



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

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**Mayor**  
Oscar Leeser

COUNCIL CHAMBERS, CITY HALL BUILDING

APRIL 13, 2015

1:30 P.M.

Chairman Concha called the meeting to order at 1:32 p.m., quorum present.

**City Council**

The following Board Members answered roll call:

*District 1*  
Ann Morgan Lilly

Mr. Robert Concha, Chairman

Mr. Robert Garland, Vice-Chairman

Mr. Roy Gilyard, Vice-Chairman

*District 2*  
Larry Romero

Mr. Luis De La Cruz

Mr. Sam Barela

Ms. Bertha Miecowski

*District 3*  
Emma Acosta

Mr. Rick Cordova

Mr. Lamar Skarda

Mr. James Graham

*District 4*  
Carl L. Robinson

The following City staff members were present:

*District 5*  
Dr. Michiel R. Noe

1. Mr. Michael McElroy, Planner, Planning & Inspections Department

2. Mr. Art Rubio, Lead Planner, Planning & Inspections Department

3. Ms. Kristen Hamilton-Karam, Assistant City Attorney, City Attorney's Office

4. Mr. Tony De La Cruz, Senior Plans Examiner, Planning & Inspections Department

*District 6*  
Claudia Ordaz

**CHANGES TO THE AGENDA**

*None*

*District 7*  
Lily Limón

**MOTION:**

*Motion made by Mr. De La Cruz AND UNANIMOUSLY CARRIED TO APPROVE THE AGENDA.*

*District 8*  
Cortney C. Niland

**City Manager**  
Tommy Gonzalez







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Mr. Luis De La Cruz explained sidewalks are always constructed on city property, city right-of-way.

Chairman Concha stated sidewalks are built within the city right-of-way.

Per the presentation photo, Mr. Rhoads noted there may be an issue regarding moving the power poles in order to construct the sidewalk. Therefore, the sidewalk would be located between the power poles and Mattox Street.

Mr. Luis De La Cruz explained it was not necessary to move the power poles to construct the sidewalk; however, it will be necessary for Mr. Rhoads to obtain permission from the city to build adjacent to the curb. Mr. De La Cruz commented on the proposed construction of the sidewalks on Mattox Street and Montana Avenue; additionally, he thought there might be problems constructing the sidewalks where the drainage facility exists. He suggested Mr. Rhoads meet with the appropriate city staff to discuss the exact locations for the sidewalks to be built. As far as Mr. De La Cruz was concerned, no waiver.

Mr. Gilyard noted there is heavy pedestrian traffic on Montana Avenue.

Mr. Luis De La Cruz noted, on Montana Avenue, there is approximately six or seven feet of parkway.

Mr. McElroy explained if this building were constructed today, sidewalks would be required. Essentially board members are retroactively granting this building permit that was never obtained. Sidewalks are required for connectivity, many existing city street are without sidewalks. Now is the opportunity to construct these sidewalks that should have been constructed previously. The standard sidewalk on Montana Avenue is five feet, well within the existing seven-foot parkway.

Ms. Miecowski asked staff how much sidewalk currently exists on Mattox Street and does the sidewalk come to abut this property or ...

Mr. Luis De La Cruz responded approximately 50 feet only, from the rear, from the end of the building to the back.

Mr. McElroy explained he had not visited the site and guessed, being that this property was not platted, that the adjacent properties would have the necessary infrastructure for development.





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Mr. Luis De La Cruz noted this area is not residential; furthermore, there is hardly any pedestrian traffic on Mattox Street. The area around Mattox Street is all zoned C-4 (Commercial). At the time this structure was built sidewalks were not required.

Mr. Art Rubio clarified this Board is not authorized to grant waivers for sidewalks. Staff is recommending approval with the condition based on the current code requirements.

Chairman Concha concurred with staff and noted then there is nothing further to discuss. Should the Board approve the request the property owner will install sidewalks on Mattox Street and Montana Avenue.

Mr. Cordova asked staff if Montana Avenue was Texas Department of Transportation (TxDOT) jurisdiction or a city jurisdiction.

Ms. Hamilton-Karam clarified the special exception may be granted, with or without the recommendation, that the applicant build a sidewalk. Staff has included the condition based on Mr. McElroy and Mr. Rubio’s comments; however, it is not a requirement. Staff is recommending that the Board ask for the sidewalk, a condition that the Board may or may not impose.

Vice-Chairman Garland noted the structure was built to within five feet of the property line, he wondered if the building walls were fire rated.

Mr. Tony De La Cruz replied, not to the best of his knowledge, the property owner’s would have to request an “Investigation Permit” to verify the walls were constructed to satisfy the one hour requirements. The fire rating has not been verified by the Permitting Division.

Mr. Cordova explained he had not completed his comment on whether or not Montana Avenue was TxDOT jurisdiction or city jurisdiction. He requested staff meet with TxDOT to discuss sidewalks in the event TxDOT would be opposed.

Vice-Chairman Gilyard concurred with Mr. Cordova and felt it necessary staff coordinate with TxDOT. He noted TxDOT is currently constructing multi-million dollar projects on Montana Avenue, east and west.

Per the site plan, Ms. Hamilton-Karam noted there is a small gap in the sidewalk along Montana Avenue. It was her understanding there is no existing sidewalk adjacent this property along Mattox Street.





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Per the site plan, Mr. McElroy agreed with Ms. Hamilton-Karam.

Regarding the staff recommendation, Chairman Concha asked would the property owner be required to install sidewalks all along Mattox Street or where the building fronts Mattox Street.

Mr. McElroy responded Staff is recommending the installation of sidewalks along Mattox Street, the length.

Mr. Rubio suggesting staff revise the recommendation language “as per TxDOT requirements” or “coordination with TxDOT” on Montana Avenue.

Chairman Concha asked Board Members how to address Mattox Street sidewalks.

**MOTION:**

*Motion made by Mr. De La Cruz, seconded by Mr. Graham AND UNANIMOUSLY CARRIED TO APPROVE SUBJECT TO SIDEWALKS ON MATTOX STREET AND UP TO THE STATE HIGHWAY FOR APPROVAL SIDEWALKS ON MONTANA AVENUE.*

For clarification, Mr. Rubio stated the motion language approves sidewalks on Mattox Street.

Mr. De La Cruz felt sidewalks could be constructed on Mattox Street from the property to Montana Avenue.

*At this time, Mr. Graham seconded Mr. De La Cruz' motion.*

Vice-Chairman Garland stated the motion language does not address the building.

Chairman Concha explained there was concern regarding the fire rating.

Vice-Chairman Garland felt it important to address the fire rating in the motion language.

Mr. Tony De La Cruz explained if no building permits were filed or if no documentation exists to collaborate whether or not a building permit was issued at the time the building was constructed, the property owners will have to submit an application for the Certificate of Occupancy. Should the property owners not have a Certificate of Occupancy currently they will have to request an “Existing Building Certificate of Occupancy” application. At this point, Inspectors would verify the requirement for a one-hour wall. *The one-hour fire-rating wall is not necessary for the Board to include this language in the motion because it is a condition imposed by the Building Code.*







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**MOTION:**

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

After the vote, a member of the public asked staff what the height of the garage will be.

**MOTION:**

*Motion made by Mr. Cordova, seconded by Mr. De La Cruz AND UNANIMOUSLY CARRIED TO OPEN THE DISCUSSION.*

Mr. Paul Love, public, stated he was curious as to the height of the proposed structure.

Ms. Del Rio explained the structure will be 11 feet in height.

**MOTION:**

*Motion made by Mr. De La Cruz, seconded by Vice-Chairman Garland AND UNANIMOUSLY CARRIED TO APPROVE.*

**ITEM 3:**

**PZBA15-00006                      817 Kern Drive                      Mia Goldman, Franz Theard, Sofia Theard**  
**Applicants request a Special Exception under Section 2.16.050 C (Rear Yard Setback) in an R-3 (Residential) zone.**

This would permit the construction of a 661 sq. ft. addition, of which 201 sq. ft. would encroach to within 15'6" of the rear property line. The required rear setback is 20 feet and the required front and rear yard setback cumulative total is 50 feet in the R-3 zone district. The existing residence was construction in 1929. The Kern Place subdivision was platted in 1914.

**STAFF RECOMMENDS APPROVAL ~~WITH A CONDITION~~ AS THE REQUESTED SQUARE FOOTAGE ENCROACHMENT (201 ST. FT.) IS LESS THAN THE MAXIMUM PERMITTED (220 SQ. FT.).**

Mr. McElroy gave a presentation and noted the property is *not* located in an historic district.

Mr. Mark Winton, representing the property owners, noted the aesthetics, same stucco pattern, and colors would match the existing structure.

**MOTION:**

*Motion made by Mr. Barela, seconded by Mr. Cordova AND UNANIMOUSLY CARRIED TO APPROVE.*





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**Other Business – Discussion and Action:**

4. Approval of Minutes: March 23, 2015

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

***MOTION:***

*Motion made by Mr. Skarda, seconded by Vice-Chairman Garland AND UNANIMOUSLY CARRIED TO APPROVE THE MARCH 23, 2015 MEETING MINUTES.*

***ABSTAIN:*** *Chairman Concha and Mr. De La Cruz*

***MOTION:***

*Motion made by Ms. Miecowski, seconded by Mr. Barela AND UNANIMOUSLY CARRIED TO ADJOURN.*

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Michael McElroy, Planner

