

**MINUTES OF THE CITY OF PORT NECHES
ZONING BOARD OF ADJUSTMENT & APPEALS**

4:00 P.M.

June 12, 2017

MEETING

The regular meeting was called to order on Monday, June 12, 2017, 4:00 p.m. at Port Neches City Hall, 1005 Merriman Street, Port Neches, Texas with the following members in attendance to wit:

Matt Vincent, Chairman
William "B.C." Clemmons, Vice-Chairman
Sam Loyacano
Steve Visser
Lee West
Marc Keith, Alternate (Did not participate)
John Fisher, Alternate (Did not participate)

Also present:

Taylor Shelton, P.E., Public Works Director
Clint Fore, Building Official
Cari Reynolds, Public Works Secretary

Absent:

Daniel Critser, Alternate
Gary Boudoin, Alternate

Chairman Vincent called the meeting to order

AGENDA ITEM 2 – APPROVAL OF MINUTES

Discuss and take action regarding the approval of the minutes from the regular meeting held on May 8, 2017.

Board Member Visser made a motion to approve the minutes from the regular meeting held on May 8, 2017, seconded by Board Member Loyacano. **MOTION PASSED BY UNANIMOUS VOTE.**

AGENDA ITEM 3 – MICHAEL PENA, 2010 7TH STREET- LOT SQUARE FOOTAGE

Discuss and take action regarding the request Michael Pena, 2010 7th Street, for a fifty four hundred square foot (5,400 sq. ft.) variance to the minimum fifty five hundred square foot (5,500 sq. ft.) lot size requirement for construction of a new home.

Anthony Leger, Soutex Surveyors and Engineers (representative), as well as Michael Pena (owner), were present to answer any questions.

Chairman Vincent asked Clint Fore to give the details of the request.

Mr. Clint Fore stated the property was purchased at a Sheriff's Sale which included the house and vacant lot. An updated survey was submitted to the Board showing the existing home encroachment into the smaller lot by two foot (2'). Mr. Fore stated the owner could jog the line and build a home without any variances, leaving both the front and rear at fifty foot (50') and smaller in the middle creating a "C" shape. Mr. Fore stated that after speaking with Mr. Taylor Shelton, they both agreed that it would be advantageous to have a straight line instead of a zigzag for both the City and County.

There was discussion regarding the size of lots, lot lines, setbacks, hardship of an irregular shaped lot, the survey and replatting of the property.

Chairman Vincent asked for anyone who would like to oppose the variance request to speak.

Mike & Linda Woods, 2018 7th Street- Mr. Woods stated he lived adjacent to vacant lot. He measured from his house to the existing house and its fifty three foot nine inches (53'9"). Mr. Woods stated he called the City and spoke with Mr. Fore, who informed him the ordinance stated the property has five foot (5') setbacks. Mr. Woods stated if that was the case then the new home would have to be ten foot (10') from his house. That would make the new home only thirty three foot (33') wide.

Mr. Fore stated that the owner has been made aware that he would have thirty five foot (35') of buildable space if the variance was approved for a forty five foot (45') lot.

Mr. Shelton asked Mr. Wood if his house was five (5) foot off his property line.

Mr. Wood stated he was not sure how far off his property line he was, but he thought it was less than five foot (5') but more than three foot (3').

Mr. Shelton told Mr. Wood that the ordinance does not say Mr. Pena has to be ten foot (10') from your house, it says he has to be five foot (5') from the property line.

Board Member Visser stated that City Ordinance allows a new home to be built five foot (5') from the property line. If Mr. Woods' home is encroaching into his five foot (5') setback that does not affect the new home.

Mr. Woods stated he was concerned that if the new home is too close it will be a fire hazard. Houses should not be crammed into spaces that small. If the ordinance states

fifty foot (50') it should be fifty foot (50'). Mr. Woods stated that he is opposed to the variance request.

There was discussion regarding the distance between the new house and Mr. Woods' home, existing structures encroaching into the five foot (5') setback, fire code and City Ordinance.

Board Member Visser asked Mr. Woods to put himself into Mr. Pena's position. If he bought the property with the intention of improving it and realized the existing house was encroaching; his only option was to come to the Board and ask for a variance. The Board was created to allow variances to properties with hardships. He still has to fit the house within the ordinance parameters.

Mr. Woods stated that if it was up to him he would have demolished the existing home that is rat infested and full of mold, then he would build two (2) homes. Mr. Woods stated he was concerned about his property value.

Mr. Fore stated that without the variances he can still build a new home but the property would be "C" shaped.

Mr. Woods stated more concerns regarding the upkeep of the existing house and that he has contacted the City multiple times to cut the grass.

There were thirty three (33) notices mailed to property owners surrounding two hundred feet (200') of 2010 7th Street. In the letters, there are attachments where the property owners could approve or protest this request. There were none received in approval and one (1) received in protest: Sandra Collins, 2026 7th Street.

Board Member Visser made a motion to approve the variance request of Michael Pena, 2010 7th Street, for a fifty four hundred square foot (5,400 sq. ft.) variance to the minimum fifty five hundred square foot (5,500 sq. ft.) lot size requirement for construction of a new home, seconded by Board Member Loyacano. **MOTION PASSED BY UNANIMOUS VOTE.**

Chairman Vincent stated to Mr. Woods that Mr. Pena still has to be five foot (5') off the property line.

Mr. Woods made several comments as he walked out of the Council Chambers.

AGENDA ITEM 4 – MICHAEL PENA, 2010 7TH STREET- FRONT LOT WIDTH

Discuss and take action regarding the request of Michael Pena, 2010 7th Street, for a forty five foot (45') variance to the minimum fifty foot (50') front lot width requirement.

Anthony Leger, Soutex Surveyors and Engineers (representative), as well as Michael Pena (owner), were present to answer any questions.

There were thirty three (33) notices mailed to property owners surrounding two hundred feet (200') of 2010 7th Street. In the letters, there are attachments where the property owners could approve or protest this request. There were none received in approval and one (1) received in protest: Sandra Collins, 2026 7th Street.

Board Member Visser made a motion to approve the variance request of Michael Pena, 2010 7th Street, for a forty five foot (45') variance to the minimum fifty foot (50') front lot width requirement, seconded by Board Member West. **MOTION PASSED BY UNANIMOUS VOTE.**

AGENDA ITEM 5 – MICHAEL PENA, 2010 7TH STREET- REAR LOT WIDTH

Discuss and take action regarding the request of Michael Pena, 2010 7th Street, for a forty five foot (45') variance to the minimum fifty foot (50') rear lot width requirement.

Anthony Leger, Soutex Surveyors and Engineers (representative), as well as Michael Pena (owner), were present to answer any questions.

There were thirty three (33) notices mailed to property owners surrounding two hundred feet (200') of 2010 7th Street. In the letters, there are attachments where the property owners could approve or protest this request. There were none received in approval and one (1) received in protest: Sandra Collins, 2026 7th Street.

Board Member Visser made a motion to approve the variance request of Michael Pena, 2010 7th Street, for a forty five foot (45') variance to the minimum fifty foot (50') rear lot width requirement, seconded by Board Member Loyacano. **MOTION PASSED BY UNANIMOUS VOTE.**

Chairman Vincent stated no variances will be granted to setbacks for this lot. The builder needs to build within the setbacks per ordinance.

AGENDA ITEM 6 – AKHTAR HOUSING GROUP, 3031 8TH STREET- UNITS UNDER ONE ROOF

Discuss and take action regarding the request of Akhtar Housing Group, 3031 8th Street, for a variance to the maximum twelve (12) attached dwelling units under one (1) roof requirement for Residential-Multi Family (R-MF).

Germaine Boudreaux (representative) for Akhtar Housing Group, was present to answer any questions.

Chairman Vincent asked Clint Fore to give the details of the request.

Mr. Fore stated that Mr. Akhtar is required to have two hundred thirty three (233) parking spaces for one hundred six (106) units. Ordinance allows a maximum twelve (12) units under one (1) roof. He is requesting to have five (5) buildings with sixteen (16) units. He will also have one (1) building with six (6) units, two (2) buildings with eight (8) units and one (1) building with four (4) units.

Chairman Vincent stated there isn't a hardship because he can build without a variance. Variances are for properties that can't be built on due to a hardship. Mr. Akhtar said in his letter he was going to build even if the request was denied.

Vice-Chairman Clemmons stated Mr. Akhtar needs to just put what code allows and have twelve (12) units in each building.

Germaine Boudreaux stated Mr. Akhtar is asking for the variance due to the electrical lines at the front and rear of the property. Only concrete for parking can be located under the electrical lines. Since no buildings can be under the electrical lines, we are trying to squeeze the number of units into less buildings. One (1) of the buildings that has less units will have a clubhouse.

Board Member Visser stated the electric lines were there when he purchased the property. Variances are for hardship cases such as irregular shaped lots that physically can't be built on. Mr. Akhtar can still build on this property. His letter stated he will put one hundred six (106) units, but a different way, if he gets denied. By law we are limited to the hardship. This is not a hardship in my opinion.

Ms. Boudreaux stated he can't fit one hundred six (106) units on this property without the variance.

Chairman Vincent stated Mr. Akhtar can still develop the property. He needs to build within the code even if that means fewer apartments. The Board can't consider this a hardship just because he wants to fit more units in for more income. It can be built without the variance. If the property was going to sit there because it couldn't be developed, that would be a hardship.

Vice-Chairman Clemmons stated the Board has denied variance requests in the past to people who wanted to build bigger houses on smaller lots to sell and make more money. If Mr. Akhtar builds what the lot will allow he doesn't need a variance. It's not the Board's job to grant variances just so people can make more money, it's to grant variances for true hardships.

Chairman Vincent stated the property can be developed without a variance.

Chairman Vincent asked if there were any more comments or questions. There were none.

There were five (5) notices mailed to property owners surrounding two hundred feet (200') of 3031 8th Street. In the letters, there are attachments where the property owners could approve or protest this request. There were none received in approval or in opposition.

Board Member Visser made a motion to approve the variance request of Akhtar Housing Group, 3031 8th Street, for a variance to the maximum twelve (12) attached dwelling units under one (1) roof requirement for Residential-Multi Family (R-MF), seconded by Board Member West. **MOTION DID NOT PASS BY UNANIMOUS VOTE.**

AGENDA ITEM 7 – ADJOURN

There being no further business, Board Member Visser made a motion to adjourn, seconded by Board Member West. **MOTION PASSED BY UNANIMOUS VOTE.**

The meeting was adjourned at 4:28 p.m.

Matt Vincent, Chairman

ATTEST:

Cari Reynolds, Public Works Secretary