

**PLANNING AND ZONING COMMISSION
STAFF REPORT**



March 3, 2016

Planning Variance case no. PV16-03: Omega Builders

CASE DESCRIPTION: requests for approval of 16-inch and 18-inch variances from the minimum 7.5-foot side building setback that is generally required from side property lines on residential home sites, to legitimize the construction of a single-family home which extends within 6.1 feet and 5.9 feet from the north and south side property lines, respectively

LOCATION: 0.132 acres of land located approximately 120 feet north from its intersection with Thornberry Drive, being Lot 40 in Block 3 of Austin's Colony Subdivision – Phase 13 (3004 Archer Circle)

ZONING: Planned Development – Housing District (PD-H)

EXISTING LAND USE: new single-family home

PROPERTY OWNER: First Omega Partners, Ltd.

APPLICANT: Cullen Mosley of Omega Builders, Temple, Texas

STAFF CONTACT: Martin Zimmermann, AICP Planning Manager

SUMMARY RECOMMENDATION: Staff recommends **approving** the requested variance.





BACKGROUND:

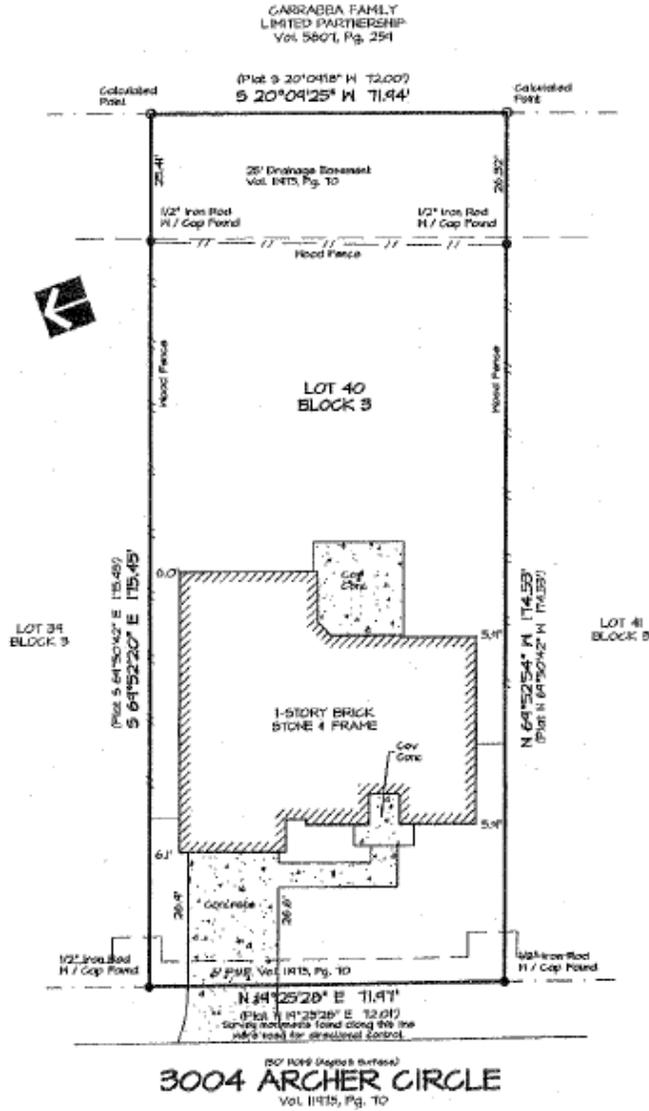
The subject property is a lot that was created with the recording of Austin's Colony Subdivision – Phase 13 on April 25, 2014. The subject property is 72 feet wide, 174 feet deep, and approximately 5,800 square feet in size and is adjoined by a vacant lot to the north, undeveloped land to the east, and single-family homes to the south and west.

Construction of a new 3,100-square foot, one-story, detached single-family home on the subject property was permitted by the City of Bryan on September 14, 2015. The site plan accompanying the building permit application showed the structure was proposed to be constructed within 5'9" from the property's south side, and 6'1" from the north side property lines where minimum 7.5-foot building setbacks are generally required by the property's PD-H District zoning. The encroachment into required side building setbacks was not discovered until after the building permit had been issued and the home was recently completed in early 2016.

The applicants, Omega Builders, are requesting approval of 16-inch and 18-inch variances from the minimum 7.5-foot side building setback that is generally required from side property lines on residential home sites in Bryan, to legitimize the recent construction of this new single-family home.

SITE PLAN:

Survey showing LOT FORTY (40), BLOCK THREE (3), of AUSTIN'S COLONY PHASE THIRTEEN, an addition in the City of Bryan, Brazos County, Texas, according to the plat of record in Volume 11975, Page 10, Official Records of Brazos County, Texas.



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PRELIMINARY
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 Surveyor: Barry W. Mitchell
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Survey completed: 01-24-2016
 Scale: 1" = 20'
 Job No.: 150566.2
 Dwg No.: 150566.02
 Drawn by: GPM
 Surveyor: GPM #4482

Plot Date: 2016-01-24

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ANALYSIS:

The Planning and Zoning Commission may authorize a variance from minimum building setback standards stipulated in the Land and Site Development Ordinance. No variance shall be granted unless the Planning and Zoning Commission finds that all of the following criteria are met:

1. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the area (an area encompassing approximately a 200-foot radius);

The City of Bryan adopted minimum 7.5-foot side building setbacks for most residential zoning districts in March 1998. By limiting the locations of buildings on a lot, minimum building setback regulations help reduce the danger of conflagration, ensure that there is adequate room for emergency apparatus between and around the properties, and provide access to utilities. Building setback requirements also help provide a minimum degree of open space for light and air circulation, landscaping, recreational use, privacy (e.g., distance between neighbors to mitigate noise and odors) and space for maintenance on a home.

City staff believes, and Commissioners have agreed in the past, that minimum side building setbacks in single-family residential neighborhoods with detached homes should not be negotiated, without addressing the issue of fire safety and employing specific measures to help mitigate the resulting reduction of open space and increased danger of conflagration. The issue was most recently discussed in 2014, when a Planning and Zoning Commission subcommittee studied the issue of reducing side building setbacks to as few as 5 feet, as is often requested in conjunction with new Planned Development zoning district proposals.

While all of the aforementioned reasons for maintaining minimum building setbacks are still valid, staff believes that, in this particular case, granting the requested variances to reduce side building setbacks on this lot by 16 and 18 inches, respectively, will not be significantly more detrimental to the public health, safety or welfare to properties surrounding properties than if the new home had been constructed in conformance with adopted standards. The optimum level of separation between single-family homes on this lot and adjacent lots (15 feet measured to the building slab) may not be ideal (approx. 13 feet on either side) as envisioned by adopted regulations, but still sufficient to not trigger additional building code requirements for fire protection on this home, or homes on adjoining lots.

2. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties abutting the subject property;

For the same reasons stated above, staff believes that, in this circumstance, granting the requested variances to reduce side building setbacks on this lot by 16 and 18 inches, respectively, will not be significantly more detrimental to the public health, safety or welfare to properties surrounding properties than if the new home had been constructed in conformance with adopted standards.

3. That the hardships and difficulties imposed upon the owner/applicant are greater than the benefits to be derived by the general public through compliance with the requirements of this chapter.

The only alternative to granting the requested variances would be to make significant changes to the already permitted and finished construction of this new single-family home. More specifically, the layout of three bedrooms, the attached garage as well as a bathroom and closet

would be affected if the owners were required to make structural alterations to the home at this time. While maintaining minimum building setbacks in residential subdivisions remains important, strict enforcement of said standards in this particular case would appear to pose a significant hardship upon the owner/applicant does without producing a significantly measurable public benefit.

RECOMMENDATION:

Based on all of these considerations, staff recommends **approving** the requested variance.