

Ms. Spencer responded the side yard setback is five feet; applicants were not allowed side yard encroachments.

Mr. Melendez asked Staff where the five feet dimensions begin and end; was it from the property line to the closet point of the storage building.

Ms. Spencer responded correct.

Chair Bowling clarified if the applicant is requesting the Special Exception, then the storage shed must be moved over five feet.

Mr. Lopez understood.

Mr. Hernandez asked Mr. Lopez if the storage shed was built on a foundation, was it anchored down.

Mr. Perez asked if Staff had any photos of the shed and wondered if the shed was built on a concrete slab and if it could be moved.

Mr. Melendez asked if there was a slab beneath the shed.

Mr. Lopez responded the applicants were aware the shed must be moved and added he would move the shed in order to meet the five foot setback requirement.

Chair Bowling suggested angling the shed.

Mr. Gezelius asked Staff if there were any comments or concerns from neighbors.

Staff responded no.

Chair Bowling asked if members of the audience were present to speak in favor of or in opposition to the application. There being none.

1st MOTION:

Motion made by Mr. Gezelius, seconded by Mr. Melendez **TO APPROVE.**

No vote was taken.

AMENDED MOTION:

Mr. Hernandez amended the motion as follows:

To approve the request for the Special Exception on the addition to the home provided the representative is able to relocate the building to the satisfaction of the property owners.

Mr. Gezelius responded that language was included under **STAFF RECOMMENDATION**

Chair Bowling clarified the Motion was to approve Staff's recommendation.

2nd MOTION:

Motion made by Mr. Gezelius, seconded by Mr. Melendez **TO APPROVE STAFF'S RECOMMENDATION.**

AYES: Messrs. Gezelius, Aguilar, Hernandez, Melendez, Bowling, Perez, Mendez and Wakeem

NAYS: N/A

The Motion passed. (8-0)

ITEM 2:

ZBA09-00021

1608 Billy Casper Drive

Andy Dominguez

Applicant requests a Special Exception under Section 2.16.050 C (Rear Yard Setback) in an R-3 zone. This would permit the construction of a 26'4" by 13' portion of an addition that is proposed to encroach 13 feet into the required rear yard setback. The required front and rear yard setback is 50' in an R-3 (Light Density Residential) zone. The applicant was previously approved for a Special Exception to encroach in the rear yard setback on March 10, 2008, but he did not apply for a building permit within one year and the Special Exception expired. The applicant is still proposing a 26'4" wide addition to his house that is proposed to be located to within 10'8" of the rear property line in order to expand the living room, family room and bedrooms. The addition in the side street yard and the carport over the new driveway are within the buildable area and are not part of this request.

Ms. Spencer gave a PowerPoint presentation and noted **STAFF RECOMMENDS APPROVAL OF THE SPECIAL EXCEPTION AS THE REQUEST MEETS THE REQUIREMENTS OF THE SPECIAL EXCEPTION AS SUBMITTED.**

Mr. Ricardo Rodriguez, representing the applicant, was present.

Chair Bowling asked if members of the audience were present to speak in favor of or in opposition to the application. There being none.

MOTION:

Motion made by Mr. Mendez, seconded by Mr. Perez and unanimously carried **TO APPROVE.**

AYES: Messrs. Gezelius, Aguilar, Hernandez, Melendez, Bowling, Perez, Mendez and Wakeem

NAYS: N/A

The Motion passed. (8-0)

ITEM 3:

ZBA09-00022

3448 Spotted Horse Drive

Carl W. and Charlotte Smith

Applicants request a Special Exception under Section 2.16.050 C (Rear Yard Setback) in an R-3 zone. This would permit the construction of a 22.5' by 12' addition that is proposed to encroach 12' into the required rear yard setback. The required front and rear yard setback cumulative total is 50' in an R-3 (Light Density Residential) zone. The applicants are proposing an addition in the rear yard that is proposed to be located to within 13' of the rear property line. They will remove the existing accessory building that is located in the rear yard.

Ms. Spencer gave a PowerPoint presentation and noted **STAFF RECOMMENDS APPROVAL OF THE SPECIAL EXCEPTION WITH THE CONDITION THAT THE EXISTING OPEN PATIO ADJACENT TO THE PROPOSED ENCLOSURE SHALL NOT BE ENCLOSED.**

Mr. Gezelius commented on the existing enclosed patio space.

Ms. Spencer responded, with the Board's approval of the Special Exception request, the property owners would have exceeded the enclosed space allowed.

Mr. Armando Hernandez, representing the applicant, responded he was aware of Staff's recommendation and noted the shed had already been removed. Additionally, the property owners do not have future plans to enclose the rest of the patio.

Mr. Melendez wondered if the property owners would be reusing the existing roof of the patio.

Mr. Hernandez responded yes.

ITEM 5:

ZBA09-00014

5516 Dearborne Drive

Soledad Vela

Applicant requests a Special Exception under Section 2.16.050 K (Carport over a Driveway) in an R-3 zone. This would permit the construction of a 25' by 20'10" carport that is proposed to encroach 21 feet into the required front yard setback. The required front and rear yard setback cumulative total is 50' in an R-3 (Light Density Residential) zone. This case was postponed from the May 4, 2009, ZBA meeting to allow the applicant to submit plans for a flat roof carport that more nearly matches her house. The request was re-notified to the neighbors because the applicant is now requesting a larger carport that is proposed to be located to within 4 feet of the front property line. There is no utility easement in the front yard setback. The elevation drawing shows a flat roof carport with brick columns that match the house. Review by the Building Permits & Inspections Division is pending.

- Prior to the meeting copies of the Building Permits and Inspections ("BP&I") Department memo was distributed. The memo explained BP&I Staff had reviewed the carport's structural design and found it to be acceptable with the exception that the spot footings be increased to 14"x14"x20" to allow footing under brick columns.

Ms. Spencer gave a PowerPoint presentation and noted **STAFF RECOMMENDS APPROVAL OF THE SPECIAL EXCEPTION AS IT MEETS THE REQUIREMENTS OF THE SPECIAL EXCEPTION AS SUBMITTED.**

Mr. Enrique Gutierrez, representing the applicant, spoke in Spanish, Mr. Oscar Perez provided translation.

Mr. Gutierrez explained he was present at the previous ZBA meeting; however, there was a problem with the carport roof.

Mr. Perez asked Staff why the item was postponed.

Ms. Spencer explained the previous plans showed the carport roof higher than the roof of the home.

In Spanish, Mr. Perez explained to Mr. Gutierrez what the issue was regarding the carport roof.

Mr. Shoemith asked if Staff had requested a translator for this meeting. He stopped the meeting so that Staff could request a translator.

Ms. Castle asked if Mr. Perez could translate for Mr. Gutierrez.

Mr. Perez responded he could translate.

Mr. Perez explained to Mr. Gutierrez the BP&I memo approving the revised flat roof plans. Mr. Gutierrez responded was not aware of the memo.

Ms. Castle noted the Plan Reviewer had spoken with Mr. Gutierrez about the footing.

Mr. Gutierrez responded he had not seen the memo.

A gentleman from the audience stood up and explained his English was not very good; however, he wondered if the conversation was regarding the footing and added he was aware of the spot footing increase.

Ms. Castle interjected after the plans were reviewed by BP&I Staff again and it was their recommendation that the footing be increased. She added when the plans are submitted for a building permit they must reflect the increase in footing size.

Mr. Perez translated for Mr. Gutierrez.

The gentleman from the audience added they would follow Staff recommendations as instructed.

Mr. Perez translated for Mr. Gutierrez.

Mr. Bowling reminded the Board that plans must be submitted and approved prior construction, the Board was merely approving the concept of building a carport.

Ms. Castle noted the Board could include in the footing condition in the motion.

Mr. Perez responded he was concerned Mr. Gutierrez would agree to the motion; however, he would not fully understand what was required of him.

Regarding the motion language, Mr. Bowling cautioned the Board and explained the applicant may choose another option to construct the carport.

Mr. Aguilar asked Staff if there was any feedback from the neighbors.

Ms. Spencer responded no.

Ms. Castle explained Staff would include the footing condition information into the system so that BP&I Staff will know exactly what was required.

The gentleman from the audience added the construction would be inspected by a City Inspector.

Mr. Mendez added the memo states "The carport's structural design has been reviewed and has been found to be acceptable ..."

Chair Bowling asked if members of the audience were present to speak in favor of or in opposition to the application. There being none.

MOTION:

Mr. Gezelius moved to approve, Mr. Mendez seconded.

Prior to the vote, Mr. Melendez explained the motion should include "subject to approval by Building Permit & Inspections Staff". He added the applicant may want to change the footing size.

AMENDED MOTION:

Motion made by Mr. Gezelius, seconded by Mr. Mendez and unanimously carried **TO APPROVE SUBJECT TO PULLING A PERMIT COMPLYING WITH LOCAL BUILDING CODES.**

AYES: Messrs. Gezelius, Barela, Aguilar, Hernandez, Melendez, Bowling, Perez, Mendez and Wakeem

NAYS: N/A

The Motion passed. (9-0)

Other Business:

6. Approval of Minutes: May 4, 2009

Chair Bowling asked Board Members if they had any corrections to the minutes for May 4, 2009.

MOTION:

Motion made by Mr. Melendez, seconded by Mr. Gezelius and unanimously carried to **APPROVE THE MAY 4, 2009 MEETING MINUTES.**

AYES: Messrs. Gezelius, Hernandez, Melendez, Bowling, Perez, and Wakeem

NAYS: N/A

ABSTAIN: Messrs. Barela, Aguilar and Mendez

The Motion passed. (6-0)

Development Services Report:

7. Discussion regarding Chair Bowling's request to consider percentage of lot coverage as an alternative to current Special Exception requirements.

Ms. Castle explained Chair Bowling had requested Mr. McElroy, Deputy Director, Planning Division, be present at today's meeting.

Regarding the Special Exception C (Rear Yard Setback) encroachment, Chair Bowling explained the maximum an applicant can encroach is up to 10 feet, 1/3 the width of the lot. However, if an applicant requests the maximum permitted depth, the encroachment ends up long and narrow. Chair Bowling explained the Board has seen many cases such as this and has asked Staff why there could not be an option for a wider encroachment.

Mr. Gezelius added the last case was a good example, so many odd shaped lots that the formula doesn't really work.

Chair Bowling responded he looked at it as another option for people to use; he would rather have his neighbor further away than closer.

Mr. Melendez referred to a case last year where the applicant had wanted to extend the entire width of the house; however, the Special Exception did not permit him to do so. The applicant was restricted to the 1/3 width and wound up with a block that extended further into the backyard.

Chair Bowling asked Mr. McElroy if he agreed with what the Board was requesting.

Mr. McElroy responded both options go around the intent of what the rear yard setback is; the real question is which is the more intrusive of the two. It is a subjective call, he opined he would allow the wider width based on the same square footage, it is less of a detriment to the neighbors. He stated it would be necessary to have a minimum rear yard setback that the applicant could not go beyond.

Chair Bowling responded, hypothetically speaking, the neighbor behind has a pool and neighbor in front wants to build a two-story addition, ten feet from the rear yard setback. He felt, given the option, fewer people would choose to have a long, narrow extension than a short, wide extension.

Mr. Gezelius commented on square footage for accessory structures, storage sheds and gazebos, that some lot configurations have room for larger accessory building than other lots.

Ms. Castle opined the Code language must be general, not specific.

Being new to the Board, Mr. Aguilar asked what the intent of the Code was regarding Special Exceptions.

Mr. McElroy opined the intent of the Special Exception allows the applicant to violate the rear yard setback requirement when adding onto their home. However, the current language limits the flexibility in terms of what can be done with the home.

Mr. Melendez opined it seems like a good idea but can we do it, can we allow the person to go the full width of the house as long as he does not exceed the square footage of what would be permitted?

Mr. McElroy responded so long as it does not exceed the square footage and there also has to be some minimum rear setback requirement that you cannot go beyond no matter what, especially for odd-shaped lots. He will take a look at some case history and also see what a change would mean regarding additions for houses on odd-shaped lots.

Mr. Wakeem opined part of the problem with setbacks is that you have to have the minimum requirement per the Fire Department.

Chair Bowling responded 10 feet between structures.

Ms. Castle referred to cases on today's agenda, and showed some examples of maximum square footage using a 10 foot minimum setback and a 15 foot minimum setback requirement.

Regarding Ms. Castle's explanation, Chair Bowling responded he was hesitant; what if the applicant has a really wide, shallow lot. Additionally, he does not have an issue with the 10 feet, his thought was the possibility of either/or. He wondered how many years has the ZBA been allowing applicants to build up to 10 feet of a rear yard setback.

Ms. Castle responded the Code was changed in 2007, the language reads there must be a 10 foot setback.

Chair Bowling asked if Staff would consider the Board's request, he opined the Board has a consensus; the Board would like to allow people the option of a wider, more shallow encroachment.

Mr. McElroy concurred; however, he would still like to review ZBA cases. Additionally, he preferred having a minimum setback that you cannot go beyond, when trading up for a little bit more width.

Mr. Melendez added if the applicant could build wider and with less depth, it would be better for the neighborhood.

Mr. Hernandez responded sometimes the question becomes one of affordability, revising the whole house.

Chair Bowling commented that he wanted to be fair to applicants. He referred to a case last year where the representative stated it should be done based on square footage not on calculating the width of the lot. Furthermore, the applicant for this particular case, wanted to encroach 500 square feet but go wider and shallower, he could have gone 700 feet if he built a long, narrow extension. Ultimately, the applicant decided it was not feasible to continue with the application process.

Chair Bowling asked if Staff could provide the Board periodic updates. He noted Ms. Castle had a concern regarding too much lot coverage.

Mr. McElroy surmised Staff would review ZBA cases to get an understanding of what was occurring. The next step would be to do our due diligence and see what it really means in terms of cases that have come before the Board. In the end, perhaps a formal staff recommendation to propose a change.

Chair Bowling thanked Mr. McElroy.

ADJOURNMENT:

MOTION:

Motion made by Mr. Gezelius, seconded by Mr. Aguilar and unanimously carried to **ADJOURN THE ZBA MEETING AT 2:15 P.M.**

AYES: Messrs. Gezelius, Barela, Aguilar, Hernandez, Melendez, Bowling, Perez, Mendez and Wakeem

NAYS: N/A

The Motion passed. (9-0)

Linda Castle, Senior Planner