ZONING BOARD OF ADJUSTMENTS
SEPTEMBER 24, 2025
CITY HALL'S COUNCIL CHAMBERS

ZBA PRESENT	ZBA ABSENT	STAFF PRESENT	GUESTS PRESENT
Alberto Salazar	William Ueckert Jr.	Xavier Cervantes	Gail Smith
Humberto Garza		Susie De Luna	Craig King
Heraclio Flores		Jessica Munoz	Olga Galvan
Dolly Elizondo		Alex Hernandez	Moulay Omar Hadroune
		Elisa Zurita	Guillermo Guerrero

CALL TO ORDER

Chairman Flores called the meeting to order at 4:30 p.m.

CITIZENS PARTICIPATION

Chairman Flores asked if there was anyone in the audience who had anything to present or express that was not on the agenda.

There was none.

APPROVAL OF MINUTES FOR AUGUST 27, 2025

Chairman Flores asked if there are any corrections to the minutes. Mr. Salazar moved to approve the minutes as presented. Mr. Garza seconded the motion. Upon a vote, the motion passed unanimously.

ITEM # 1
TO ALLOW A 1-FOOT REAR SETBACK INSTEADOF THE REQUIRED 10-FOOT AND A 4-FOOT SIDE SETBACK INSTEAD OF THE REQUIRED 5-FOOT FOR A 14'-4"X14'-4" PURGULA AT 2503 SAN ESTEBAN STREET, BEING LOT 54, SHARYLAND PLANTATION VILLAGE LOS CABOS PHASE 2 SUBDIVISION AS REQUESTED BY MOULAY OMAR HADROUNE

Mr. Cervantes stated that the subject site was located along the North side of San Esteban Street, approximately 65 feet East of Grand Canal. Meadow Country Club Phase 1B was recorded on March 17, 1987. The subject lot has a total area of 7,276 square feet. The Sharyland Village Los Cabos Phase 2 Subdivision was recorded on November 12, 2012. The subject property is an irregularly shaped lot with a depth of 127.00 feet, a front width of 60.58 feet, and a rear width of 54.00 feet. The applicant is requesting a variance to keep a 14'-4" by 14'-4" pergola within the 10' rear setback and 5'side setback. The pergola was constructed without a building permit.
The Planning staff has not received any objections to the request from the surrounding property owners. Staff mailed out 17 legal notices to surrounding property owners. No variances have been processed in this subdivision. There is a 10-foot utility easement along the rear of the property. Colored and flags mean: Red; electrical power, and Orange; cable, and telephone

STAFF RECOMMENDATION:

Staff recommends denial. this request does not qualify as an undue hardship.

However, if ZBA is inclined to approve this variance request then the applicant would need to comply with the following: 1) Sign a hold harmless agreement stating that the structure will remain perpetually "open and to its footprint" and if the structure is ever removed, the prevailing setbacks shall be complied with thereafter, and 2) obtain a building permit fee.

Chairman Flores asked what the red markings were.

Mr. Cervantes stated that the red markings meant utilities were within the 10-foot setback.

Ms. Elizondo asked if the homeowner was a member of a homeowner's association.

Mr. Cervantes replied, Yes.

Ms. Elizondo asked if the homeowner's association was notified.

Mr. Cervantes replied that all the property owners in this subdivision are members of the HOA.

Mr. Salazar stated that he was not seeing any history of variances. He added that the board usually gets a list of variances.

Mr. Cervantes replied that there was no history of variances on this subdivision phase.

Mr. Salazar stated that this would be the first variance.

Mr. Cervantes replied that plantation village was developed in phases. So, for this phase, it was the first variance.

Chairman Flores asked if the applicant was present.

Mr. Moulay Omar Hadroune, who resides at 2503 San Esteban, was present.

Chairman Flores asked what the purpose of his request was.

Mr. Hardroune mentioned that he didn't know he needed a permit since his neighbors had the same structures. He stated that he had no intention of breaking the law or the city of Mission rules.

Mr. Garza asked how long ago the pergola was built.

Mr. Hardroune replied early this year.

Ms. Elizondo asked if Mr. Hardroune submitted his plans to an architectural control committee of the HOA?

Mr. Hardroune replied that after the pergola was built, he received a letter that he needed to apply for a permit. I submitted the design, but was told that I had to go through the city.

Ms. Elizondo stated that she meant his home. She asked, when your home was built, did you submit your plans to an architectural control committee?

Mr. Hardroune replied no.

Mr. Garza asked when the property was purchased, was the home already there, or did he built his home.

Mr. Hardroune replied that the home was already built.

Ms. Elizondo stated Oh, okay, I misunderstood. I thought you built it.

Mr. Garza stated that he stepped away for a minute. He added did the HOA approve the pergola? Has he gotten approval from them?

Mr. Cervantes replied that a representative from the HOA was present.

The representative from the HOA, Ms. Gail Smith, was present. She mentioned that she was the association manager, and that the plans were submitted to the HOA in December 2024, and it was denied due to the setbacks, and that they didn't allow metal roofing on coverings for pergolas. She also mentioned that the pergola was against the community fence, which was common property, and if the pergola damaged the fence, Mr. Hardroune could be subject to a fine.

Ms. Elizondo asked if Ms. Smith had anything in writing indicating that Mr. Hardroune applied.

Ms. Smith replied, that she did, but not with her.

Ms. Elizondo stated that there was awareness that there was an HOA. She added, However, it was submitted and denied, and the pergola was still built.

Mr. Cervantes stated, to clarify things. I think he applied after it was built.

Ms. Smith replied that he applied in December of 2024. I don't know if the pergola was built or not, but I know that he applied and it was denied.

Ms. Elizondo stated that it was last year. She added that on the timeline is mentioned that in August 2025, his first application was submitted to the City.

Ms. Cervantes stated that the HOA denied it, and he went ahead and built it.

Mr. Hardroune mentioned that he built it. He stated that he received a letter asking him to apply for a permit, and applied. I did not ask for a permit and did it anyway.

Ms. Smith stated that she didn't know the timeline, that she just knew that an application was received in December 2024 and it was denied.

Mr. Hardroune replied ok, my mistake. It was last year, but after I built it, I applied.

Mr. Salazar asked that the fines that the HOA can administer have nothing to do with whether the board approves the variance or not.

Mr. Garza asked if there was a way that the homeowner could adjust the building somehow to relocate the poles to clear the easement, and considered removing the metal roof.

Ms. Smith replied that there was a 10-foot setback, but it doesn't look like there was enough room.

Mr. Garza asked if there were other approved variances in that subdivision.

Mr. Salazar replied no.

Mr. Cervantes mentioned that when a home is purchased, the paperwork tells you if there is an HOA. He added that when he purchased the home, he was notified about the HOA.

Chairman Flores asked if there was anyone in favor or against the rezoning request.

There was none.

There being no further discussion, Chairman Flores entertained a motion to close the public hearing. Mr. Garza moved to close the public hearing. Ms. Elizondo seconded the motion. Upon a vote, the motion passed unanimously.

Mr. Garza stated that he would like to table the item to see the application where the HOA denied it.

Chairman Flores stated that the applicant had mentioned that he built it after the fact.

Mr. Garza retracted his motion.

There being no further discussion. Chairman Flores entertained a motion. Ms. Elizondo moved to deny the variance request. Mr. Salazar seconded the motion. Upon a vote, the motion passed unanimously.

Chairman Flores entertained a motion to un-table Item #2. Mr. Salazar moved to un-table item #2. Mr. Garza seconded the motion. Upon a vote, the motion passed.

ITEM # 2
TABLED: TO ALLOW 15 FOOT REAR SETBACK INSTEAD OF THE REQUIRED 20 FEET FOR A POOL HOUSE, AT 2004 E. 20TH STREET, BEING LOT 36, SHARY PALMS UT 7 SUBDIVISION, AS REQUESTED BY GUILLERMO GUERRERO

Mr. Cervantes stated that this item was previously considered by ZBA on August 27, 2025, and was tabled. The board requested a revised site plan showing the location of the proposed pool within the property in order to decide. The applicant submitted a revised site plan. The applicant is requesting a variance to construct an 800 square foot pool house within the 20' rear setback to Glasscock Road. Shary Palm UT 7 Subdivision was recorded on August 17, 1998. The irregular lot measures a total of 14,493 square feet. The subject site is located at the cul-de-sac of Cardinal and E. 20th Street. The lots to the east, west, north, and south are developed as Single-Family Residences. The Planning staff has not received any objections to the request from the surrounding property owners. Staff mailed out 27 legal notices to surrounding property owners. Staff notes that ZBA granted a variance for this lot to have a 0' side setback for a shade porch and a 1.9' rear setback for a palapa on November 17, 2021. ZBA has considered the following variance within this subdivision.

Subdivision-Variance-Date-Recommendation
Lot 35-4' side setback-11/9/99-Approval
Lot 25-4.8' side setback-8/13/02-Approval
Lot 36-0' side &1.9' rear setbacks-11/17/21-Approval

The City of Mission Code of Ordinances Appendix A – Zoning, Section 1.17 states ZBA may: "Permit the reconstruction, extension, or enlargement of a building occupied by a nonconforming use on the lot or tract occupied by such building provided such reconstruction does not prevent the return of such property to a conforming use", and "Authorize in specific cases a variance from the terms of a zoning ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done." There is a state law, HB 1475, that allows variances to be granted if: The financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessors for the municipality under Section 26.01, Tax Code; Compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur; Compliance would result in the structure not complying with a requirement of a municipal ordinance, building code, or other department; Compliance would result in the unreasonable encroachment on an adjacent property or easement; or o The municipality considers the structure to be nonconforming.

STAFF RECOMMENDATION:
Staff recommends disapproval of the variance request as:

1. The request does not meet the standards for the issuance of a variance as described in the City of Mission Code of Ordinances.
2. The structure was built without a permit, and
3. This is a self-imposed hardship.

However, if ZBA is inclined to approve this variance request then the applicant would need to comply with the following: 1) Sign a hold harmless agreement stating that the structure will remain perpetually "open and to its footprint" and if the structure is ever removed, the prevailing setbacks shall be complied with thereafter, 2) obtaining a building permit, and 3) paying a double permit fee.

Mr. Salazar stated that in the last meeting, he wasn't a yes vote because the location of the pool was not shown. He mentioned that he wanted to understand why Mr. Guerrero wanted to encroach on the setback.

Mr. Cervantes mentioned that the pool will be complying with the setback requirements. The variance being requested is for the pool house. He added that along Glasscock Road, there was a 20-foot rear setback.

Mr. Salazar asked if there was a history of existing variances in the subdivision.

Ms. Munoz replied that the property being discussed previously had an approved variance.

Chairman Flores asked if there was anyone in favor or against the variance request.

Mrs. Olga Paez who resides at 1903 Cardinal was present. She mentioned that she lived right in back of the applicant requesting the variance. She stated that she just wanted someone to explain to her in Spanish what the applicant was proposing to do.

Mr. Cervantes explained in Spanish to Mrs. Olga Paez what Mr. Guerrero was proposing.

Mrs. Paez asked if what Mr. Guerrero was proposing to built was a pergola?

Mr. Cervantes replied that it was a pool house.

Mrs. Paez stated that all she wants is for the machines for the pool not to make noise and for Mr. Guerrero not to build all the way to the fence line. She added that she had no problem with a pool house.

Mr. Cervantes replied that if Mrs. Paez still had problems with the noise, she could file a complaint with the justice of the peace.

Ms. Elizondo stated that the board had asked the applicant to provide a site plan showing where the machines for the pool would be located.

Mr. Salazar replied that the site plan included the pool. He added that he wanted to see the reason why he needed the pool house to be constructed where he wanted it.

Mr. Garza stated that his main concern was that he wanted to build over a utility easement.

Mr. Salazar asked if Mrs. Paez knew that there was previously an approved variance on her side of the fence?

Mrs. Paez replied that she was aware of some pergolas Mr. Guerrero had built, but that her main concern was not that. She mentioned that her main concern was that Mr. Guerrero wouldn't build all the way to her fence.

Chairman Flores asked if the applicant was present.

Mr. Guillermo Guerrero, who resides at 2004 E 20th Street, mentioned that he was the owner of that residence. He stated that the reason he was asking for the five feet over towards the Glasscock side was because on the east side, there's a sidewalk and a shower. He stated that for him to move it to the east was going to be very difficult because that would have to knock down the sidewalk and shower, which was an expense that had been built back in 2015, when the variance was approved. The utilities in that area have been rerouted, the electrical and the main line would run right through the middle, where I'm proposing to build.

Mr. Salazar asked what the concrete slab shown in the aerial was.

Mr. Guerrero replied that it was where he used to have an above-ground pool.

Mr. Salazar asked if the equipment for the pool was where the small square on the aerial was.

Mr. Guerrero replied no, the equipment was behind the 20-foot rear setback on the aerial.

Mr. Salazar stated in the previous meeting my question was simple: why do you need to go against setbacks, plat notes, and city ordinances? In the rendering you provided, it still shows you have enough room.

Mr. Guerrero replied If I don't get the variance approved, I won't be able to build the pool house that I like.

Mr. Salazar stated that in theory, you could push it forward or make it smaller.

Mr. Guerrero replied that it's not impossible, but it's really going to throw off the square footage and look irregular from one side.

There being no further discussion. Chairman Flores entertained a motion to close the public hearing. Mr. Garza moved to close the public hearing. Ms. Elizondo seconded the motion. Upon a vote, the motion passed unanimously.

There being no further discussion. Chairman Flores entertained a motion. Ms. Elizondo moved to approve the variance. Chairman Flores seconded the motion. Upon a vote, the motion passed unanimously.

Chairman Flores entertained a motion to un-table Item #3. Ms. Elizondo moved to un-table item #3. Mr. Salazar seconded the motion. Upon a vote, the motion passed.

ITEM # 3
TABLED: A 1' REAR SETBACK INSTEAD OF THE REQUIRED 10' AND A 1' SIDE SETBACK INSTEAD OF THE REQUIRED 6' FOR A 10' BY 8' SHED, AT 1909 W. 26TH STREET, BEING LOT 37, MONTECRISTO SUBDIVISION, AS REQUESTED CRAIG KING

Mr. Cervantes stated that this item was previously considered by ZBA on August 27, 2025 and was tabled. The applicant is requesting a variance to keep an already-constructed shed structure. City officials from the Code Enforcement Division noticed the carport structure and gave the property owner notice of violation for the construction of the structure without a building permit. He mentioned the staff did request for a utility lines to be spotted. He stated that is the shed that we're going to be discussing. He added there is spectrum lines within the under the shed and the applicant is aware that the utility company may remove the shed.

Chairman Flores asked if the utility was only spectrum if its power utility.

Mr. Cervantes stated It's only a spectrum utility line. He mentioned to the board that they could vote denial, or they could approve it with the hold harmless for the shed.

Chairman Flores asked if the applicant was present.

Mr. Craig King stated the utilities had told him the red line was in front of the shed, that it didn't go underneath it. He mentioned he wasn't aware the utility was running underneath the shed.

Mr. Cervantes explained to Mr. King that he is aware that if a utility company needs to come in and do repairs that they may remove the shed.

Mr. King stated yes.

Chairman Flores asked if the board had any questions for the applicant.

The board stated no.

Ms. Elizondo asked if the shed is metal.

Mr. Cervantes stated yes, it’s all metal.

Mr. Salazar asked how long has the shed been there.

Mr. Cervantes stated it has been there for three years.

Mr. Salazar asked if that falls in the 3-year rule.

Ms. Elizondo stated the board had done that during the last meeting.

Mr. Cervantes stated they had used the 3-year rule for the pergola.

Ms. Elizondo stated the board tabled the item last meeting while the applicant locates the utility location.

Mr. Cervantes stated the patio structure was determined as per the appraisal district, it had been there less than 3 years. He mentioned staff is not considered it anymore. He added at the last meeting the shed was tabled.

There being no further discussion. Chairman Flores entertained a motion to close the public hearing. Mr. Garza moved to close the public hearing. Mr. Salazar seconded the motion. Upon a vote, the motion passed unanimously.

Mr. Salazar asked if the variance was for the shed and not the carport.

Mr. Cervantes replied yes that's correct only for the shed.

Chairman Flores stated if the board did approve the shed. He added the board would have to approved subject to a hold harmless agreement.

Mr. Salazar asked if there was a history of existing variances in the subdivision.

Mr. Cervantes stated No, that it was a new subdivision.

Mr. Salazar stated he feels like every time they approve a variance; the board sets a precedence.

There being no further discussion. Chairman Flores entertained a motion. Mr. Garza moved to approve the variance request subject to a hold harmless agreement. Mr. Salazar seconded the motion. Upon a vote, the motion passed unanimously.

ADJOURNMENT

There being no further business, Ms. Elizondo moved to adjourn. Mr. Garza seconded the motion. Upon a vote, the motion passed unanimously at 5:09 p.m.

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Heraclio Flores, Chairman
Zoning Board of Adjustments