

AGENDA
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
3:30 p.m. Wednesday, March 9, 2022
City Council Chambers, 2nd Floor of City Hall
823 Rosenberg, Galveston, Texas

Members of the public may participate in the meeting in the following ways:

1. Submit public comment in advance of the meeting: <https://forms.galvestontx.gov/Forms/PublicComment>
 2. Attend the meeting in person at the above address.
1. Call Meeting To Order

2. Moment Of Silence In Honor Of Councilmember Quiroga
3. Attendance
4. Conflict Of Interest
5. Approval Of Minutes

A. February 9, 2022

Documents:

[02-09-2021 ZBA MINUTES.PDF](#)

6. Public Comment

Request to Address Board on Agenda Items Without Public Hearings and Non-Agenda Items (three-minute maximum per speaker. If speaking through a translator, six-minute maximum per speaker)

7. Meeting Format (Staff)
8. New Business And Associated Public Hearings

- A. 22Z-002 (4117 Isla Del Sol) 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 Abstract 121 Hall & Jones Survey, Lot 14 , Block 5, Isla Del Sol Subdivision, In The City And County Of Galveston, Texas. Applicant: Jay Willow, Jerry Homes Property Owner: Nathan Novelli

Documents:

[22Z-002 - PKT_030322.PDF](#)

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 March 2, 2022.

Prepared by: Patrick Collins, 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



City of Galveston

MINUTES OF THE ZONING BOARD OF ADJUSTMENT OF THE CITY OF GALVESTON REGULAR MEETING – February 9, 2022

CALL MEETING TO ORDER

The meeting was called to order at 3:30 p.m.

ATTENDANCE

Members Present via Videoconference: Lidija Bikova, Bill Clement, Andrew Galletti, Robert Girndt, Carol Hollaway (Alternate)

Members Absent: Barbara Railey, Susan Syler (Alternate), CM Bill Quiroga (Ex-Officio)

Staff Present: Catherine Gorman, AICP, Assistant Director/Historic Preservation Officer; Daniel Lunsford, Senior Planner

CONFLICT OF INTEREST

None

MEETING FORMAT

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

APPROVAL OF MINUTES

The December 8, 2021 minutes were approved as presented.

PUBLIC COMMENT

None

NEW BUSINESS AND ASSOCIATED PUBLIC HEARINGS

22Z-001 (4117 Isla Del Sol) 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 Abstract 121 Hall & Jones Survey, Lot 14, Block 5, Isla Del Sol Subdivision, in the City and County of Galveston, Texas.

Applicant: Jay Willow, Jerry Homes

Property Owner: Nathan Novelli

Staff presented the staff report and reported that of 19 notices sent, one was returned in opposition.

Chairperson Andrew Galletti opened the public hearing on the case. Jay Willow, applicant, presented to the Board. The public hearing was closed, and the Chairperson called for a motion.

Bill Clement made a motion to approve the request. Vice-Chairperson Robert Girndt seconded.

Chairperson Andrew Galletti called for questions or comments from the Board, and the following votes were cast:

In favor:	Bikova Clement, Girndt
Opposed:	Galletti, Hollaway (Alternate)
Absent:	Railey, Syler (Alternate), CM Quiroga (Ex-Officio)
Non-voting participant:	None

The motion failed due to a lack of four affirmative votes.

DISCUSSION AND ACTION ITEMS:

- 2021 Year-End Report (Staff)

THE MEETING ADJOURNED AT 3:48 PM



22Z-002

STAFF REPORT

ADDRESS:

4117 Isla Del Sol Drive

LEGAL DESCRIPTION:

Property is legally described as Abstract 121 Hall & Jones Survey, Lot 14 , Block 5, Isla Del Sol Subdivision, in the City and County of Galveston, Texas.

APPLICANT/REPRESENTATIVE:

Jay Willow, Jerry Homes

PROPERTY OWNER:

Nathan Novelli

ZONING:

Residential, Single-Family (R-1)

VARIANCE REQUEST:

Front Setback

APPLICABLE ZONING LAND USE

REGULATIONS:

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

EXHIBITS:

A – Applicant's Submittal

STAFF:

Daniel Lunsford

Senior Planner

409-797-3659

dlunsford@galvestontx.gov

Public Notice and Comment:

Sent	Returned	In Favor	Opposed	No Comment
19				

City Department Notification Responses: None



Executive Summary:

The applicant is requesting a variance from Article 3, Addendum in order to reduce the required front setback facing Isla Del Sol Drive from twenty (20) feet to seventeen and one-half (17.5) feet in order to accommodate an AC platform. An error in staking the house resulted in a 2.5-foot encroachment into the front setback, which was not discovered until the certificate of occupancy process. At that point the applicant approached city staff for guidance.

The lot is approximately 100 feet long and 48 feet wide at the street right-of-way, with an area of 5,358 square feet.

The Zoning Board of Adjustment heard this request at the February 9, 2022 regular meeting. Because the motion to approve the variance failed due to lack of affirmative votes, the applicant has resubmitted.

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 (facing Las Palmas)	20 feet	17.5 feet (2.5' reduction)

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.

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 variance request is rooted in 2 special conditions. The primary condition is that construction has already been completed with approximately 2.5 feet closer to the street due to a piling survey error. The secondary condition is that for all intents and purposes, it is no longer feasible to move the structure since construction has been completed and significant modifications to the city approved design is required for strict enforcement compliance.

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.**

Denial of the variance will result in a significant unnecessary hardship as the remediation steps required to comply with strict enforcement will require drastic modifications of both city approved plans and construction. These changes will result in loss of use and a material loss of home value.

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

Approval is not contrary to public interest as the setback reduction does not cross over any utility nor encroach on neighboring property lines. The 3 foot utility easements remain intact and the neighborhood prefers construction in its current state due to the "good neighbor" street view. Please see attached photos and Isla Del Sol Petition to approve variance.

(staff note: Attachment A of staff report).

- 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.**

The hardship is not self-imposed as the lot and building plans were approved by the city thus a permit was issued. It is only due to a building error, completely out of the owner's control, in which an unnecessary hardship has arisen. There is no ill-gotten financial gain or benefit by allowing a variance since the house contains all the same features that were originally approved by the city. Many houses in the neighborhood are grandfathered into a smaller setback requirement than 20 ft.

- 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.**

If approved, the variance will not have a detrimental impact on any neighboring property lines, nor will it negatively impact any public

infrastructure. Approving the variance will positively impact the general health, morals, and welfare of the community as the neighborhood prefers the home in its current state. Furthermore, many of the homeowners signed a petition to approve the variance, as care was taken to modify the original plans specifically to maintain the overall aesthetic of the neighborhood with a “good neighbor” street view design. See attached Isla Del Sol petition to approve variance.

- 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 requested variance is the least necessary and will be consistent with the spirit of zoning and architectural control as it has no negative impact on the city’s access to utilities or infrastructure, will not result in encroachment on any neighboring property lines, nor does it go against the public/community interests.

- 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).**

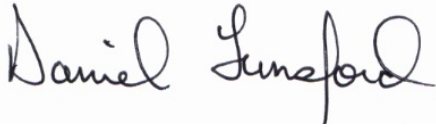
It is impossible this variance will be used to circumvent standards in the future as any builder/owner who attempts to submit plans which encroach on setback lines will be denied by the city before a permit is issued and construction commences. No builder will intentionally use this variance as precedent to build over setback lines given the extreme amount of risk and liability involved with doing so. The HOA Architectural Control Review board is a secondary layer which prevents future sidestepping of procedures and standards.

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

We believe that if the variance is granted, substantial justice will be done, as this home was built in good faith to improve the community and maintain the overall neighborhood aesthetic. A denial of the variance will result in both the owner and neighboring property owners unjustly sharing the burden of a strict enforcement.

Please see Agenda for Appeal from Decision of Board Process.

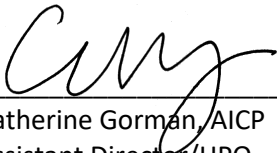
Respectfully submitted,



Daniel Lunsford
Senior Planner

03/03/2022

Date

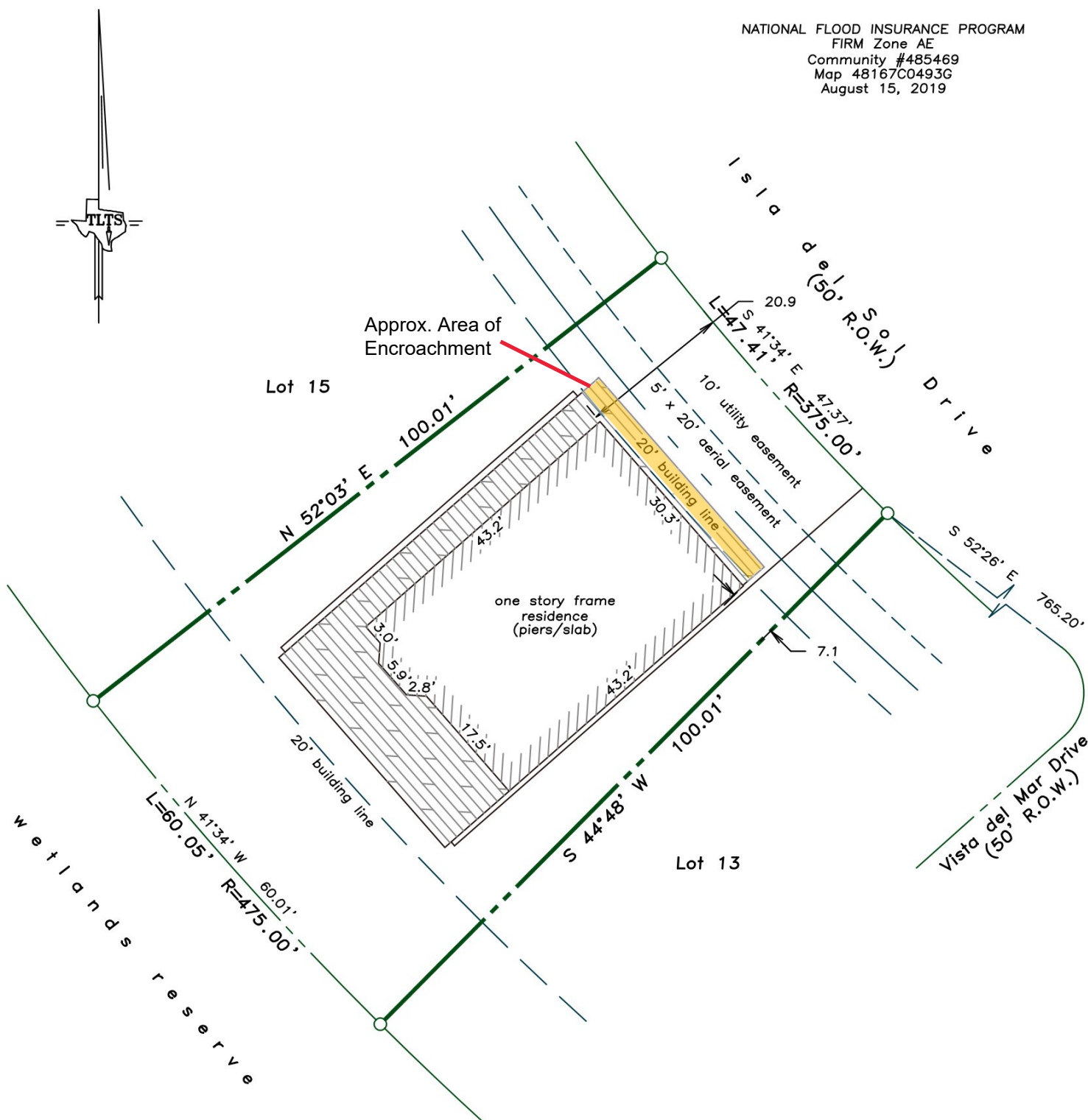


Catherine Gorman, AICP
Assistant Director/HPO

03/03/2022

Date

NATIONAL FLOOD INSURANCE PROGRAM
FIRM Zone AE
Community #485469
Map 48167C0493G
August 15, 2019

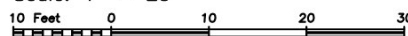


LAND TITLE SURVEY OF A TRACT OF LAND being Lot 14, in Block 5, of ISLA DEL SOL, a subdivision in Galveston County, Texas according to the plat thereof recorded in Volume 17, Page 121, in in the Office of the County Clerk of Galveston County, Texas.

NOTES:
NO RECORDS SEARCH CONTRACTED. RECORD EASEMENTS, RESTRICTIONS, ROADWAYS, RIGHTS-OF-WAY, BUILDING LINES, ENCUMBRANCES, ETC. BY COMMON KNOWLEDGE ONLY.
CLIENT HOLDS TLTS, INC. HARMLESS FROM RESPONSIBILITY FOR SAME

- Restrictions as per recorded plat unless otherwise noted
- True ground distances shown
- Bearings assumed as platted
- Centerline control monuments utilized in boundary reconciliation

Scale: 1" = 20'



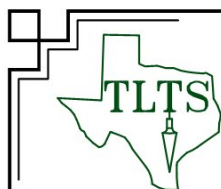
Subject property: 4117 Isla del Sol Drive
Galveston County, Texas

This survey is certified for this transaction only and may only be relied on by Nathan Novelli. This survey is only valid if print has original seal and signature of surveyor. I hereby certify that this survey was made on the ground under my direct supervision and that this plat correctly represents the facts found at the time of the survey.



Laurence C. Wall

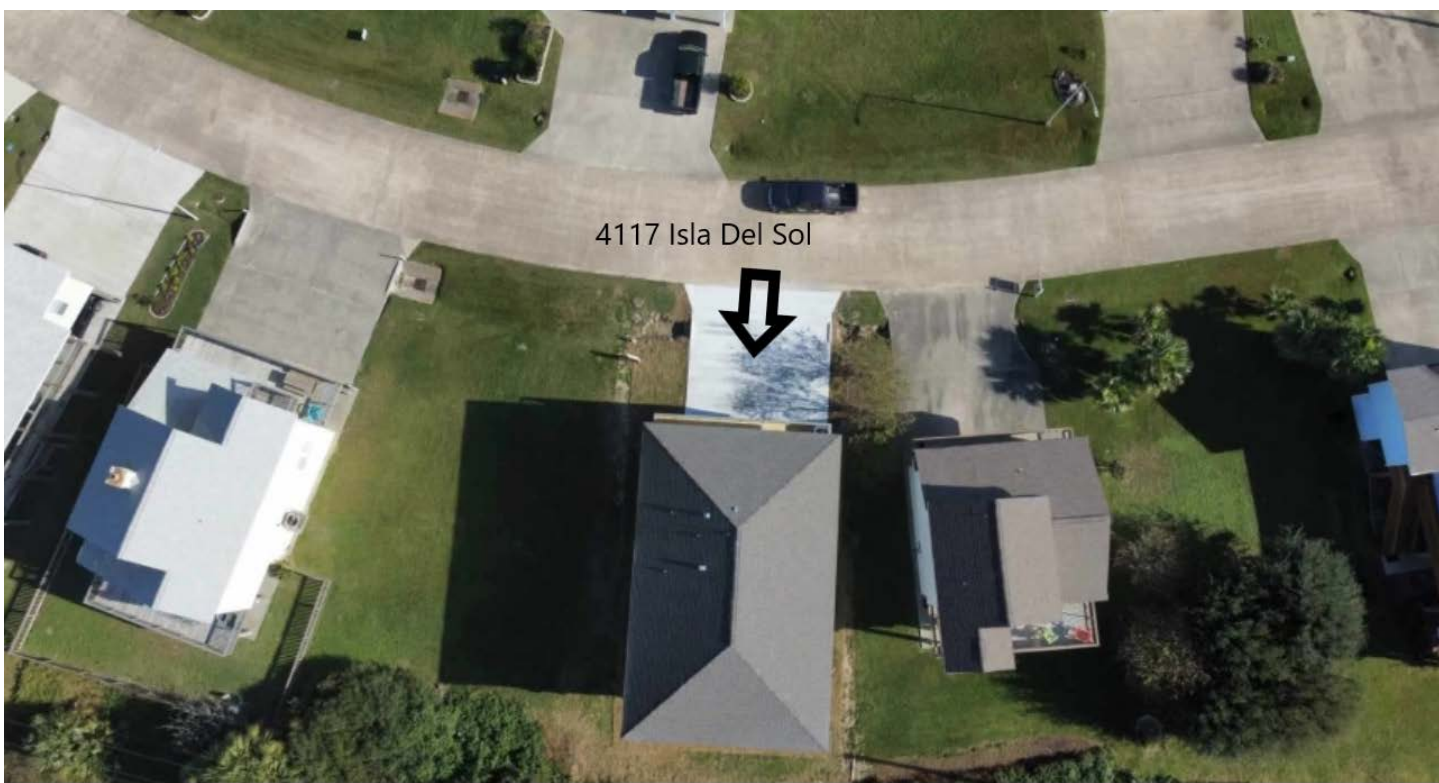
Laurence C. Wall
RPLS #4814
December 21, 2021



TLTS, Inc.
TEXAS LAND TITLE SURVEYORS
1801 Moody Avenue
Galveston, Texas 77550
(409) 765-8883



Aerial looking Southwest



Aerial looking Northeast



Aerial looking South



Aerial looking North

Applicable Section(s) of the Land Development regulations:

- 20' front setback line

Specifically state the variance(s) being requested:

- We are requesting a reduction of the front (street facing) setback by 2.5feet.

How is the request for the variance rooted in special conditions of your property that do not generally exist on other properties in the same zoning district?

- The variance request is rooted in 2 special conditions. The primary condition is that construction has already been completed with approximately 2.5 feet closer to the street due to a piling survey error. The secondary condition is that for all intents and purposes, it is no longer feasible to move the structure since construction has been completed and significant modifications to the city approved design is required for strict enforcement compliance.

Due to said special conditions, how would the enforcement of the strict terms of these regulations impose an unnecessary hardship on you?

- Denial of the variance will result in a significant unnecessary hardship as the remediation steps required to comply with strict enforcement will require drastic modifications of both city approved plans and construction. These changes will result in loss of use and a material loss of home value.

Explain how the variance is not contrary to the public interest.

- Approval is not contrary to public interest as the setback reduction does not cross over any utility nor encroach on neighboring property lines. The 3 food utility easements remain intact and the neighborhood prefers construction in its current state due to the "good neighbor" street view. Please see attached photos and Isla Del Sol Petition to approve variance.

Explain how the variance does not allow you to impair the application of these regulations for:

- Self-imposed hardships;
- Hardships based solely on financial consideration, convenience, or inconvenience; or
- Conditions that are alleged to be "special" but that are actually common to many properties within the same zoning district.
- The hardship is not self-imposed as the lot and building plans were approved by the city thus a permit was issued. It is only due to a building error, completely out of the owner's control, in which an unnecessary hardship has arisen. There is no ill-gotten financial gain or benefit by allowing a variance since the house contains all the same features that were originally approved by the city. Many houses in the neighborhood are grandfathered into a smaller setback requirement than 20ft.

Explain how the variance will not have a detrimental impact upon:

- THe current or future use of adjacent properties for purposes for which they are zoned;
- Public infrastructure or services; and

- Public, health, safety, morals, and general welfare of the community.
- If approved, the variance will not have a detrimental impact on any neighboring property lines, nor will it negatively impact any public infrastructure. Approving the variance will positively impact the general health, morals, and welfare of the community as the neighborhood prefers the home in its current state. Furthermore, many of the homeowners signed a petition to approve the variance, as care was taken to modify the original plans specifically to maintain the overall aesthetic of the neighborhood with a “good neighbor” street view design. See attached Isla Del Sol petition to approve variance.

Explain how the degree of variance allowed from these regulations is the least that is necessary to grant relief from the identified unnecessary hardship.

- The requested variance is the least necessary and will be consistent with the spirit of zoning and architectural control as it has no negative impact on the city’s access to utilities or infrastructure, will not result in encroachment on any neighboring property lines, nor does it go against the public/community interests.

Explain how 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.)

- It is impossible this variance will be used to circumvent standards in the future as any builder/owner who attempts to submit plans which encroach on setback lines will be denied by the city before a permit is issued and construction commences. No builder will intentionally use this variance as precedent to build over setback lines given the extreme amount of risk and liability involved with doing so. The HOA Architectural Control Review board is a secondary layer which prevents future sidestepping of procedures and standards.

By granting the variance, is the spirit of the Land Development Regulations observed and substantial justice be done.

- We believe that if the variance is granted, substantial justice will be done, as this home was built in good faith to improve the community and maintain the overall neighborhood aesthetic. A denial of the variance will result in both the owner and neighboring property owners unjustly sharing the burden of a strict enforcement.

Petition to approve variance at 4117 Isla Del Sol,
Galveston, TX, 77554

Summary: The street facing deck is encroaching on the city setback lines. This encroachment is minimal and does not affect any neighboring property lines, nor does it affect the city access to any utilities. We wish to approve the variance as the current design was intended to preserve the aesthetic of the street and improve the overall value of the neighborhood.

[illegible]

ZBA Motion Guide – Variances

I make a motion for **Approval** due to the following *(state all of the following, including the special condition)*:

- The special condition/s that exist on the property that does not generally exist of other properties in the same zoning district. That special condition is:

- Due to that special condition, the enforcement of the strict terms of these regulations would impose an unnecessary hardship on the applicant.
- The variance is not contrary to the public interest in that:
 - The hardship is not self-imposed,
 - The hardship is not based solely on financial considerations, convenience, or inconvenience,
 - There are not conditions that are alleged to be special but are actually common to many properties within the same zoning district,
- The requested variance does not have a detrimental impact upon:
 - The current or future use of the adjacent properties for purposes for which they are zoned,
 - Public infrastructure or services, and
 - Public health, safety, morals, and general welfare of the community,
- The degree of variance allowed from these regulations is the least that is necessary to grant relief from the identified unnecessary hardship,
- The variance will not be used to circumvent other procedures and standards of these regulations that could be used for the same or comparable effect, and
- By granting the variance, the spirit of these regulations is observed and substantial justice is done.

I make a motion for **Denial** due to the following *(state one of more of the following)*:

- There is not a special condition on the property,
- The hardship is self-imposed,
- The hardship is based solely on financial considerations, convenience, or inconvenience,
- The requested variance would have a detrimental impact upon:
 - The current or future use of the adjacent properties for purposes for which they are zoned,
 - Public infrastructure or services, and/or
 - Public health, safety, morals, and general welfare of the community,
- The degree of variance requested is greater than is necessary to grant relief from the hardship, and/or
- The variance is being used to circumvent other procedures and standards of the regulations that could be used for the same or comparable effect.

I make a motion for **Deferral** to the *Meeting Date* in order for *Reason for Deferral*.

Examples: I make a motion for deferral to the October 9, 2019 meeting in order for more board members to be in attendance.

I make a motion for deferral to the October 9, 2019 meeting in order for the applicant to provide additional information.