



MEMORANDUM

TO: Planning & Zoning Commission

FROM: Johnna Matthews

DATE: September 27, 2021

SUBJECT: ZTA 2021-05 Zoning Variances

Due to recent changes in state law as it relates to Variances from zoning ordinances, the City of Mesquite is proposing revisions to Section 5-207 of the Mesquite Zoning Ordinance to coincide with new state laws. The changes went into effect on September 1, 2021, and more clearly define the term “unnecessary hardship,” as it was not defined in state law previously. As a result of there not being a clear definition of the term, there has been confusion among municipalities across the state of Texas regarding what constitutes an unnecessary hardship, with varying interpretations.

The changes add more objective criteria for a Board of Adjustment to consider in determining whether compliance with a city’s zoning ordinance, as applied to a structure, would result in an unnecessary hardship. Unlike before, financial considerations can qualify an applicant for a Variance. Under the new law, there might be an unnecessary hardship if:

1. the cost of compliance with the zoning ordinance is greater than 50% of the appraised value of the structure as shown on the most recent certified appraisal roll; or
2. compliance would result in a loss of the lot on which the structure is located of at least 25% of the area on which development may physically occur; or
3. compliance would result in the structure not in compliance with a requirement of another city ordinance, building code, or other requirement; or
4. compliance would result in the unreasonable encroachment on an adjacent property or easement; or
5. the city considers the structure to be a nonconforming structure.

Staff will provide further details about the ordinance at Monday's meeting. Staff recommends approval.

Memo to Planning & Zoning Commission
September 27, 2021

Attached:
Attachment 1 – Exhibit A: Section 5-207 – Variances
Attachment 2 – HB 1475 Bill Analysis

A handwritten signature in cursive script, reading "Johnna Matthews".

Johnna Matthews
Principal Planner