

*Possible quorum of City Council and or Planning and Zoning Commission
Members may be in attendance*

NOTICE OF MEETING OF THE BOARD OF ADJUSTMENTS & APPEALS

**CITY OF BALCONES HEIGHTS
3300 Hillcrest Drive
BALCONES HEIGHTS, TEXAS 78201**

Notice is hereby given that a called meeting of the Board of Adjustments and Appeals of Balcones Heights, Texas, will be held on **Monday, January 24, 2022 at 5:00 p.m.** at the Justice Center located at 3300 Hillcrest Drive, Balcones Heights, Texas, at which time the following subjects will be discussed, to-wit:

I. Call to Order and Recording of Quorum:

II. Approval of Minutes:

November 15, 2021

III. Business Matters:

1. Board will conduct a **PUBLIC HEARING** to hear from the citizens on the application submitted by Diana Moncivais.

Applicant: Diana Moncivais

Location: 220 Crestview Dr., Balcones Heights, TX 78201

Legal Description: CB 5894, Blk Lot 22F

Zoning: R-1 (Single Family Residence)

Requesting a variance to Sec. 153.3.1.1(2)(c) regarding accessory building side setbacks.

2. The Board will hear, consider, and take **ACTION** on the application request for variance submitted by Diana Moncivais.

IV. Adjournment:

DECORUM REQUIRED

Any disruptive behavior, including shouting or derogatory statements or comments may be ruled out of order by the Presiding Officer. Continuation of this type of behavior could result in a request by the Presiding Officer that the individual leave the meeting, and if refused, an order of removal.

The Balcones Heights Board of Adjustments reserves the right to adjourn into **executive session** at any time to discuss any of the matters listed above, as authorized by Texas Government Code § 551.071 (Consultation with Attorney) § 551.072 (Deliberations about Real Property) § 551.073 (Deliberations about Gifts and Donations) § 551.074 (Personnel Matters) § 551.076 (Deliberations about Security Devices), and § 551.086 (Economic Development)

NOTICE OF ASSISTANCE AT THE PUBLIC MEETING

The City of Balcones Heights Board of Adjustments meetings are available to all persons regardless of disability. This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations, should

***Possible quorum of City Council and or Planning and Zoning Commission
Members may be in attendance***

you require special assistance, must be made 48 hours prior to this meeting. Braille is not available. Please contact the City Secretary's office at 210-957-3542 or write to 3300 Hillcrest Drive, Balcones Heights, Texas 78201

I, the undersigned authority, do hereby certify that this Notice of Meeting was posted on the bulletin board, at the Justice Center / City Hall of Balcones Heights, Texas, in a place convenient and readily accessible to the general public at all times, and said Notice was posted on the following date and time: **January 21, 2022, at 4:00 p.m.** and remained so posted continuously for at least 72 hours preceding the scheduled time of said Meeting.

City of Balcones Heights:

**Delia R. Sanchez
City Secretary**

BOARD OF ADJUSTMENTS AND APPEALS
3300 Hillcrest Drive
Balcones Heights, TX 78201
Minutes

DATE: November 15, 2021

TIME: 5:15 p.m.

Members Present: David Sellars Henry Hannasch
 Lamar Gillian Stephen Lara (Zoom)

Members Absent: Jeanette Galish

Sign in Sheet: Louis Espinar

I. Call to Order and Recording of Quorum:

Meeting was called to order and quorum was present.

II. Approval of Minutes:

October 25, 2021

MOTION: Motion to approve.

Motion by: Henry Hannasch Second: Lamar Gillian 4/0/0 PASSED

III. Business Matters:

1. Board will conduct a **PUBLIC HEARING** to hear from the citizens on the application submitted by Conexion Resource Group, LLC.

Janet Thelen gave a power point presentation on the background of this request.

Public Hearing opened at 5:34 p.m.

Applicant: Conexion Resource Group, LLC

Location: 610,612, 614, 618, 620, & 622 Gentleman Rd., Balcones Heights, TX 78201

Legal Description: CB 5894, Lots 3K, 3L, 3M, 3J, 3H, & 3G, Gentleman Estates Subd.

Zoning: R-5 (Townhouse Residence)

Requesting a variance to Sec. 153.3.1.5- R-5 Townhouse Residence related to parking, and garage requirements.

Public Hearing closed at 5:35 p.m.

2. The Board will hear, consider, and take **ACTION** on the application request for variance submitted by Conexion Resource Group, LLC.

MOTION: Motion to approve as presented.

(note as requested: with understanding center drive of property and not Gentleman Rd.)

Motion by: Lamar Gillian Second: Henry Hannasch 4/0/0 PASSED

IV. Adjournment:

Meeting adjourned at 5:40 p.m.

Submitted by:

**Delia R. Sanchez
City Secretary**

HEARST

MEDIA SOLUTIONS

San Antonio Express News | ExpressNews.com | mySA.com

SAN ANTONIO EXPRESS - NEWS AFFIDAVIT OF PUBLICATION

STATE OF TEXAS:
COUNTY OF BEXAR

Before me, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared: Geena Garza, who after being duly sworn, says that she is the Bookkeeper of HEARST NEWSPAPERS, LLC - dba: SAN ANTONIO EXPRESS - NEWS, a newspaper published in Bexar County, Texas and that the publication, of which the annexed is a true copy, was published to wit:

Customer ID	Customer	Order ID	Publication	Pub Date
20002118	CITY OF BALCONES HEIGHTS	34170842	SAE Express-News	01/05/22

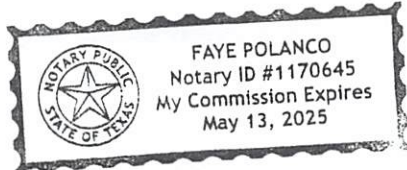


Geena Garza
Bookkeeper

Sworn and subscribed to before me, this 5th day of Jan. A.D. 2022

Notary public in and for the State of Texas





PUBLIC HEARING
The City of Balcones Heights Board of Adjustments and Appeals will hold a Public Hearing on Monday, January 24, 2022 at 5:00 p.m. at the Justice Center, 3300 Hillcrest Dr., Balcones Heights, TX 78201.
Applicant: Diana Moncivals
Location: 220 Crestview Dr., Balcones Heights, TX 78201
Legal Description: CB 5894, Blk Lot 22F
Zoning: R-1 (Single Family Residence)
Requesting a variance to Sec. 153.3.1.1(2)(c) regarding accessory building side setbacks.
ALL INTERESTED PARTIES ARE REQUESTED TO APPEAR AND BE HEARD; FOR ADDITIONAL INFORMATION CALL Janet Thelen @ (210) 957-3545

**Property Owners
within 200 ft
from 220 Crestview Dr.**

Applicant: Diana Moncivais
9318 Ranchero St.
San Antonio, TX 78240

Mazzella Brooke Alexandra
225 Crestview Dr.
San Antonio, TX 78201

Mazzella Brooke A.
222 Pleasant Dr.
Balcones Heights, TX 78201

Simon A. Gomez Jr.
215 Crestview Dr.
Balcones Heights, TX 78201

Elizabeth S. Gutierrez Gomez
215 Crestview Dr.
Balcones Heights, TX 78201

David & Milagrito Hernandez
216 Crestview Dr.
Balcones Heights, TX 78201

Crescensiano Jr. & Carmen Hernandez
204 Crestview Dr.
Balcones Heights, TX 78201

William & Leslie Strodman
515 Balcones Heights Rd.
Balcones Heights, TX 78201

Steven Estrada
525 Balcones Heights Rd.
Balcones Heights, TX 78201

Mark & Adrianna Saenz
501 Balcones Heights Rd.
Balcones Heights, TX 78201

Jeanette Wohlfarth
119 Shadyview Dr.
Balcones Heights, TX 78201

Rafael & Janis Ruiz Living Trust
224 Crestview Dr.
Balcones Heights, TX 78201

Mary J. Gonzalez
230 Crestview Dr.
Balcones Heights, TX 78201

Juan & Michelle Sandoval
235 Pleasant Dr.
Balcones Heights, TX 78201

**NOTICE OF MEETING AND PUBLIC HEARING DATES
THE CITY OF BALCONES HEIGHTS
BOARD OF ADJUSTMENTS AND APPEALS**

Dear Property Owner:

As required by Texas state law, you are being notified of this meeting and the subsequent public hearing because you own property that is to be re-zoned or you are a property owner within 200 feet of a proposed zoning change being initiated by another party. As an interested party, you are given the opportunity to attend this public hearing to express your opinion on this proposed zoning change.

NOTE: Whether or not you plan to attend the public hearing, please re-mail this notice to us and indicate if you are IN FAVOR or OPPOSED to the proposed zoning change. You must have returned one (1) copy of this notice to the City of Balcones Heights, PRIOR to the MEETING DATE BELOW for your input to be considered:

PLEASE MARK "X" NEXT TO THE APPROPRIATE LINE

_____ I AM IN FAVOR OF THIS CHANGE

_____ I AM OPPOSED TO THIS CHANGE

**MAIL TO: City of Balcones Heights
Attn: Delia R. Sanchez, City Secretary
3300 Hillcrest Drive
Balcones Heights TX 78201**

Name of Property Owner: _____

Address of Property Owned: _____

BOARD OF ADJUSTMENT MEETING DATE: Monday, January 24, 2022 @ 5:00 p.m.

BOARD OF ADJUSTMENT MEETING LOCATION: City of Balcones Heights Justice Center, 3300 Hillcrest Drive, Balcones Heights, TX 78201

PROPERTY DESCRIPTION:

**Applicant: Diana Moncivais
Location: 220 Crestview Dr., Balcones Heights, TX 78201
Legal Description: CB 5894, Blk Lot 22F
Zoning: R-1 (Single Family Residence)**

Requesting a variance to Sec. 153.3.1.1(2)(c) regarding accessory building side setbacks.

IF YOU HAVE QUESTIONS CONTACT PERSON: Janet Thelen, Director of Community Development, (210) 957-3545

If you plan to speak at either meeting, you must sign a roster that will be located at the entrance to the meeting room. You must do this BEFORE the beginning of the meeting, so please plan your arrival at least 15 minutes prior to the start of the meeting.

Para traducción de este mensaje al Español, favor de comunicarse con el Departamento de Planificación al número de teléfono 210-957-3542 y pregunte por una persona del departamento que habla español.

**NOTICE OF MEETING AND PUBLIC HEARING DATES
THE CITY OF BALCONES HEIGHTS
BOARD OF ADJUSTMENTS AND APPEALS**

Dear Property Owner:

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PLEASE MARK "X" NEXT TO THE APPROPRIATE LINE

 X I AM IN FAVOR OF THIS CHANGE

 I AM OPPOSED TO THIS CHANGE

**MAIL TO: City of Balcones Heights
Attn: Delia R. Sanchez, City Secretary
3300 Hillcrest Drive
Balcones Heights TX 78201**

Name of Property Owner: DAVID HERNANDEZ

Address of Property Owned: 216 Crestview DR.

BOARD OF ADJUSTMENT MEETING DATE: Monday, January 24, 2022 @ 5:00 p.m.

BOARD OF ADJUSTMENT MEETING LOCATION: City of Balcones Heights Justice Center, 3300 Hillcrest Drive, Balcones Heights, TX 78201

PROPERTY DESCRIPTION:

**Applicant: Diana Moncivais
Location: 220 Crestview Dr., Balcones Heights, TX 78201
Legal Description: CB 5894, Blk Lot 22F
Zoning: R-1 (Single Family Residence)**

Requesting a variance to Sec. 153.3.1.1(2)(c) regarding accessory building side setbacks.

IF YOU HAVE QUESTIONS CONTACT PERSON: Janet Thelen, Director of Community Development, (210) 957-3545

If you plan to speak at either meeting, you must sign a roster that will be located at the entrance to the meeting room. You must do this BEFORE the beginning of the meeting, so please plan your arrival at least 15 minutes prior to the start of the meeting.

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APPLICATION REQUEST FOR APPEAL / SPECIAL EXCEPTION / VARIANCE

OFFICE USE ONLY	
MEETING DATE: <u>1-24-2022</u>	CASE NUMBER: <u>5548</u>

PRINT OR TYPE

NAME OF APPLICANT: <u>ERNEST S. MONCIVAIS</u>	
ADDRESS: <u>220 CRESTVIEW B.H. TEX. 7820</u>	
PHONE NO: HOME <u>210-859-5498</u> WORK <u>—</u> FAX <u>—</u>	
EMAIL ADDRESS: <u>ERNESTMONCIVAIS4@GMAIL.COM</u>	
STATUS: OWNER () AGENT (<input checked="" type="checkbox"/>) - If agent, attach notarized Letter of Authorization	

PROPERTY DESCRIPTION

ADDRESS: <u>220 CRESTVIEW</u>	
LEGAL DESCRIPTION <u>CB 5894 BLK LOT 22F</u>	
EXISTING PROPERTY USE or STATE NONE: <u>FAMILY HOMESTEAD</u>	
PROPOSED USE & DESCRIPTION: <u>SINGLE FAMILY RESIDENCE</u>	
ACREAGE AND/OR SQUARE FOOTAGE: <u>.87 AC.</u>	
DOES OWNER OWN ADJACENT PROPERTY: YES () NO (<input checked="" type="checkbox"/>)	
REQUESTED BOARD ACTION:	
Appeal ()	Special Exception (<input checked="" type="checkbox"/>) Variance ()

A variance begins with a building permit being denied in writing due to non-compliance with Zoning or Building codes. Variance requests are heard and approved or denied by the Board of Adjustment. The following items are required for scheduling a Board of Adjustment hearing and are due to City Hall with the application.

1. A formal written permit denial letter. This letter is issued to the property owner or duly appointed representative by the Director of Community Development. In order to obtain this written denial, the property owner or representative must have submitted the necessary documents to apply for a Building Permit from the Community Development Department. The necessary documents included, but are not limited to, a current certified survey and height statement reflecting the height as measured according to the guidelines set forth by City Ordinance, or full architectural plans if said plans include the two aforementioned items. Once the Director of Community Development denies the request for a building permit, the Community Development Department will provide the property owner or representative with the written denial necessary for the variance application. **This application will for a Board of Adjustment hearing will NOT be accepted without this denial statement.**
2. A pre-filing interview may be held if requested by the applicant or if deemed necessary by the City.

APPEAL TO THE BALCONES HEIGHTS BOARD OF ADJUSTMENT

Please be specific and include additional pages if necessary.

I am requesting a variance that requires: relief from side setback requirement for an accessory building as per sec 159.3.1.1(2)(c) R-1 Single family residence district: Accessory buildings shall be permitted including a private garage and excluding servants quarters when located at least: (c) ten feet from any side lot line.

I am requesting a variance not to comply with the Balcones Heights Zoning Code for the reasons stated below. The Board will consider the following conditions.

- a. There are extraordinary and exceptional conditions pertaining to the particular property in question because of its size, shape, or topography: The property is pie shaped and is more narrow in the rear. There is an existing rock BBQ pit and another secondary structure which limits the available open space for the newly constructed accessory structure.
- b. The application of this appendix to the particular property would create an unnecessary hardship: Due to current and ongoing treatments for cancer would cause unnecessary added financial expenses on a fixed income
- c. Such conditions are peculiar to the particular piece of property involved: Pie-shaped lot to the rear of property
- d. Relief, if granted, would not cause substantial detriment to the public good or impair the purpose and intent of this appendix: No - the existing neighbors were unaware of the 10' min. side setback. They all thought it was 5'
- e. The strict or literal enforcement of the terms of this appendix, because of specific conditions, will result in unnecessary hardship: Having to move the building would be a financial hardship to have equipment to move the completed structure and relocate and repair the slab
- f. There is no reasonable alternative to the requisite variance that will alleviate the difficulty or hardship complained of: Due to medical condition and ongoing cancer treatments would add unnecessary financial expenses

12-20-21
Date

Diana Moncivais
Signature of Property Owner/Representative

5548

OWNER AFFIDAVIT

I, DIANA MONCIVAIS

Owner of subject property at 220 CRESTVIEW B.H. TX. 78201

authorize (applicant) ERNEST S. MONCIVAIS

to pursue an appeal to the City of Balcones Heights Board of Adjustment for the following variance:

setbacks for storage shed

Diana Moncivais
Printed Name of Property Owner

Diana Moncivais 12-20-21
Signature of Property Owner Date

Before me the undersigned on this day personally appeared:

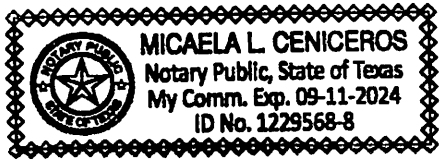
Diana Moncivais
(Print Name of Property Owner)

Who on his/her oath certifies that the above statements are true and correct to his/her best knowledge.

Subscribed and sworn to before me this 20th day of December, 2021

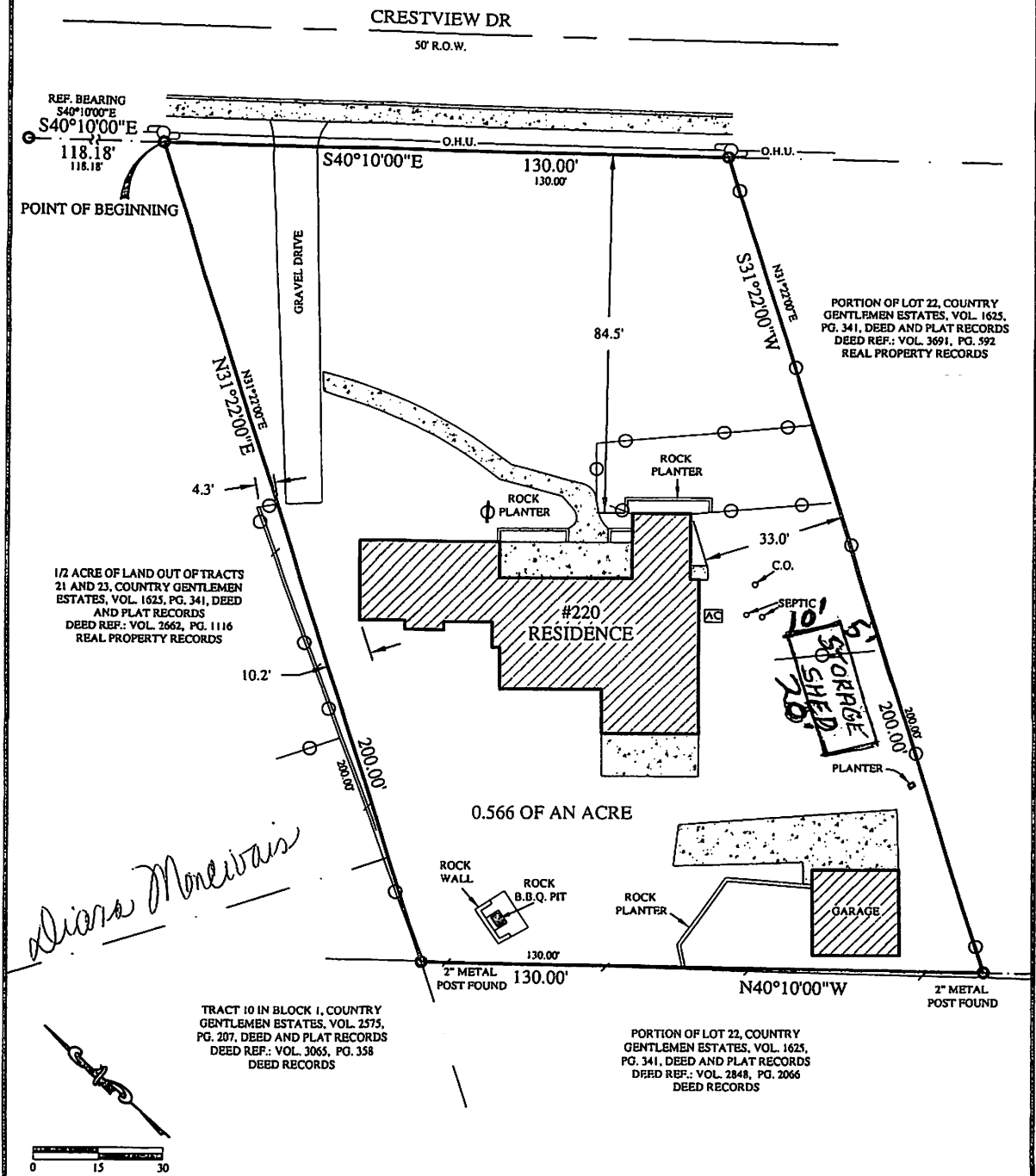
Notary Public in and for
Bexar County, Texas
Commission expires on: 09/11/2024

[Signature]
Notary Public Signature



SUBJECT TO THE FOLLOWING RECORDED RESTRICTIVE COVENANTS AND/OR EASEMENTS ACCORDING TO SCHEDULE B OF TITLE COMMITMENT ISSUED BY CHICAGO TITLE INSURANCE COMPANY ISSUED FEBRUARY 13, 2009, G.F. NO. 0903369-110
 VOL. 1625 PAGE 341 DEED AND PLAT RECORDS VOL. 1961 PAGE 375 DEED RECORDS
 VOL. 2213 PAGE 266 DEED RECORDS VOL. PAGE RECORDS

RECORD INFORMATION
 N89°27'41"E
 65.00'
 AS MEASURED IN FIELD
 S33°29'20"W
 161.24'



SURVEY OF: 0.566 OF AN ACRE PORTION OF LOT 22, COUNTRY GENTLEMEN ESTATES, SITUATED IN THE CITY OF BALCONES HEIGHTS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 1625, PAGE 341, DEED AND PLAT RECORDS, BEXAR COUNTY, TEXAS; SAID 0.566 OF AN ACRE BEING THE SAME PROPERTY DESCRIBED IN VOLUME 13240, PAGE 2280, REAL PROPERTY RECORDS, BEXAR COUNTY, TEXAS. (METES AND BOUNDS DESCRIPTION PREPARED THIS DATE)
 WITNESS MY HAND AND SEAL THIS 15 DAY OF APRIL, 2009
 ADDRESS: 220 CRESTVIEW DR ACCORDING TO: U.S. POSTAL SER.
 JOHNSON SURVEYING JOB NO. 176-008-000
 CERTIFIED TO: MARY MEDRANO & DIANA MONCIVALS
 CHICAGO TITLE INSURANCE COMPANY

I, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS, DO HEREBY CERTIFY THAT THE ABOVE SURVEY PLAT IS A TRUE AND CORRECT REPRESENTATION OF THE PROPERTY HEREON DESCRIBED ACCORDING TO MEASUREMENTS MADE ON THE GROUND, AND THAT THIS SURVEY ACCURATELY DEPICTS THE SUBSTANTIAL VISIBLE IMPROVEMENTS TO SAID PROPERTY. IT IS UNDERSTOOD THAT A FORMAL CERTIFICATION IS BEING MADE BY A COMPANY SPECIALIZING IN THE PROCEDURE OF PROVIDING FLOOD CERTIFICATIONS AND THIS SURVEY MAKES NO REFERENCE TO FLOOD INFORMATION. SETBACKS AND EASEMENTS TO WHICH WE HAVE BEEN INFORMED ARE SHOWN ON DRAWING OR BY REFERENCE.

- Legend:**
- UTILITY POLE
 - IRON / WROUGHT IRON
 - CHAIN LINK FENCE
 - WOOD FENCE
 - TRANSFORMER
 - COV COVERED
 - (VOLUME/PAGE)
 - 1/2" IRON ROD FOUND
 - 1/2" IRON ROD SET WITH YELLOW CAP MARKED "RPLS 5578"
 - CONCRETE (UNLESS OTHERWISE NOTED)

JOHNSON SURVEYING, INC.
 Registered Professional Land Surveyor
 2548 E BITTERS, SAN ANTONIO, TX 78217
 (210) 858-9838 • (210) 247-6138 fax

STATE OF TEXAS
 REGISTERED
 JOEL CHRISTIAN JOHNSON
 5578
 LAND SURVEYOR

JOEL CHRISTIAN JOHNSON, R.P.L.S.

©2009



City of Balcones Heights

MEMO TO THE BOARD OF ADJUSTMENT

DATE: 14 January 2022
FROM: Janet Thelen, Director of Community Development 
SUBJECT: Variance Request to Construct an Accessory Building Encroaching in the Side Setback

Applicant: Diana Moncivais
Location: 220 Crestview Dr., Balcones Heights, TX 78201
Legal Description: CB 5894, Blk Lot 22F
Zoning: R-1 (Single Family Residence)
BCAD Property ID - 358109
Date and Time of Hearing: January 24, 2022, 5:00 pm

BACKGROUND:

On September 27, 2021, Code Officer Perez observed from the public roadway the construction of an accessory structure without a permit and low hanging tree branches obstructing the sidewalk at 220 Crestview Dr. On September 28, 2021, a Notice of Violation letter to the registered owner, Diana Moncivais. Mrs. Moncivais did not contact the city, so on October 18, 2021 an Affidavit in Support of Issuance of a Court Summons was presented to the Balcones Heights Municipal Court clerk for violation of Sec. 150.05 Working without a permit. A court case #BH202104 was set for November 3, 2021. The defendant did not appear in court on that date. The defendant later requested to reset the court date to December 15, 2021.

Staff was in communication with Mr. Ernest Moncivais, husband of the defendant in late November. Mr. Moncivais, wanted to obtain a permit for the 10' X 20' accessory shed. The application was submitted on December 14, 2021 and the permit was denied. The accessory structure was constructed within the mandated 10 feet side setback per City of Balcones Heights Code of Ordinances:

Sec. 153.3.1.1. R-1. SINGLE-FAMILY RESIDENCE.

- (1) Purpose. The R-1 District is intended to provide single-family residential dwellings in a setting of moderate urban density.
- (2) Accessory buildings. Accessory buildings shall be permitted, including a private garage and excluding servants' quarters when located at least:
 - (a) Sixty feet from the front lot line;
 - (b) Ten feet from any other street line;

- (c) **Ten feet from any side lot line;**
- (d) **Five feet from any rear lot line;**
- (e) **Accessory buildings shall not be located closer to the front lot line than the front line of the main structure.**

Mr. Moncivais submitted a signed notarized Owner Affidavit in which his wife, Diana Moncivais authorizes Mr. Moncivais to act as her agent to pursue an appeal to the Board of Adjustment (BOA) for a variance for relief from the side setback regulation. Mr. Moncivais submitted the paperwork for the variance request on December 20, 2021. The court case related to the accessory shed has been suspended at the request of Officer Perez until the outcome of the BOA hearing.

RECOMMENDATION:

Staff recommends that the shed be moved on the property to comply with the setback regulations.