

**ZONING BOARD OF ADJUSTMENT  
MEETING MINUTES  
Tuesday, April 20, 2021**

**Members Present:**

Ed Freiberg .....Chairman  
Linn Cardner..... Member  
J. David Derosier ..... Member  
Mark Ferrell.....Alternate Member

**Members Absent:**

Tiffany Bell ..... Vice Chairman  
Isaac T. Henry III.....Member

**Council Members Present:**

Larry Spears, Jr  
Brad Childs

**Staff Present:**

Kelvin Knauf, Director of Planning & Community Development  
Wendy Lloyd, Planning Secretary

Chairman Freiberg called the meeting to order at 5:49 p.m.

**CITIZEN COMMENTS**

Chairman Freiberg asked for any comments. None were made.

**REGULAR BUSINESS - MEETING MINUTES**

Chairman Freiberg asked for motion to approve the March 29, 2021 special call meeting minutes

Member Derosier motioned  
Alternate Member Ferrell 2<sup>nd</sup>

**Vote: 4 - 0**

**Motion Carries**

**PUBLIC HEARING**

***Case No. 21:05. Conduct a public hearing on a request from Shaun Mayfield for a zoning variance to the side yard setback requirements to allow construction of a home with a two-car garage at Lot 6, Block 85, Sheldon Addition also known as 812 Orange Avenue.***

Chairman Freiberg opened the public hearing at 5:51 p.m.

Mr. Knauf stated Mr. Mayfield has applied for a variance to the side yard setback requirements.

This is a property located in the historic district and in order to have a 2-car garage, he is requesting a variance to each side yard setback.

**Shaun Mayfield – 11114 Panther Ct, Houston, TX:** Mr. Mayfield stated I am originally from Orange but currently reside in Houston. I am currently working on a project where I want to help all of us revitalize the city on the residential side. The past couple of years or 15 years the hurricanes have come through and left a lot of properties abandoned and just not looking their best. So, God has put on my heart to invest in the city and build some homes throughout the city. I've purchased some property here and this is the first one that I'd like to start with at 812 W. Orange Avenue in the historic district. I'm going to pass around a floor plan and an image of the elevation of the home so you can look at it. It's a very nice looking home and in order for me to justify this investment, I'm requesting that I'm allowed to build a home that has a 2-car garage attached. Currently if you look at the lot dimensions from the survey, I'm short about 2 square foot in order to make the 2-car garage. So, I'm requesting 4 square foot of a variance so I can do so comfortably.

Mr. Knauf stated now you're requesting encroaching of 5 feet on both sides from 15-foot side yard setbacks to encroach 5 feet so that the setback would be 10 feet from the side of the house. Mr. Mayfield stated correct from each side.

**Dawn Jones – 808 8<sup>th</sup> Street, Orange, TX:** Ms. Jones stated my property butts up to the alleyway in between our properties. My concerns would be the variance of 5 foot on either side as it is on the back neighbor of the property that is adjacent to it, their actual house is only 3 ½ - 4 foot from the property as is.

Mr. Freiberg stated how did that one get there. Mr. Knauf stated I don't know. It was probably way back in the 40's or so and could be before or way back when they just allowed people to build wherever. If it's in the side yard setback it would be considered legal nonconforming or grandfathered. So, if that house were destroyed it could not be built into the setback areas unless they got a variance from the Board of Adjustment. Mr. Freiberg stated how far will your house go back. Mr. Mayfield stated so my house is projected to be 22 ½ foot wide by 56 ½ foot long. It's 100 foot deep so that leaves us with 83 foot that I have to play with as it relates to the relation of the back of the house to the alley or the front of the house to the front of the street. So, my goal would be to push the house as far frontal as possible so it's not encroaching on the one to the back.

Ms. Jones stated so my questions is where the slab is, is that where you are proposing to put the garage. Mr. Mayfield stated no. That's actually going to be ripped up. So, it's a brand new build from the ground up. Ms. Jones stated is it going to stay within the historic district feel. Mr. Mayfield stated yes, there's an image passing around.

Member Derosier stated the house shows to be 22 ½ feet wide. The request is asking for a variance of 5 feet on either side say you really only need 2 ½ feet. Mr. Mayfield stated correct. I only technically need 2 ½ foot but I wanted to be safe to make sure that I have enough room to make this happen. Member Derosier stated I find it a little difficult to look at a variance of 10 feet for that matter extending the whole house when probably all you need is just 2 ½ feet for just the garage and if the garage were facing the side street as opposed to Orange Avenue, you probably would only need 2 ½ feet for the garage to stick out towards 8<sup>th</sup> Street without encroaching on the

property to the right on Orange. Mr. Mayfield stated so I would like the garage to have access from the alley in the back so it will stay in continuity with the rest of the homes on the street. So that is my proposal. I want the home to look like it has always been there. Member Derosier stated so you are going to have a big, long driveway in the back. Mr. Mayfield stated yes. Member Derosier stated even so I find it difficult to look at 2 ½ feet for a garage and adding all of that space to the whole house and its footprint on the ground and if you don't need any more than 2 ½ feet, I think that we should just leave it at that. Mr. Mayfield stated I am completely okay with that. I just wanted to be safe enough.

**Larry Spears, Jr – 2101 Yupon, Orange, TX:** Mayor Spears stated I've known Shaun since we were 5 or 6 years old. We grew up in Clairmont which is not too far from that area. We went to high school together. I graduated 1 year before him but whenever we started this, I actually began on the Board of Adjustments and then I ran for City Council and then now I am proud to serve as mayor and one of the things that we have discussed and one of the things that you've seen myself discuss is through prayer we have asked the lord to help us revitalize this side of town and to have someone from Orange want to come back to Orange to help revitalize, rebuild with all of the new construction we have going on, Riverside Pavilion, the new 3 million dollar rec center. Mr. Knauf's department has knocked down over 85 dilapidated homes over the last few years and we are still continuing that with the new litter force to clean up the east side of town and we are still doing that. I really just wanted to come and support this project and hope that you would understand that I know it's hard and I fully support him. This is a project that I do believe with the young people who are interested to moving back to Orange, those who are realizing that living in Houston and living in Austin are almost far beyond their means because the financial side of it is getting so outrageous. We have a lot of young people moving back to Orange and so if they can see these beautiful houses that you have before you at a reasonable price, we have a chance to bring people back to the east side and to restore it. I just wanted to put my 2 cents in that I support it and hope that you as a board can come to an agreement to help him make this possible for us.

Chairman Freiberg stated it looks to me that we need to make sure that the person that come and requested is happy and that all the neighbors are happy and we take cases where we have 50 people in here and that's pretty hard to make 50 of them happy but in the case that we are talking about now it looks to me that we may have an amended version of what you want and it might satisfy all parties. That's where I am and what David has proposed I don't think Mr. Mayfield is opposed to that. Mr. Mayfield stated not at all.

Member Gardner stated I am fine with that.

**Brad Childs – 1413 FM 3247, Orange, TX:** Councilman Childs stated I just want to make sure we don't cut him too close if he has an air conditioning unit externally, we can't have him build a house and say but you can't put that condenser unit there. So, let's not cut him too close. I'm all for the project. It's a beautiful home. As you can tell, he didn't take this lightly. I just don't want to cut him too short on things like air conditioning or things sitting beside the home.

Chairman Freiberg closed the public hearing at 6:04 p.m.

## **DISCUSSION/ACTION**

**Case No. 21:05. Consider a request from Shaun Mayfield for a zoning variance to the side yard setback requirements to allow construction of a home with a two-car garage at Lot 6, Block 85, Sheldon Addition also known as 812 Orange Avenue.**

Member Derosier stated as I said we are faced all over the city with lots that are originally designed for shotgun houses that are really not as appropriate today as they may have been. We have a lot here that happens to be on a corner, and it officially fronts on Orange, it's also on 8<sup>th</sup> Street. The frontage on the street adds essentially a buffer in addition to the side yard and I'm concerned about how close the houses are to the neighbors both for safety purposes as well as for just convenience and comfort. I would suggest that we look at if there's going to be a reduction inside yard setback be on 8<sup>th</sup> Street and make it be just the minimum amount that is needed. The plans call for 2 ½ feet. I think that Councilman Childs raises a good point. Do you have any idea or suggestions on the amount of space that would require? Councilman Childs stated for the air conditioning probably a 3 x 5 area according on how big the unit will be. Member Derosier stated, and does it matter which side it is on. Councilman Childs stated that's up to the contractor.

Member Cardner stated I guess my problem is, what is 2 ½ feet. I think it ought to go as it is. I mean we are cutting it 2 ½ feet on either side right. Mr. Knauf stated no Mr. Derosier is proposing cutting it 2 ½ feet on one side, correct. Member Derosier stated I am proposing that we just do 1 side which is abutting 8<sup>th</sup> Street which gives an additional buffer zone as opposed to moving it closer to the back neighbor. Member Cardner stated ok I just want them to be able to do whatever needs to be done to put it there and I don't think the ought to cut it so close. Mr. Knauf stated or if you could do 7 ½ feet on the 8<sup>th</sup> Street side. That would be the 2 ½ feet plus an additional 5 feet to work that air conditioner in there. I mean he can slide the house back and forth within that 7 feet. That would be another option. Member Derosier stated based on what Councilman Childs said I would propose we allow a 5-foot variance on the 8<sup>th</sup> Street side and otherwise it retains the setbacks. That would give an extra 2 ½ feet beyond just the building and would also allow for in theory as much as 5 feet for any AC unit. Mr. Knauf stated well at 5 feet it would be 2 ½ feet for the building plus an additional 2 ½ feet for air conditioning or things like that. Member Derosier stated the building was designed with the intention of having that extra 2 ½ feet in width for 50 plus feet on 2 stories which I don't believe that it's directly related to a garage when you are talking 56 feet on 2 floors an extra 2 ½ feet, that's a fair amount of space just due to the garage itself.

Chairman Freiberg stated I would like if we could simplify what you are trying to say and then ask Mr. Mayfield if he can live with that. Can you show us where the 2 ½ and the 5 feet are? Mr. Mayfield stated a small garage is 21 x 21 so I wanted to 22 ½ just so that when you get out of your vehicle you don't hit your other vehicle. So, with that said, the house would be here. The alley is in the back, the drive would be somewhat long to get to the 2-car garage. So, in essence I need that width to make the 2-car garage comfortable because most families have 2 vehicles and it really wouldn't do me any good as an investor to create a home with a 1 car garage so that is why I am proposing the width I need for you guys. However, if the AC let's say is on this side, I need at least 3 foot by 5 foot to do a system so that is 5 ½ foot just to do the garage and just to accommodate the AC but that's with the AC butted up right against the home which typically they're 12-15 inches from the home so we have to take that into consideration as well. Chairman Freiberg stated I'm with you so I'm back to your original request. Member Cardner stated me too.

Member Derosier stated well we are looking at roughly 1000 square feet footprint for each floor which would be 50x20. You're saying that the 5-foot dimension for the AC needs to be perpendicular to the house as opposed to parallel to the house. Mr. Mayfield stated it could go either way.

Mr. Knauf stated we do have an email that was sent, and I would like to read that into the record. This email is from Tommy Dickerson and was sent on Wednesday, April 14, 2021 at 11:14 a.m. (see attached). Chairman Freiberg stated well I read that, and I think that if he has a problem he should actually come here and go over that. Alternate Member Ferrell stated he doesn't actually spell out what his problem is.

Alternate Member Ferrell motioned to approve variance as presented

Member Cardner 2<sup>nd</sup>

**Vote: 3 – 1**

**Motion denied**

Member Derosier stated I find it difficult as I have said. Do you have some suggestions that might alleviate my concerns? Mr. Mayfield stated honestly sir I don't. Member Derosier stated you don't have a specific location for the building on the property. It's obvious that if you had a driveway, it would be as wide as the garage was. Mr. Mayfield stated correct. Member Derosier stated does that mean it would be a problem for example if the building were moved back an extra 5 feet and you had room in the front in which to add some HVAC. I assume the plans for the house are all done already. Mr. Mayfield stated they are not done because I wanted to solidify here today before moving forward. Mayor Spears stated what's the number that you stated earlier that you would be happy with, would that work? Mr. Mayfield stated the 2 ½ feet would work for the garage correct. I want to maintain the integrity of the historical district which is why the façade looks the way that it does. Hence, why I wanted to put the garage in the back, and I want to stay true to the neighborhood because that's how it would have been done years ago. We compromise that integrity if the garage goes on the front. Member Derosier stated I was talking about the HVAC. Mr. Mayfield stated that would compromise it as well. It's an eyesore in the very front of the home. I think for me, sir, if this isn't approved, then it's going to continue to look like that and that goes against why I'm sitting here today. I have been called to help all of us revitalize the city by one residential property at a time. I'm 100% committed to doing this and if this isn't approved, I'm afraid that it's going to continue to look like that and that does nothing for the city and does nothing for the homeowners who are in that vicinity. If we move forward with the plan, it's a beautiful home and will increase the property values and make the neighborhood look amazing and so that's why I'm here today. That's my goal to may the city look the way that it deserves to look, and I would hate to not be able to do so because of an extra 5-6 foot.

Ms. Jones stated does the garage have to come in from the side. Ours doesn't. There are many houses built today that have the garage going straight off of 8<sup>th</sup> Street instead of going off the alley. Ours goes from 8<sup>th</sup> Street and goes straight in. Mr. Mayfield stated so if I was to move the garage to the side, which that can be done, then I would have to shrink the square footage of my family room and I don't really know if I would want to compromise the family room because it's already a smaller floorplan on the first floor. It's only 900 square foot on the first floor. Member Derosier stated it appears the garage is square. Mr. Mayfield stated yes it's square. Member Derosier

stated so if you twisted so that it went this way instead of that way you wouldn't go into the family room. Mr. Mayfield stated correct but in order to access it to the side, architects like to allow more square footage on the side because you have the car door swing so I would have to expand it to be square at that point. It could be done but it would be very uncomfortable, and I would hate to lose a home sale because someone is uncomfortable entering their home from their car.

Councilman Childs stated if you moved it to the side, is there enough room for a driveway to the side to park 2 cars off of the street. Mr. Mayfield stated no they would have to be in the garage. Mayor Spears stated so what if you did 2 ½ on one side and then 4 ½ or 5 on the other side closest to the street. That would give him enough room for the air conditioner, enough room to keep the house where it is away from their property and give us a chance to make that area look nice. Not that neighborhood doesn't just that particular area. He's not requesting a variance closer to the rear property. So, it's not coming any closer to you at all. Instead of him being able to play football on the side, now he can play badminton. That's what he's asking. Ms. Jones stated I understand now.

Chairman Freiberg stated what about the trees. Mr. Mayfield stated the ones that are dead will be removed. The plan is to plant orange trees.

Member Derosier motioned to approve variance of 5 foot on west side and 2 ½ foot on east side setbacks

Alternate Member Ferrell 2<sup>nd</sup>

**Vote: 4 – 0**

**Motion Carries**

## **PUBLIC HEARING**

**Case No. 21:06. Conduct a public hearing on a request from Karl Gassen-James W, Turner Construction, Ltd for a zoning variance to the side yard setback requirement to allow construction of a home at Lot 19, Block 1, Wren Park Addition, also known as 1205 Jayway Street.**

Chairman Freiberg opened the public hearing at 6:32 p.m.

Mr. Knauf stated this is a GLO house that is being built due to damage to the original structure from hurricanes. The GLO has certain houses that you can choose from. There's only so any styles to choose from and sizes that you can choose from. This is a 50 foot wide by 150 1/2 long property and the proposed house plan is 27.8 feet wide and again the setbacks are 15 feet on either side so that only gives 20 feet of width for the house. The house is 27.8 feet wide. We have a representative here.

**Karl Gassen – 601 Remington, Bridge City, TX:** Mr. Gassen stated we have been assigned this project by the TX GLO to build this new house. All I'm asking for is the side yard setbacks of the R-2 zoning restrictions reducing the right side down to 7.2 feet and the left side down to 9 feet. The east side is 9 feet and then the west side is 7.2 feet. Chairman Freiberg stated instead of 15. Mr. Gassen stated yes. Member Derosier stated so a 6 foot variance on 1 side and the other side is a 7.8. Member Derosier stated and if I'm correct most of that is because of the required

handicap ramp which is an exterior feature. Mr. Gassen stated yes.

Chairman Freiberg stated I'm bothered by the GLO. A person submits and gets approval for that, does the GLO know that their lot is only this big and will fit. Mr. Knauf stated theirs is statewide and that's their regulations. There's only so many styles to choose from and only so many house sizes. That's a state regulation that applies all over the state. Chairman Freiberg stated I understand but if they say I've got a lot here and it doesn't fit then you can't do it. I guess that extreme. I guess there's no way to go to the root cause.

Mayor Spears stated once again we want to see growth. We want to see new opportunity. I think in this instance, what I would like to speak up for is I know on behalf of Ms. Booker, it's not that she's against this project, whoever is the current property owner, there is a lot of debris that has been left behind and cars and vehicles of that nature. So, they are just here to insure that if this is the kind of project that we are going to have, which I agree with them with our new litter force, with our new code enforcement with Mr. Knauf and his group has done such a good job on, we just want to ensure that this is cleaned up and rectified before moving forward with the project.

**Clara Booker – 1212 Jayway, Orange, TX:** Ms. Booker stated I am across the street from 1205 and there's another lot there and if he doesn't have enough room to build, I'm kind of going on what he said, if the lot is not big enough for the house to fit then don't build it. Chairman Freiberg stated that's a very nice street.

**Maxine Smith – 1209 Jayway, Orange, TX:** Ms. Smith stated I'm am right next door almost to the house and I'm the oldest person that still owns that land. There are a lot of nice houses, trees and since this young man moved in, it was a nice house. An older couple lived there and they died. A week after he moved there, he knocked all the windows out, it was completely wood no windows. The next week he tore all the doors off. He's continually just tore the house up that was a nice house. He decided that he would and talked about getting a home. He bought the property across the street next to her and he had this house moved over there and said he was going to rent it out and they were going to build him a new house. From that he tore it up and this is what's left next to her. This is my house right here. The property next to him is 1207 and it's between his house and my house. This is an empty lot. He does not own it. He said that he owned it and told all of us that he bought it so he moved everything he could over there. There's a big airboat, 4 trucks there right now and all up on blocks and all of them blocks my property. You can't even see my house as you come down in there. There is nice houses. Young people have moved in and they have remodeled and it's a nice neighborhood but when you come in 10<sup>th</sup> Street, 11<sup>th</sup> Street and get to the corner, people don't know what's there because all of this junk is right there and it's a terrible sight. We've tried to work with him on the trucks and I've talked to the lady in codes and they are trying to get the trucks moved out. I don't know if he rents the property and let people bring them but he does not own 1207. He has completely taken over 1207 and put everything that he wants there. He has tremendous traffic all the time. He took the garage back there. He put lights and he rented it out. He just has not been a neighbor that will work with you. He's a young man the age of some of my children. I'm not sure if he gets more land or some house built what he is going to do. Once he gets something he figures he can do whatever I want to. He tears up something and he goes in the house and comes out and shoot his pistol. He shoot all around there. The lot next door that he does not own, for the last holiday, he brought family and friends over and used that lot to shoot fireworks right next to my house. He controls that lot. They had him tear the house down across the street from where he

was because they wasn't going to build him a home if he put a house across the street that he was going to rent. So it's been a hassle. I'm not saying deny him a home because everybody needs house and a home to live in. But we cannot live under the conditions if he gets a house and controls the block and you call the police and he always has an excuse but tremendous traffic of all kinds day and night. They sleep in the garage. Right now there's a lady and she's a white female sleeping in one of those trucks at night and it's been cold but she has nowhere to go. We haven't seen him. We just don't know what to do about it. Our homes are going to be depreciated of value. We are here because we don't know what to do. We are not denying saying he doesn't need a house but these conditions need to be met before he gets a house. I have checked with the city and he doesn't not own the lot. He controls it and he mows it. We mowed it before he came. We've been mowing it for years because our kids growing up played in the lot like a neighborhood lot. Chairman Freiberg stated so the guy you are talking about is Gassen. Mr. Gassen stated no, I'm Karl. Mr. Knauf stated he's the contractor. Mr. Gassen stated Danny Kelley is the owner. Ms. Smith stated and everybody has been out there. This has been going on 2 years. It didn't just start. Mr. Gassen stated with a back story just a little bit. He went through an application process with GLO getting approved. We get the assignment. He gets notified that he is getting a new house and he applies for a permit to move the house across the street. GLO finds out and says you have to move it back or you are no longer in the program. So, he decides to tear it down but because there is debris left across the street from this structure. He can't dispose of it so GLO says okay we will keep you in the program but that debris has to be moved back to the property. I can't work on a property that they have not cleared so the only way that we can take away that demolition debris is if it's on the property. Mr. Knauf stated and that's part of the plan right. Before construction of the new house is to move that mountain of debris that is by the street. Mr. Gassen stated right that is part of the whole project. Mr. Knauf stated and I know that the trucks have been tagged and if he doesn't move them then we will have them towed. Mr. Gassen stated that is on a different piece of property. Mr. Knauf stated right that's a different property and we are working the vehicles also.

Ms. Smith stated and you are adding more space so where's it coming from. Mr. Gassen stated so it's a 50 foot lot with 15 foot on either side I can't build on because of the restrictions. So I only have 20 feet to work with in the middle. The house is 27 feet wide and then we got a ramp that goes from the front to the back so that's an additional 6 feet. Mayor Spears stated so what he is saying is that it's not that the house its too big for the property. What he is saying is that you normally have to have a certain amount of space to walk and do things on the side of the house. So, what he is saying is that instead of being able to drive a vehicle through there, now you'll have 5 foot maybe 7 foot. So you will have 7 of these tiles instead of 15. So his house will just take up more of the property. Ms. Smith stated where are you going to get the property. Mr. Knauf stated the property is already there. Right now the setback areas are here and what he is requesting is that these setback areas be moved right here. You still have the same property lines. The property lines don't move. It's the area that you are allowed to build in. He is requesting that area be wider than what is currently allowed. Mayor Spears stated he is not going to take more property. He's just getting closer to his fence with the house. He's not going over his fence. He's just getting closer to his fence. A vehicle used to be able to get through the side of the house but now just a motorcycle can get through there. Ms. Smith stated so he isn't using any of that property at 1207. Mr. Gassen stated no. That vacant lot is still there and still not his.

Chairman Freiberg stated he is living within the limits of his property. But you named a host of problems and if I hear Mr. Knauf and Mr. Mayor say, they are taking care of it. Mr. Knauf stated

we are working it. Chairman Freiberg stated we can't do anything about that but we can refer it and he says they are working on it. So the answer is it is coming to you. He can't move that debris until we give him permission to build within the limits he is requesting.

Member Derosier stated I would like to point out that the old Orange County Appraisal District photographic that is in our packet shows the house that is now not there as being very very close to the side line. Mostly likely the new one will be less than what was there. Mr. Gassen stated so on your side of that lot, the house was 4 feet from that lot. I'm asking 7.2 feet from that lot.

Chairman Freiberg asked for any other comments. None were made.

Chairman Freiberg closed the public hearing at 6:54 p.m.

### **DISCUSSION/ACTION**

**Case No. 21:06. Consider a request from Karl Gassen-James W. Turner Construction, Ltd for a zoning variance to the side yard setback requirement to allow construction of a home at Lot 19, Block 1, Wren Park Addition, also known as 1205 Jayway Street.**

Member Derosier stated we have done these GLO houses before. The main issue is the handicap walkway along side. From the looks of the appraisal district photo, it's going to be less than it was as far as encroaching on the side yard. I don't think there's much alternative if GLO is going to do that. They don't give them a lot of choices.

Member Derosier motioned to approve the variance as presented

Member Cardner 2<sup>nd</sup>

**Vote: 4 – 0**

**Motion Carries**

Member Derosier stated I would like to ask that Mr. Knauf work to get those vehicles removed from property. Mr. Knauf stated we are working it. Ms. Smith stated they are working on it. I talked to Sargent Bernard today and in fact she had been out there this week. Mr. Knauf stated yes and if he doesn't move them, we will move them.

Member Cardner motioned to adjourn

Alternate Member Ferrell 2<sup>nd</sup>

**Chairman Freiberg adjourned the meeting at 6:57 p.m.**