

larger than would have been permitted under a Special Exception and that was not brought to the ZBA for consideration. The addition was 28'1" wide, more than one-third the lot width and located to within 6' of the rear property line. The applicants are requesting, for a second time, the addition of a carport in the front yard setback that is proposed to be located to within 0' of the front property line. There are no utility easements at the front of the driveway opens out onto the sidewalk, creating an unsafe condition. However, the applicant's representative has indicated the applicant is changing the gate to bi-fold sections that will swing into his property. BP&I approved the structural drawings for the carport. The carport will be attached to the house by a breezeway, and the materials of brick columns and metal roof for the proposed carport appear to match the existing house. **STAFF RECOMMENDS DENIAL OF THE REQUEST FOR THE CARPORT BASED ON AN ALREADY OVER-INTENSIVE USE OF THE SITE.**

Mr. Rubio gave a PowerPoint presentation.

Ms. Castle explained *over-intensive use of the site*. In 1985, the applicant received a permit to construct an addition; the addition was much larger than what the applicant would have been permitted. The addition encroached more than 1/3 the average width of the lot and greater than 3/5 the depth of the required rear yard. In 1985, the site plan was not referred to the ZBA by the permitting staff, possibly an oversight. For the 1985 permit, the front yard must have been determined to face Pinewood; actually the front of the home is on Dell Haven.

Per the 1985 site plan, Mr. Estala concurred, the actual front of the home was facing Dell Haven.

Mr. Bowling asked Staff how much over the permitted amount was the addition and would it meet the newly amended Special Exception C requirements.

Ms. Castle was unsure of the exact measurement and reiterated the width of the addition is 28'1"; the permitted width is 25". Furthermore, the addition is more than 3/5 of the required 25' rear yard setback. In 1985 there were no minimum rear yard setback requirements.

Ms. Osborn stated the addition would not meet last week's or this week's Special Exception C requirements.

Ms. Castle reiterated Staff looks at the depth of the lot and the length to determine which is the front and rear of the property.

Mr. Melendez stated no matter where the entrance of the home is located; Pinewood or Dell Haven, the house encroaches on a setback.

Chair Cordova added Board Members cannot approve additional exceptions if the construction was larger than what would have been accepted as a Special Exception, per 2.16.050 Special exceptions.

Ms. Osborn gave legal guidance regarding the existing encroachment into the setbacks and reiterated there was no Special Exception hearing in 1985. If there had been a Special Exception hearing, the request for the carport would not be granted as it exceeds what is allowed.

Ms. Jorgensen compared this request to the Special Exception request for the property located on Euphrates. She asked Staff if the Pinewood residence was legal.

Mr. Estala responded at the time the home was originally built, the front setback was located on Dell Haven and met the required 10' side street yard and 25' rear setbacks.

Ms. Osborn stated an erroneously granted permit does not legalize a structure that was not built to code. A determination regarding the location of the front and side of the property should be made and adhered to.

Mr. Perez added the address should denote the front of the home.

Ms. Castle explained the front door of the home is located on Pinewood; however, the front yard is located on Dell Haven. The location of the front door does not determine the front setback of the lot.

Mr. Melendez clarified to be in compliance the front of the original existing home would be located on Dell Haven, with the proper rear and side yards.

Ms. Castle noted the 1985 site plan does not show the location of the front, rear or side yard setback lines.

Mr. Albert Olvera, representing the applicant, stated, per the subdivision plat, the home does have two addresses one on Pinewood and another on Dell Haven. At the time the permit was issued to construct the home, the front of the property was Dell Haven.

Per the Code, Ms. Castle explained, houses built prior to 1979 can encroach 3' into a required side yard, with a carport, as long as there is a 5' rock wall on the side. This home was built in 1958.

Mr. Olvera explained the carport would be built in the front yard, the front of the home being Dell Haven; however, the applicant uses Pinewood as his front yard.

Ms. Osborn clarified the request today is for a Special Exception to allow a carport in the front yard, the assumption being Dell Haven is the front.

MOTION:

Motion made by Mr. Bowling to deny.

There was no second. There was no vote.

Mr. Olvera reiterated the subdivision plat shows two addresses for the property; Dell Haven and Pinewood. At the time the original building permit to construct the home was issued, the address shows Dell Haven.

Ms. Osborn clarified the purpose of today's Special Exception request is for a carport to be located in the front yard; the front yard located on Dell Haven. If that is the case, there is already an over encroachment into the rear yard.

Mr. Melendez seconded Mr. Bowling's motion.

MOTION:

Motion made by Mr. Bowling, seconded by Mr. Melendez and unanimously carried **TO DENY THE REQUEST.**

AYES: Ms. Jorgensen and Messrs. Perez, Barela, Bowling, Cordova, Hernandez, Mendez, Melendez and Skarda

NAYS: N/A

Motion passed. (9-0)

Other Business:

4. Approval of Minutes: March 8, 2010

Chair Cordova asked Board Members if they had any corrections/revisions to the minutes. There being none.

MOTION:

Motion made by Mr. Melendez, seconded by Mr. Cordova and unanimously carried **TO APPROVE THE MARCH 8, 2010 MEETING MINUTES.**

AYES: Ms. Jorgensen and Messrs. Perez, Barela, Cordova, Hernandez, Mendez and Melendez

NAYS: N/A

ABSTAIN: Messrs. Bowling and Skarda

Motion passed. (7-0)

ZBA Amended Ordinance

Prior to adjourning, Ms. Castle stated City Council had approved the amended ZBA ordinance last week.

Board Members thanked Staff for their diligent efforts.

March 8, 2010 ZBA Meeting - Appeal of an Administrative Official's Decision (Sign Ordinance)

Mr. Melendez had questions regarding the proposed monument sign located on commercially zoned property. He researched and concluded:

1. The property was zoned Commercial with metes and bounds; however, the monument sign was denied unless the property owner platted the property.
2. In looking at commercial subdivision:
 - a. First you plat;
 - b. Then you subdivide by metes and bounds

As a legal instrument, Mr. Melendez thought, there was no difference between a platted property and metes and bounds other than platted properties go to City Plan Commission for review. He wondered if the platted properties requirement was only in the sign ordinance, not in the commercial property designation. He asked Staff what the difference was between a platted property and metes and bounds property.

Mr. Art Rubio responded that a split by metes and bounds is considered an exception to the code, not an actual plat. A platted property is brought in as a full subdivision and then taken through the process.

Mr. Melendez asked whether or not you are permitted to have a metes and bounds as a legal instrument to own property within a commercial subdivision.

Mr. Rubio responded yes, as an exception to the code.

Mr. Melendez asked if you have a subdivision and then start breaking it up does every property that wants a sign have to have a platted property.

Mr. Rubio explained that Mr. Lopez made his determination on his interpretation of the code.

Mr. Melendez said, in this case, the subdivision was allowed x number of signs and posted the permitted x number of signs. However, the last guy at the end must replat his property to have a sign. Mr. Melendez remarked, as the sign ordinance is currently written it is unfair to whoever is last.

Mr. Perez explained there were only two parcels; that lot was platted as one lot. The code allows one sign per platted lot.

Mr. Melendez noted if the property owner had replatted the property he would have gotten his sign. There's a problem in the way you're identifying what is permitted by the sign ordinance.

Mr. Rubio said, based on Mr. Lopez' interpretation of the code, that would be the legal instrument to have a sign, through a platted property, not through an exception. The exception is only for a split for metes and bounds, not for signs.

Ms. Castle explained, to be fair, Staff explains to property owners that they will have to share a monument sign with other businesses that may come in later on and we suggest they leave room for those other businesses.

Mr. Melendez felt the sign ordinance language was unfair because whoever is last will get stuck doing additional work. He asked Staff what is a monument sign and responded an 18' pole sign or identification sign is not a monument sign.

There was no other discussion.

ADJOURNMENT:

MOTION:

Motion made by Mr. Cordova, seconded by Mr. Perez and unanimously carried **TO ADJOURN.**

AYES: Ms. Jorgensen and Messrs. Perez, Barela, Bowling, Cordova, Hernandez, Mendez, Melendez and Skarda

NAYS: N/A

Motion passed. (9-0)

Linda Castle, Senior Planner