



PLANNING AND INSPECTIONS DEPARTMENT – PLANNING DIVISION
ZONING BOARD OF ADJUSTMENT MEETING MINUTES

Mayor
Oscar Leeser

COUNCIL CHAMBERS, CITY HALL BUILDING
JANUARY 12, 2015
1:30 P.M.

Chairman Concha called the meeting to order at 1:30 p.m., quorum present.

City Council

District 1
Ann Morgan Lilly

The following Board Members answered roll call:

Mr. Robert Concha, Chairman
Mr. Robert Garland, Vice-Chairman

District 2
Larry Romero

Mr. Roy Gilyard, Vice-Chairman
Ms. Margaret Livingston

District 3
Emma Acosta

Mr. Luis De La Cruz

District 4
Carl L. Robinson

Mr. Sam Barela

Ms. Bertha Miecowski

Mr. Lamar Skarda

Mr. James Graham

District 5
Dr. Michiel R. Noe

The following City staff members were present:

Ms. Linda Castle, Senior Planner, Planning and Inspections Department – Planning Division

Mr. Alex Hoffman, Lead Planner, Planning and Inspections Department – Planning Division

Ms. Kristen Hamilton, Assistant City Attorney, City Attorney’s Office

Mr. Tony De La Cruz, Senior Plans Examiner, Building Permits & Inspections

District 6
Claudia Ordaz

District 7
Lily Limón

District 8
Cortney C. Niland

CHANGES TO THE AGENDA

Ms. Castle explained the representative for Item 1. PZBA14-00040, 9005 Montana Avenue requested an additional four (4) week postponement to the next regularly scheduled meeting February 9, 2015.

Mr. Charlie McNabb, attorney representing the applicant, requested Board Members approve the request to postpone an additional four (4) weeks to the next regularly scheduled meeting, February 9, 2015.

MOTION:

Motion made by Vice-Chairman Garland, seconded by Mr. Barela AND UNANIMOUSLY CARRIED TO POSTPONE ITEM 1. PZBA14-00040 FOUR (4) WEEKS TO THE NEXT REGULARLY SCHEDULED MEETING FEBRUARY 9, 2015.

City Manager
Tommy Gonzalez





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**PUBLIC HEARING
REGULAR AGENDA:**

POSTPONED FROM 12.08.2014 ZBA MEETING **REVISED REPORT**

ITEM 1:

PZBA14-00040 **9005 Montana Avenue** **Seisa Investments LP**
Applicant requests a Special Exception under Section 2.16.050 K (15 Years or more) in a C-4 (Commercial) zone.

This would allow an existing 96.4' by 48.5' building which is located to within 0.9 feet of the rear property line and 0.4 feet of the side street property line. The required rear yard setback is 10 feet and the required side street yard setback is 10 feet in the C-4 zone district. The subject building is shown existing in a 1974 aerial and in the 1996-1997 aerial, 17 years ago, as it exists today. The current owner submitted a warranty deed showing that they purchased the property in November 2009. A site visit shows that there is no sidewalk adjacent to the property on Mattox Street, and that the sidewalk at the front of the property on Montana Street does not extend the entire width of the property.

At the applicant's request, the Board postponed the case at the December 8th meeting for four weeks, until the next regularly scheduled meeting, scheduled for January 12, 2015. *The applicant is requesting a second postponement for 4 weeks, until the next regularly scheduled meeting. The next regularly scheduled meeting is February 9, 2015.*

STAFF RECOMMENDS APPROVAL OF THE REQUEST FOR A SECOND POSTPONEMENT OF THE CASE, FOR 4 WEEKS, UNTIL THE NEXT REGULARLY SCHEDULED MEETING. THE NEXT REGULARLY MEETING IS SET FOR FEBRUARY 9, 2015.

MOTION:

Motion made by Mr. De La Cruz, seconded by Mr. Barela AND UNANIMOUSLY CARRIED TO APPROVE.

ITEM 2:

PZBA14-00045 **14669 Oldenberg Court** **Carefree Homes II, LP**

Applicant requests a Special Exception under Section 2.16.050 F (Side Street Yard Setback) in an R-5 (Residential) zone. This would allow an existing structure which was built encroaching 3.2 feet into the side street yard setback and located to within 6.8 feet of the side street property line. The required side street yard setback in the R-5 zone district is 10 feet. *The applicant requested the builder error special exception; however, the encroachment into the side street yard setback is greater than permitted by the Special Exception G (Builder Error).*





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established for any future additions to the property, with the front yard setback of 70' located at the Cervantes Court street frontage and the required 25' side street yard setback along Rosinante Road. The west portion of the property, varying from 70' to 90' wide, is located in the state of New Mexico.

The carport over the driveway is not shown in the site plan submitted for the 2001 building permit. A permit was not found for the carport. The carport does not exist in the 2002 aerial and exists in the 2003 aerial photo. The applicant is required to submit plans, including structural and elevation drawings, for plan review.

[The applicant's architect submitted structural and elevation drawings and an engineer's report which assesses the carport's structure.](#)

An accessory structure is located in the required 25' side street yard setback along Rosinante Road and encroaches more than the 5 feet of accessory structure allowed to encroach into a side street yard setback. The applicant has agreed to relocate or remove the structure.

STAFF RECOMMENDS APPROVAL OF THE REQUESTS AS THEY MEET THE REQUIREMENTS OF THE SPECIAL EXCEPTIONS C AND J, WITH CONDITIONS:

1. **THAT THE ACCESSORY STRUCTURE LOCATED IN THE SIDE STREET YARD SETBACK IS EITHER REMOVED OR RELOCATED;**
2. **THAT THE FRONT YARD SETBACK IS ESTABLISHED ALONG THE CERVANTES COURT STREET FRONTAGE; AND,**
3. **THAT THE 25 FEET SIDE STREET YARD SETBACK IS ESTABLISHED ALONG ROSINATE ROAD.**

~~RECOMMENDATION IS PENDING RECEIPT OF PLANS FOR CARPORT.~~

Ms. Castle gave a presentation and noted Staff did not receive inquiries/responses from neighbors on this request.

RELOCATE OR REMOVE ACCESSORY STRUCTURE, SETBACKS, DEMOLITION OF ...

Discussion amongst Mr. Joshua Rhoads, attorney representing the applicant, staff, and Board Members regarding relocating and/or removing the accessory structure. Mr. Rhoads noted the structure was existing on the property at the time of purchase. In order to meet the requirements of the Special Exception, his client does not have any objections to removing the storage shed.

Ms. Mieczkowski asked what the vehicle is for ensuring that this is done prior to the variance or is the variance going to be a conditional approval once the structure is removed or replaced.





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Vice-Chairman Garland explained Board Members added a condition to the Staff Recommendations that upon approval, City staff (Building Inspectors) will inspect the property to ensure the Board’s decisions are followed (*accessory structure*).

MOTION:

Motion made by Ms. Livingston, seconded by Mr. De La Cruz Livingston AND UNANIMOUSLY CARRIED TO APPROVE.

Other Business – Discussion and Action:

4. Approval of Minutes: December 8, 2014

Chairman Concha asked Board Members if they had any additions/corrections/revisions. *There were none.*

1st MOTION:

Motion made by Mr. Luis De La Cruz TO APPROVE THE DECEMBER 8, 2014 MEETING MINUTES.

PRIOR TO THE VOTE – ITEM 1. PZBA-14-00040, 9005 MONTANA, SEISA INVESTMENTS LP

Mr. De La Cruz questioned why, if staff recommends approval, was the request postponed to the January 12, 2015, meeting.

Ms. Castle agreed staff is recommending approval but with a condition, the condition being sidewalks.

MOTION LANGUAGE TO INCLUDE “PER STAFF RECOMMENDATIONS”

Mr. Skarda noted that on numerous occasions motion language has not included “per Staff Recommendations.” Motions without the language “per Staff Recommendations,” do not necessarily apply. He asked Board Members to be prudent and include “per Staff Recommendations” when making motions.

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Ms. Miecowski requested staff revise the following sentence language (middle of the page):

Mr. Barela clarified that is where the 1/10th is ~~your~~ sheathing, your stucco.

2nd MOTION:

Motion made by Mr. Graham, seconded by Mr. Barela AND UNANIMOUSLY CARRIED TO APPROVE THE DECEMBER 8, 2014 MEETING MINUTES, AS CORRECTED.





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ABSTAIN: Ms. Livingston and Vice-Chairman Garland

MOTION:

Motion made by Ms. Livingston, seconded by Mr. Luis De La Cruz AND UNANIMOUSLY CARRIED TO ADJOURN THE ZBA MEETING AT 1:53 P.M.

Linda Castle, Senior Planner

