



CITY DEVELOPMENT DEPARTMENT – PLANNING  
ZONING BOARD OF ADJUSTMENT MEETING MINUTES

COUNCIL CHAMBERS, CITY HALL BUILDING  
MARCH 14, 2016  
1:30 P.M.

The following Board Members answered roll call:

- Mr. Roy Gilyard, Chairman
- Mr. Darrel Tran
- Mr. Chris Villa
- Mr. Blake Downey
- Mr. James Graham
- Ms. Patrice Hills
- Ms. Maria Smith

The following City Staff were present:

- Mr. Michael McElroy, Planning & Inspections, Senior Planner
- Mr. Art Rubio, Planning & Inspections, Lead Planner
- Ms. Karla Nieman, Assistant City Attorney, City Attorney’s Office
- Mr. Tony De La Cruz, Building Permits & Inspections, Senior Plans Examiner

**CALL TO ORDER**

Chairman Gilyard called the meeting to order at 1:31 p.m., quorum present.

**PUBLIC COMMENT**

Chairman Gilyard asked if there was anyone present would like to address the Board on issues *not posted* on the agenda. *There was no response.*

**UPDATES**

Mr. Rubio announced the following information:

1. **For all Board Members:**  
*Proposed parking availability, to allow parking decals for Board/Commissions/Committee Members attending Board/Commissions/Committee meetings, to be heard and/or approved by City Council April 5<sup>th</sup>, 2016*
2. **For new Board Members:**  
*Distribution of 2016 ZBA meeting schedule*
3. **For all Board Members:**  
*Please attend the Open Meetings Act Training (via Human Resource meeting schedule) and Ethics Training (online)*

**Mayor**  
Oscar Leeser

**City Council**

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Jim Tolbert

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**ITEM 3:****PZBA15-00037****1002 Park****Price Lawhorn & Kathryn Revtyak****ITEM 3. WAS DELETED (See page 2)****ITEM 4:****PZBA15-00038****10228 Ridgewood Drive****Jacob Cope**

Applicant requests 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 1,030 sq. ft. addition to the existing single-family residence, of which approximately 368 square feet (24'-6" x 15') encroaches into the required rear setback and is located to within 10' of the rear property line.

**BACKGROUND**

The existing residence was constructed in 1968. The property's subdivision, Eastridge Unit #4, was platted in 1967. At the time of platting, a 25' front setback line and a 15' side street setback line were included on the plat. The proposed addition would encroach into the side street yard setback. The property owner is presently pursuing a replat of the lot to remove this restriction. On October 12, 2015, the ZBA approved a 243 sq. ft. encroachment to within 15'-1" of the rear property line. The applicant has re-applied to the Zoning Board of Adjustment as the original request was in error and was not representative of their desired build out. The Planning Division has not received any communications in support or opposition to the special exception request.

**[STAFF RECOMMENDATION IS FOR APPROVAL WITH A CONDITION OF THE SPECIAL EXCEPTION REQUEST AS FOLLOWS:](#)**

**THE PROPERTY SHALL BE REPLATTED SO AS TO REMOVE SETBACK RESTRICTIONS PRIOR TO THE ISSUANCE OF ANY BUILDING PERMITS.**

Mr. McElroy gave a presentation.

The following Board Members made comments and/or asked questions of staff:

1. Chairman Gilyard commented on setback lines conflicting with zoning regulations and establishing setback lines to preserve right-of-ways.
2. Mr. Downey requested staff clarify the difference between amending a plat and a replat. He understood the 10 feet side setback is city code, not state law. He felt there should be language stating which law, local or state, would be superior over the other.
3. Mr. Graham asked staff why the discovery of the plat was not realized the first time Mr. Cope applied for a special exception. Mr. Graham asked if it were possible to refund the application fee for the first or second request for the special exception.

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The following staff members responded to comments and questions from the Board:

1. Ms. Karla Nieman, Assistant City Attorney
2. Mr. Art Rubio, Lead Planner
3. Mr. Michael McElroy, Senior Planner

Mr. Jacob Cope, property owner, thanked Mr. McElroy for his cooperation and assistance. Regarding burdensome, Mr. Cope explained he had the option of amending the plat or replatting. The cost of replatting is between \$2,000.00 and \$5,000.00. This is the second time Mr. Cope has come before the Board for the same special exception request, \$680.00 application fee each time.

Chairman Gilyard asked if anyone in the audience wished to speak in favor of or opposition to the request. *There was no response.*

**MOTION:**

*Motion made by Mr. Downey TO APPROVE WITH THE CONDITION THAT THE REQUEST GO BEFORE THE DIRECTOR OF THE PLANNING & INSPECTIONS DEPARTMENT FOR CONSIDERATION OF THE REFUND OF THE FIRST, THE FUNDING OF THE SETBACK THAT WAS MISSED; AND ALSO A CONSIDERATION OF WAIVING THE \$1,100.00 FEE.*

Ms. Karla Nieman, Assistant City Attorney, explained it is not required to state the condition as part of your approval of the application; however, you can recommend staff discuss the fees with the Director of Planning.

Mr. Downey withdrew his previous motion.

**MOTION:**

*Motion made by Mr. Downey, seconded by Mr. Graham AND UNANIMOUSLY CARRIED TO APPROVE WITH THE STAFF RECOMMENDATION OF REPLATTING.*

**MOTION:**

*Motion made by Mr. Downey, seconded by Ms. Hills AND UNANIMOUSLY CARRIED FOR A RECOMMENDATION THAT THE CITY PLANNER ADDRESS THE FEE ISSUE:*

1. \$1,1000.00 FOR THE REPLAT; AND
2. \$685.00 FOR FIRST ZBA APPLICATION

**ITEM 5:**

**PZBA16-00001                      11982 Firefly Way                      Ignacio & Noemi Trevino**

Applicants request a Special Exception under Section 2.16.050 J (Carport over a Driveway) in an R-3A/sc (Residential/special contract) zone. This would allow a 19.08' by 18.67' carport (350.57 square feet), of which 91.86 square feet is proposed to encroach in the required front yard setback and to be located to within 1.92 feet of the front property line. The required front setback is 15' and the required cumulative front and rear yard setback total is 45' in the R-3A/sc zone.



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**BACKGROUND**

On October 14, 2015, the property owner was cited by the City for building without permits. The Inspector noted that a carport, back porch and a large patio structure had been constructed without permits. The applicants are requesting Special Exception J (Carport over a Driveway) which will encroach into the required front yard setback. There are no utility easements within the front property line. The plans show that the carport will match the house in materials and design and will rise no higher than the roof line of the existing house. The Building Development and Permitting Division has reviewed the existing carport and determined that modifications are required to the structure to meet code requirements. The unpermitted patio accessory structure in the rear yard is 801.94 sq. ft. Local code Section 20.10.030.A.4 does not permit accessory structures to total the more restrictive of 50% of the gross floor area of the primary structure or 40% of the rear yard area. To be compliant, the structure can be no larger than 540 sq. ft. (50% of the primary structure). The Planning Division has not received any communications in support or opposition to the special exception request.

**STAFF RECOMMENDATION IS FOR APPROVAL WITH CONDITIONS FOR THE REQUEST OF SPECIAL EXCEPTION J. THE CONDITIONS ARE AS FOLLOWS:**

- 1. THE EXISTING CARPORT STRUCTURE SHALL BE MODIFIED TO MEET ALL APPLICABLE CODE REQUIREMENTS; AND**
- 2. THE REAR PATIO STRUCTURE AND STORAGE STRUCTURE SHALL BE REDUCED SO THAT THE TOTAL REAR YARD COVERAGE IS NO LARGER THAN ALLOWED BY CODE.**

Mr. McElroy gave a presentation.

Mr. Pablo Rosas, father of property owner Noemi Trevino, commented.

Chairman Gilyard asked if anyone in the audience wished to speak in favor of or opposition to the request. *There was no response.*

Mr. Tony De La Cruz, Senior Plans Examiner, wanted to ensure Mr. Rosas understood that at the time of the structural review, many of the components did not meet structural criteria; therefore, modifications must be addressed.

**MOTION:**

***Motion made by Mr. Graham, seconded by Mr. Downey AND UNANIMOUSLY CARRIED TO APPROVE THE APPLICATION WITH STAFF CONDITIONS.***



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Oscar Leeses
  
- City Council**

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**MOVED TO THE FOREFRONT OF THE AGENDA**

**ITEM 6:**

**PZBA15-00002** **6483 Snowheights Drive** **Carlos Todd**

Applicant requests 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 306 sq. ft. addition to the existing single-family residence, of which approximately 126 square feet (7' x 18') encroaches into the required rear setback and is located to within 13' of the rear property line. The required rear yard setback is 20 feet and the required front and rear yard setback cumulative total is 50 feet in the R-3 zone district.

**BACKGROUND**

The existing residence was constructed in 2010. The Planning Division has not received any communications in support or opposition to the special exception request.

**STAFF RECOMMENDS APPROVAL WITH A CONDITION AS THE REQUESTED SQUARE FOOTAGE ENCROACHMENT (403 SQ. FT.) IS LESS THAN THE MAXIMUM PERMITTED (424.5 SQ. FT.)**

**THE CONDITION IS AS FOLLOWS:**

**THE EXISTING ACCESSORY STRUCTURE IN THE REAR YARD SHALL BE RELOCATED OR REMOVED IN COMPLIANCE WITH APPLICABLE BUILDING AND ZONING CODE.**

Mr. McElroy gave a presentation and responded to comments and questions from Board Members.

Mr. Art Rubio stated, unfortunately, the property owner is not present in the audience, due to staff's recommendation to approve the request with a condition, Staff requests Board Members postpone this request to the April 11<sup>th</sup> ZBA meeting. Furthermore, Staff will, again, mail notification letters to the adjacent property owners of the postponement.

Mr. Downey, Board Member, requested Ms. Davidoff and Ms. Edmunds be permitted to express their concerns.

The following members of the public stated their concerns regarding the proposed request:

1. Ms. Joyce Davidoff, Espada Drive, height of the proposed roofline; and
2. Ms. Genoveva Edmunds, Espada Drive, proposed request may damage her property

**MOTION:**

*Motion made by Mr. Downey TO DELETE THE REQUEST AND THAT RE-NOTIFICATION LETTERS BE MAILED TO ADJACENT PROPERTY OWNERS; motion seconded by Mr. Graham WITH THE PREMISE THAT NO ADDITIONAL FINANCIAL BURDEN BE PLACED ON THE PROPERTY OWNER.*

**NO VOTE WAS TAKEN.**



- Mayor**  
Oscar Leeser
- City Council**
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Mr. Tony De La Cruz, Senior Plans Examiner, explained anything that is five feet or greater from the property line, does not require fire rating. Mr. De La Cruz explained what a fire wall is. At this time, Mr. De La Cruz requested the applicant provide staff with details of what was built and if it was built according to:

1. A UL rated design or;
2. If an alternative compliance method within the building code was used, whether or not that alternative method is in compliance

Mr. De La Cruz recommended staff review the construction plans to determine the proper remedy of the situation. Mr. De La Cruz responded to comments and questions from Chairman Gilyard and Board Members Graham, Villa and Downey.

Mr. Carlos Renteria, representing Pointe Homes, noted because it is greater than five feet from the property line, the underside of the overhang is fire-rated. He suggested postponing the request to allow him the opportunity to provide the construction details of the wall. At the time of the closing, the bank, through the survey of the property, discovered the house was constructed three inches into the side yard setback.

Mr. Art Rubio, Lead Planner, recommended the Board revise the condition to state the north wall shall satisfy the building code requirements. This would allow staff and Mr. Renteria opportunity to remedy the situation.

Chairman Gilyard asked if anyone in the audience wished to speak in favor of or opposition to the request. *There was no response.*

**MOTION:**

*Motion made by Mr. Downey, seconded by Ms. Smith AND UNANIMOUSLY CARRIED TO APPROVE THE SPECIAL EXCEPTION SUBJECT TO STAFF CONDITIONS.*

**OTHER BUSINESS – DISCUSSION AND ACTION:**

8. Approval of Minutes: November 9, 2015

Chairman Gilyard asked Board Members if they had any additions/corrections/revisions of the November 9, 2015 meeting minutes. *There was no response.*

**MOTION:**

*Motion made by Mr. Downey seconded by Mr. Graham AND UNANIMOUSLY CARRIED TO THE APPROVE NOVEMBER 9<sup>TH</sup> MEETING MINUTES.*

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**MOTION:**

*Motion made by Mr. Villa seconded by Mr. Graham AND UNANIMOUSLY CARRIED TO ADJOURN.*

