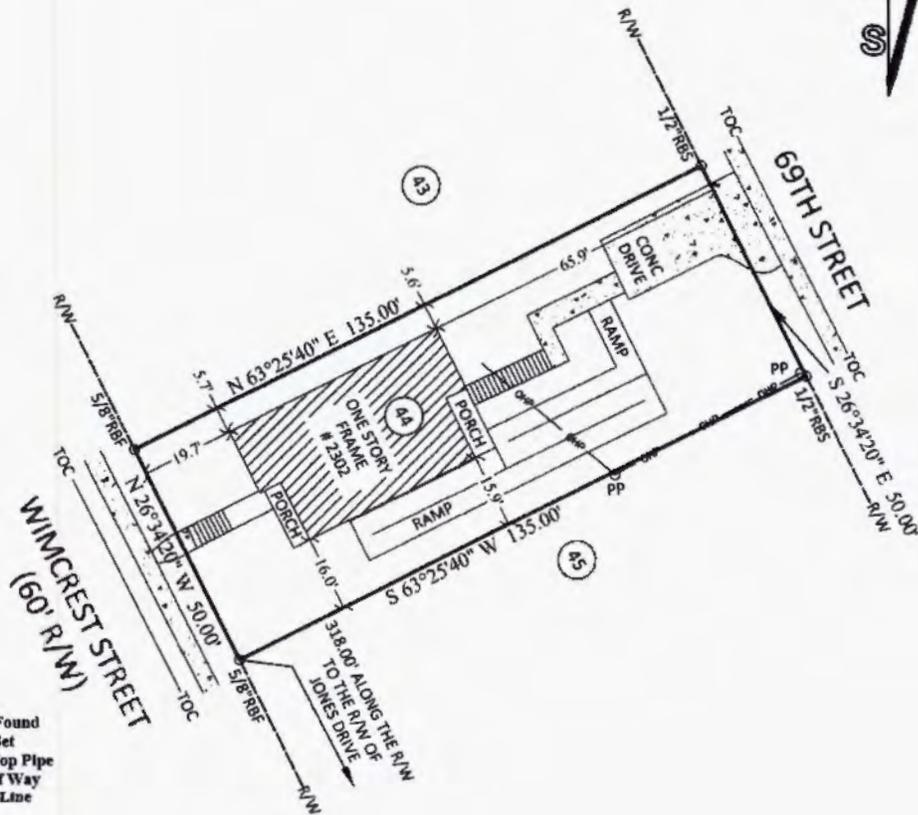
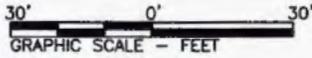
Date

GENERAL NOTES

1. THIS PROPERTY IS SUBJECT TO ADDITIONAL EASEMENTS OR RESTRICTIONS OF RECORD.
2. THIS PLAT IS FOR EXCLUSIVE USE BY CLIENT. USE BY THIRD PARTIES IS AT THEIR OWN RISK.
3. DIMENSIONS FROM HOUSE TO PROPERTY LINES SHOULD NOT BE USED TO ESTABLISH FENCES.
4. THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 1,000,000+ FEET.
5. THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 10,000+ FEET AND AN ANGULAR ERROR OF 7 SECONDS PER ANGLE POINT AND WAS ADJUSTED USING THE COMPASS RULE.
6. EQUIPMENT USED: TOPCON APL1 TOTAL ROBOTIC STATION.
7. SURVEY PREPARED WITHOUT BENEFIT OF TITLE.

AREA: 6,750 SF ~ 0.155 ACRES
 REFERENCE: ABSTRACT 121, PAGE 83

SCALE: 1" = 30'



LEGEND:

- RBF- Rebar Found
- RBS- Rebar Set
- OTF- Open Top Pipe
- R/W- Right of Way
- BL- Building Line
- X- Fence
- FP- Fence Post
- FC- Fence Corner
- CONC.- Concrete
- PP- Power Pole
- WM- Water Meter
- GM- Gas Meter
- AC- Air Conditioning Unit
- CO- Clean Out
- EM- Electric Meter
- WV- Water Valve
- FH- Fire Hydrant
- LP- Light Pole
- CL- Center Line
- P- Porch
- S- Stoop
- CONC- Concrete
- CD- Conc Drive
- EP- Edge of Pavement
- APL- Approximate Property Line
- N/F- Now or Formerly
- OHP- Overhead Power Line

ADDRESS: 2302 WIMCREST STREET
 GOVERNING AUTHORITY: CITY OF GALVESTON

IN MY OPINION, THIS PLAT IS A CORRECT REPRESENTATION OF THE LAND PLATTED AND HAS BEEN PREPARED WITHIN THE MINIMUM STANDARDS AND REQUIREMENTS OF LAW.

SURVEY FOR:
ALLCO CONSTRUCTION
L.L.C.

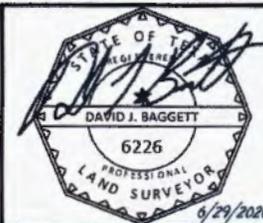
SUBDIVISION: WIMCREST ADDITION
 LOT: 44
 CITY OF GALVESTON
 GALVESTON COUNTY, TEXAS

FIELD WORK DATE: 06/27/2020
 20200606208 ALLCO FC: CH

CARTER LAND
SURVEYORS AND PLANNERS

3090 Premiere Parkway, Suite 600
 Duluth, GA 30097
 Ph: 770.495.9793
 Toll Free: 866.637.1048
 www.carterland.com

FIRM LICENSE: 10193759



ATTACHMENT B

