

1 City of Pass Christian  
2 Municipal Complex Auditorium  
3 105 Hiern Avenue

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5 **Zoning Board of Adjustments**  
6 **Meeting Minutes**  
7 **Tuesday, June 13, 2017, 6pm**  
8

9 **CALL TO ORDER**

10 Chairman Eugene Russell called the meeting to order at 6:00 PM. In attendance were Commissioners  
11 Craig Steenkamp, Willie Cox and Lisa Smith.  
12

13 **ADOPTION OF MINUTES**

14 The first order of business was the adoption of the minutes from the monthly Zoning Board of  
15 Adjustments meetings held on March 14, 2017, and to table the adoption of the minutes from the  
16 monthly Zoning Board of Adjustments meetings held on May 17, 2017. A *Motion* by Commissioner  
17 Smith, seconded by Commissioner Steenkamp, was made to adopt the March 14, 2017 minutes and to  
18 table the May 17, 2017 minutes. The motion passed unanimously.  
19

20 **NEW BUSINESS**

21 • *Open Public Hearing*

22 A *Motion* by Commissioner Cox, seconded by Commissioner Smith, was made to open the public  
23 hearing. The motion passed unanimously.  
24

- 25 • Application #PD-14-2017, Donald J Demetz Jr, 425 E Scenic Drive, Parcel #0413E-01-010.000,  
26 Variance for the house to encroach into the 15-foot side setbacks, and for the garage to encroach  
27 into the 10-foot side setbacks, in the T3E Estate Zone.

28  
29 Chairman Russell introduced the project.  
30

31 The City Planner, Danit Simon, briefed the ZBA on the project: The applicant proposes building a house  
32 and a garage on a lot that is only 52-feet wide. The parcel is in the T3E Estate Zone, which has large  
33 setback requirements, and a requirement for the Principal Building to be a minimum of 3,000 square  
34 feet. In order to meet the large square foot minimum for the house on such a narrow lot, the applicant  
35 is requesting a variance for a side setback of 2-feet on the east side, and 10-feet on the west side of the  
36 house. And for the garage, the applicant is requested a variance for a side setback of 4-feet on the east  
37 side of the house.  
38

39 The narrow width of the lot poses a significant challenge in meeting the 3,000 square foot minimum in  
40 conjunction with the 15-ft side setbacks. In order to meet these requirements, the T3E Zone has a 90-  
41 foot minimum lot width. While this lot does not meet that minimum, it is a non-conforming and  
42 buildable lot. The applicant is building a house to replace one destroyed by Hurricane Katrina that had a  
43 similar footprint. Please see the applicant's letter and supporting documents included in the packet.  
44 The applicant has designed a house that meets the Estate Zone's minimum size requirement and that  
45 will be in harmony with the character of the Historic District in which it is located. The Historic  
46 Commission will review these structures after this Board rules on the setbacks. Please find in the packet  
47 letters of both support and objection for the requested Variances.  
48

49 The City's Commissions have never granted a Variance from the 3,000 square foot minimum house size,  
50 as the requirement is an important component of the T3E Estate Zone. Due to the exceptional  
51 conditions of the extremely narrow lot width in conjunction with the large house size requirement, a

52 *literal interpretation of the provisions of the City's zoning ordinance would deprive the applicant of rights*  
53 *commonly enjoyed by other residences of the district in which the property is located.*

54  
55 The Board may separately evaluate the variance request for the garage to determine if the requested  
56 layout is the *minimum variance needed to make possible the legal use of the land, building or structure.*  
57 While the lot is wide enough to accommodate the 22-foot wide garage and the 10-foot side setbacks,  
58 increasing the garage's east side setback to 10-feet will decrease the visual accessibility of the rear-yard.  
59 Please keep in mind that you have the option of voting on each structure's variances separately. This  
60 concludes my report; both the applicant's attorney and the City Attorney are here to answer any  
61 questions you may have.

62  
63 Chairman Russell stated that this application was carried over from the previous meeting, as Mr. Demetz  
64 requested time to hire an attorney after learning that his neighbor, Dr. Carter, was opposing the project  
65 and had hired an attorney. Attorney Henry Laird is representing Dr. Carter; Russell asked Henry if he  
66 would you like to state his objections at this time.

67  
68 Henry Laird stated that he represents Thad and Barbara Carter who live next door, to the west of the  
69 applicant's property. Henry stated that he filed an objection on behalf of the Carter's based on the  
70 proposed location of the garage, which is proposed to be two or three feet from the Carter's side  
71 property line. I understand that the application has since been revised, and that the garage has been  
72 moved to the east side of the property line, which causes the submitted objection letter to be mute.  
73 The new location of the proposed garage is 10 or 11 feet from the Carter's property line, and on that  
74 bases we remove our objection. I would like to submit for the record the originally submitted letter of  
75 objection and two photographs of the Carter's and the applicant's residence on East Scenic Drive.

76  
77 Charles Merritt, the eastern neighbor at 427 E Scenic Drive, stated that when building his house he was  
78 required to remove the roof overhang from encroaching into both side property lines. I want to make  
79 sure that the measurements are from the roofline. I don't mind compromising at all, but how far  
80 towards my side will the house go? They are asking for two-feet and I'm confused.

81  
82 Simon approached the podium, and showed Merritt the site plan from the packet. Simon answered his  
83 question by stating that the "house will be two-feet from the roof overhang to the side property line."  
84 And for the garage, the request is "four-feet from the roof overhang to the side property line."

85  
86 Merritt then asked if the garage is closer then the house to his property line?

87  
88 Simon responded that the garage is farther away then the house; the house has two feet and the garage  
89 has four-feet.

90  
91 Merritt responded that he is fine with the request.

92  
93 Attorney Virgil Gillespie then spoke, representing the applicant Donald Demetz. The applicant has made  
94 significant variance requests, in order to build back the house that his father had. His father purchased  
95 the property and moved there in 1960. Donald Demetz has brought the house plans to show you that he  
96 is building a nice house. I am submitted for the record a photograph of the original house that was on  
97 the property, and you can see that the proposed house is relatively similar to the original house and on  
98 the same footprint. We are not requesting to do anything different from what was originally there, we  
99 are requesting to put back the original house. I also want to emphasize that we have three elements to  
100 comply with: 1- We need to receive approval from the Historic Preservation Commission; 2- We need to

101 build a house that is at least 3,000 square feet per the Code; 3- and the final thing we must do is to stay  
102 in the character of that neighborhood. Gillespie then handed photographs of neighboring houses to the  
103 Commissioners, and stated that it is important to build back this particular house to be comparable and  
104 compatible to the impressive existing houses in the immediate area. He submitted a copy of the deed  
105 for the record, and continued stating that if the house was designed to Code on this 52-foot wide lot,  
106 the house would only be 22-feet wide, therefore a variance is needed for the house.

107  
108 Demetz then stated that he has deep roots and family in the community. Ben Guze once said, “numbers  
109 are dead but the tree of life is ever green.” Which means to me that while facts, the law, and the zoning  
110 regulation matters, our decisions need to be tempered and influenced by our life experience. The law,  
111 regulations, and rules matter, but in applying them and all their greatness and ambiguity, the wisdom  
112 we have learned and earned through living our lives needs to be weighed. This tiny sliver of land in Pass  
113 Christian is dear to me and to my family. It is where we grew up, where we celebrated holidays with our  
114 parents and family, until Hurricane Katrina in 2005. We designed this house to be a Pass Christian  
115 house, and very similar to my parent’s house. We seek to build this house in their memory and honor.  
116 The reality of the situation is that the lot is only 52-feet wide and it has been that width for a long time,  
117 well before the zoning restrictions. Growing up, I never though of the original house as narrow, you can  
118 see in the photographs that the house looked fine in context, and that was with a house very close to  
119 ours on the west side, which is now (an undeveloped) lot owned by Dr. Carter. Although it was not an  
120 estate-sized lot, it fit in well on Scenic Drive. The original house was 40-feet wide, and our proposed  
121 house is 38-feet wide (not including roof overhang) in order to provide driveway access to the rear.  
122 Because of the code restrictions I pursued several alternative, I tried to purchase land from the previous  
123 owner of the eastern lot (427 E Scenic Drive). I then tried to convince one of my sisters to purchase 427  
124 E Scenic Drive entirely in order to create a driveway easement off of Seal Avenue. And finally, I tried to  
125 purchase land from Dr. Carter to the west. When I was unable to widen the lot, I designed the proposed  
126 house you are reviewing, and while the constrictions of the width are not ideal, the proposed house will  
127 be a nice addition to Scenic Drive given the lot’s limitations. The time has come for me to return to Pass  
128 Christian and I hope you will review my request favorably.

129  
130 Chairman Russell recommended that the Board make two motions, one for the house and one for the  
131 garage.

132  
133 Laird asked for clarification on the two submitted site plans included with the revised application. He  
134 stated that they are both ok with the Carters, I would just like some clarification.

135  
136 Simon responded that the proposed setbacks on the site plans are entirely the same, the differences are  
137 the distances between the garage and the house, and the shape and dimension of the parking pad.

138  
139 Demetz added that the two options where submitted because of the location of existing power lines. If I  
140 am able to move the power line, I will be able to increase the distance between the house and the  
141 garage, which is the preferred layout.

142  
143 Simon explained that the Code does not have any restrictions on the size of parking pads or the  
144 distances between structures, so the two site plans do not affect the requested Variances. The Board is  
145 only going to vote on the requested setbacks for the structures.

146  
147 The City Attorney, Malcolm Jones, clarified that they are asking for approval of both options, since they  
148 do not yet know if they will be able to move the power pole or not. Jones continued that on a separate  
149 note, the T3E Zone requires a minimum Lot Width of 90-feet. And since this lot is less then the 90-foot

150 minimum, the lot is an unusual size for this Zone, which is important to consider in whether or not to  
151 grant the variances.

152  
153 Chairman Russell stated that he has visited the property, and does not have any concerns with granting  
154 the variances for the house. I'm struggling with the variance request for the garage, as the lot is wide  
155 enough to accommodate the garage and both side setbacks. The Code allows for Warrants to be  
156 granted for up to 15%, which creates a side setback of 8.5-feet from the garage roof overhang to the  
157 east side property line, instead of the proposed four-foot setback. 8.5-feet for the garage is a number I  
158 am more comfortable with. Again, I have no issue with the requested setbacks for the house.

159  
160 Demetz responded that if the garage is moved further west, it leaves less room between the garage and  
161 the west side property line, which makes backing out vehicles very difficult. With the needed turning  
162 radius every foot is precious. I have moved the entrance of the garage to the side (east-west parking),  
163 instead of pulling straight in (north-south parking) to help with the turning issue, but it is still tight.

164  
165 Commissioner Steenkamp asked if there are any egress issues regarding fire trucks and other emergency  
166 situations.

167  
168 Jones responded that he has spoken to the fire chief and they bring the hose to the site, rather than the  
169 vehicle, when fighting a fire, so there is no issue with the egress.

170  
171 Commissioner Cox stated that he does not have a concern with the garage, as long as the neighbor does  
172 not have a problem with the location of the garage, because the narrow size of the lot is a hardship.

173  
174 A *Motion* by Commissioner Steenkamp, seconded by Commissioner Cox, was made to approve the  
175 Variance for the house to encroach 13-feet into the east side setback, and five-feet into the west side  
176 setback, in the T3E Estate Zone, due to the narrow lot width, and based on meeting the Variance  
177 Requirements as listed in the Zoning Ordinance, including:

- 178 • There are extraordinary and exceptional conditions pertaining to the particular piece of property  
179 in question because of its size, shape, or topography that are not applicable to other lands or  
180 structures in the same district.
- 181 • A literal interpretation of the provisions of the City's zoning ordinance would deprive the  
182 applicant of rights commonly enjoyed by other residences of the district in which the property is  
183 located.
- 184 • Granting the variance requested will not confer upon the applicant any special privileges that  
185 are denied to other residents of the district in which the property is located.
- 186 • The requested variance will be in harmony with the purpose and intent of the City's zoning  
187 ordinance and will not be injurious to the neighborhood or the general welfare.
- 188 • The variance requested is the minimum variance that will make possible the legal use of the  
189 land, building, or structure.
- 190 • The special circumstances are not the result of actions of the applicant.
- 191 • The variance is not a request to permit a use of land, building, or structures in the same district  
192 which are not permitted by right or by special exception in the district involved.
- 193 • The existence of a nonconforming use of neighboring land, buildings, or structures in the same  
194 district, or of permitted or nonconforming uses in other districts, shall not constitute a reason  
195 for the request variance.

196 The motion passed unanimously.

197  
198 Merritt asked if there will be an apartment above the garage?

199  
200 Chairman Russell responded that the building plans indicate that there is an apartment located above  
201 the garage.

202  
203 Merritt asked if the apartment will have the same two-feet?  
204

205 Simon responded that the garage has four-feet to your property line. And, there is an Ancillary Dwelling  
206 Unit on the second story. A garage with an Ancillary Dwelling Unit is allowed by right.

207  
208 Merritt asked if it is still going to be two-feet?  
209

210 Simon responded that "for the garage it will be four-feet from the roofline to your side property line.  
211 The garage has a larger setback then the house does."

212  
213 Merritt returned to the podium, and Simon showed him the site plan from the packet. Simon indicated  
214 where Merritt's lot is on the site plan. She then stated that "the house is closer to your property line,  
215 the house has two-feet between the roof line and the side property line, the garage has four-feet from  
216 the roof line to your side property line."

217  
218 Merritt pointed out his house on the site plan and stated that "all we are giving on this property line is  
219 two-feet, so how many feet do I have from my property line to his house."

220  
221 Simon responded that the house will not be built on Merritt's property, the request is to build in the  
222 side setbacks.

223  
224 Merritt stated that there should be 15-feet, and they are requesting for the house to be two-feet closer.  
225

226 Commissioner Steenkamp responded no, from your property line to the roofline of the house will be  
227 two-feet.  
228

229 Simon stated that the requested setback is two-feet, that is not the amount of the variance, that is the  
230 actual distance.

231  
232 Merritt replied, so the house will be two feet from the side property line. Isn't that kind of close? I want  
233 to compromise, but if he's going to be right next to the house I'm building I'm not for this.  
234

235 Steenkamp responded that the proposed house will not be next to your house. If your house is 15 feet  
236 from the side property line, it will be 17-feet to the proposed house's roofline and 18-feet to the  
237 proposed house's wall.

238  
239 Merritt stated that he wants to compromise and wants everything to be fair, but he doesn't want to be  
240 too close. I thought he was taking two-feet but we're going in reverse, he's taking 13-feet. I don't know  
241 about that.

242  
243 Chairman Russell stated that the motion has already been made, but you can appeal our decision to the  
244 Mayor and Board of Aldermen.  
245

246

247 A *Motion* by Commissioner Cox, seconded by Commissioner Smith, was made to approve the Variance  
248 for the garage to encroach six-feet into the east side setback, in the T3E Estate Zone due to the hardship  
249 of the narrow lot width, and based on meeting the Variance Requirements as listed in the Zoning  
250 Ordinance, including:

- 251 • There are extraordinary and exceptional conditions pertaining to the particular piece of property  
252 in question because of its size, shape, or topography that are not applicable to other lands or  
253 structures in the same district.
- 254 • A literal interpretation of the provisions of the City's zoning ordinance would deprive the  
255 applicant of rights commonly enjoyed by other residences of the district in which the property is  
256 located.
- 257 • Granting the variance requested will not confer upon the applicant any special privileges that  
258 are denied to other residents of the district in which the property is located.
- 259 • The requested variance will be in harmony with the purpose and intent of the City's zoning  
260 ordinance and will not be injurious to the neighborhood or the general welfare.
- 261 • The variance requested is the minimum variance that will make possible the legal use of the  
262 land, building, or structure.
- 263 • The special circumstances are not the result of actions of the applicant.
- 264 • The variance is not a request to permit a use of land, building, or structures in the same district  
265 which are not permitted by right or by special exception in the district involved.
- 266 • The existence of a nonconforming use of neighboring land, buildings, or structures in the same  
267 district, or of permitted or nonconforming uses in other districts, shall not constitute a reason  
268 for the request variance.

269 The motion passed unanimously.

270

- 271 • *Close Public Hearing*

272 A *Motion* by Commissioner Steenkamp, seconded by Commissioner Smith, was made to close the public  
273 hearing. The motion passed unanimously

274

275 **OLD BUSINESS**

276

277 **OTHER BUSINESS/PUBLIC COMMENT**

278

279 **ADJOURN**

280 A *Motion* by Commissioner Smith, seconded by Commissioner Cox, was made to adjourn the meeting at  
281 6:40 P.M. The motion passed unanimously.