



**ZONING BOARD OF ADJUSTMENT MEETING MINUTES
2ND FLOOR – CITY COUNCIL CHAMBER
JULY 14, 2008
1:30 P.M.**

The Zoning Board of Adjustment meeting was called to order at 1:30 p.m. by Larry Nance, Chair.

The following Board Members answered roll call:

Mr. Larry Nance (Chair)
Mr. Robert Veliz (Vice-Chair)
Mr. Rick Cordova
Mr. Jose Melendez
Mr. Sam Barela
Mr. Servando Hernandez
Ms. Alisa Jorgensen
Mr. David Marquez

The following City Staff members were present:

Ms. Mirian Spencer, Development Services Department, Planning, Planner
Ms. Linda Castle, Development Services Department, Planning, Senior Planner
Mr. Mike Neligh, Development Services Department, BP&I, Senior Plans Examiner
Ms. Cynthia Osborn, City Attorney's Office, Assistant City Attorney
Ms. Margarita Molina, Engineering, Traffic Division, Planning Specialist

CHANGES TO THE AGENDA

Staff requested the following changes:

1. Postpone two weeks - ZBA08-00037, 5005 Love Road
2. Delete - ZBA08-00046, 4914 Olmos Road

1ST MOTION:

Motion made by Mr. Veliz, seconded by Mr. Barela and unanimously carried to **POSTPONE ZBA08-00037, 5005 LOVE ROAD, TWO (2) WEEKS TO THE JULY 28, ZBA MEETING.**

AYES: Ms. Jorgensen and Messrs. Cordova, Melendez, Barela, Nance, Veliz, Hernandez and Marquez

NAYS: N/A

The Motion passed. (8-0)

2ND MOTION:

Motion made by Mr. Veliz, seconded by Mr. Barela and unanimously carried to **DELETE ZBA08-00046, 4914 OLMOS ROAD, AT THE REQUEST OF THE APPLICANT.**

AYES: Ms. Jorgensen and Messrs. Cordova, Melendez, Barela, Nance, Veliz, Hernandez and Marquez

NAYS: N/A

The Motion passed. (8-0)

ITEM 1:

ZBA08-00053

1805 Robert Wynn Street

Jesus and Aida Elorreaga

Applicants request 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 28'4" by 20'6" carport that is proposed to encroach 20' into the required front yard setback. The required cumulative front and rear yard setback total is 50 feet in an R-3 zone. The applicants have enclosed their garage and are requesting to add a carport that is proposed to encroach 20 feet into the required front yard setback. The applicant's plans indicate that the roof of the carport is to have the same pitch and gable as the roof and gable of the house with matching shingles and also that the brick pillars of the carport will match the brick of the house. The Building Permits & Inspections Division has reviewed the plans and found them to be acceptable with the condition that the engineered truss package will be provided prior to issuance of building permit.

Ms. Spencer gave a PowerPoint presentation and noted *Staff recommends approval of the request for the Special Exception K pending written approval by Building Permits & Inspections and with the condition that the applicant will submit the engineered truss package with his plans for building permit.*

Mr. Neligh stated Staff had reviewed the plans and the plans meet structural safety standards. He noted that upon the Applicant's submittal of the pre-fabricated truss drawings sealed by an engineer, Staff would then approve the plans.

Mr. Jesus Elorreaga, Applicant, stated he had submitted the pre-fabricated truss drawings on Thursday last week. He explained due to rising costs, he would like the Board's approval to revise the plans from a three-car garage to a two-car garage.

Ms. Spencer explained utilizing less of the requested encroachment is permissible.

Mr. Elorreaga explained the materials, pitch and gable will be as specified in the drawing. He reiterated that due to rising costs, the porch area would not be included, as previously requested.

Ms. Castle noted Staff had not received any phone calls in favor of or opposition to the application.

Ms. Spencer added Applicants have one year to submit for a building permit; however, if they are unable to do so, prior to the expiration date of the approved request, Applicants may request an extension of an additional one year.

Mr. Cordova asked if Staff had confirmed the existence of any easements.

Ms. Castle responded Staff had not reviewed the plat and suggested the Board postpone the item to the end of the agenda. **

Chairman Nance asked if members of the audience were present to speak in favor of or in opposition to the application. There being none, Mr. Cordova moved, Mr. Melendez seconded and unanimously carried to **APPROVE ZBA08-00053 SUBJECT TO THE EASEMENT REVIEW.**

AYES: Ms. Jorgensen and Messrs. Cordova, Melendez, Barela, Nance, Veliz, Hernandez and Marquez

NAYS: N/A

The Motion passed. (8-0)

Following the vote, Mr. Nance explained to Mr. Elorreaga that the Board had approved his application assuming no easement would prohibit the construction of the carport.

** Staff reviewed the plat and determined easements were located in the rear of the property.

ITEM 2:

ZBA08-00054

7416 Lenox Court

Timothy and Consuelo Sank

Applicants request a Special Exception under Section 2.16.050 C (Rear Yard Setback) in an R-3A/sp zone. This would permit the construction of a 15' by 19' addition, of which a 15' by 13' portion is proposed to encroach 13' into the required rear yard setback. The required cumulative front and rear yard setback total is 45 feet in an R-3A/sp zone. The applicants are requesting to add a bedroom that will encroach in the required rear yard setback.

Ms. Spencer gave a PowerPoint presentation and noted Staff is recommending approval of the request as it meets the requirements of the Special Exception C.

Mr. Timothy Sank, Applicant, was present.

Mr. Cordova questioned the intent of the dash line, as shown on the map.

Ms. Spencer explained the dash line showed the required setback and the proposed setback.

Ms. Jorgensen asked Staff whether or not the accessory structure, as shown in the photographs, was within the allowed parameters. She questioned if the Applicant applied for a permit prior to the May 13th ordinance approval, would he be grandfathered in under the previous ordinance.

Ms. Spencer explained the ordinance approved May 13th allows a maximum of 180 square feet for accessory structures.

Ms. Castle added the Applicant submitted his request after May 13 and would be permitted the maximum 180 square feet.

Ms. Osborn clarified the ordinance in effect at the time the application is submitted is the ordinance that the Board either approves or denies the application.

Mr. Hernandez noted photographs show more than one accessory structure.

Ms. Castle reiterated the Applicant is allowed a total of 180 square feet for accessory structures,

Mr. Sank explained he would be reducing one of the accessory structures.

Ms. Castle suggested the Board approve the request with the condition the Applicant be limited to 180 square feet of accessory structures.

Chairman Nance asked if members of the audience were present to speak in favor of or in opposition to the application. There being none, Mr. Hernandez moved, Mr. Marquez seconded and unanimously carried to **APPROVE THE APPLICATION PROVIDED STAFF REVIEW THE DIMENSIONS OF THE ACCESSORY STRUCTURES SO AS NOT EXCEED THE MAXIMUM 180 SQUARE FEET.**

AYES: Ms. Jorgensen and Messrs. Cordova, Melendez, Barela, Nance, Veliz, Hernandez and Marquez

NAYS: N/A

The Motion passed. (8-0)

ITEM 5:

ZBA08-00057

5521 Woodgreen Drive

Alejandro and Jessica Melendez

Applicants request Special Exceptions under Section 2.16.050 G (Rear Yard Setback) and Section 2.16.050 V (Front Yard Setback) in an R-1 zone. This would permit the construction of a new residence with a 27' by 10' portion of a front porch that is proposed to encroach 10' into the front yard setback. This would also permit a 27' by 11' portion of a patio that is proposed to encroach 11' into the required rear yard setback. The required cumulative front and rear yard setback total is 100 feet in an R-1 zone. The applicants are constructing a new residence in Emerald Valley Estates and are requesting the Special Exceptions under the prior code, existing prior to May 13, 2008. They are proposing to encroach in the front and rear yard setbacks with patios that are larger than permitted by code. The ZBA granted this property a Special Exception V in August 2006 to encroach in the front yard setback. The builder who requested the Special Exception did not build the house.

Ms. Spencer gave a PowerPoint presentation and noted Staff recommends denial of the request because new houses should be built within the setbacks of the zone in which they are located.

Mr. Carlos Villalobos, Representative, stated most homes in this subdivision are encroaching in some form or another. He noted the plans show a two-story home with 4,800 square feet of livable area on a 20,000 square foot lot. Additionally, at the time plans were submitted in January 2008, Staff did not inform him of the encroachment until just recently.

Mr. Hernandez asked Staff which ordinance, new or old, is appropriate when deciding whether or not the request should be approved.

Ms. Osborn responded the application for a building permit was submitted prior to the approval of the May 13th ordinance.

Mr. Veliz asked Staff, when an application is denied and cannot be considered for one year, does that denial apply to the property or the Applicant. For example, a request was denied and the Applicants then sold the home, could the new property owners then submit an application for Special Exception.

Ms. Osborn would research and provide an answer to the Board.

Ms. Castle noted Special Exceptions and/or Variances approved or denied by the Board, remain with the property.

Mr. Nance noted, per the old ordinance language, the Applicants were allowed the maximum 120 square feet for accessory structures.

Mr. Villalobos concurred.

Ms. Castle reiterated the home would be located in Emerald Valley Estates subdivision, where most homes are encroaching in some form or other.

Ms. Jorgensen asked whether or not the Staff recommendation to deny was defensible. Additionally, could this be considered an egregious case due to the Applicant's request for sizable front and rear setback reductions not in keeping with the spirit of previous applications.

Ms. Osborn stated the application is similar to the other 42 requests approved by the Board.

Ms. Spencer explained the majority of previous Special Exception requests, within this subdivision, pertained to portions of the home encroaching. However, this encroachment request is not to extend the livable area of the home, but to extend open patio.

Motion made by Mr. Veliz, seconded by Mr. Barela to **DELETE ZBA08-00046, 4914 OLMOS ROAD, AT THE REQUEST OF THE APPLICANT.**

AYES: Ms. Jorgensen and Messrs. Cordova, Melendez, Barela, Nance, Veliz, Hernandez and Marquez

NAYS: N/A

The Motion passed. (8-0)

OTHER BUSINESS:

8. Approval of Minutes June 23, 2008

Chairman Nance asked if Board Members had questions, comments or corrections regarding the ZBA meeting minutes of June 9, 2008. There being none, Mr. Veliz moved, Mr. Marquez seconded and unanimously carried to **APPROVE THE MINUTES OF JUNE 23, 2008.**

AYES: Messrs. Cordova, Melendez, Nance, Veliz and Hernandez

NAYS: N/A

ABSTAIN: Ms. Jorgensen and Messrs. Barela and Marquez

The Motion passed. (5-3)

DEVELOPMENT SERVICES REPORT:

9. Discussion and action regarding Zoning Board of Adjustment issues.

No action was taken.

10. Election of Chair and Vice Chair.

Ms. Castle explained Mr. Nance's term as a regular board member had expired last month. She noted Mr. Nance had served two terms as a regular board member and would continue to serve as an alternate board member for District 1 replacing Mr. Hernandez. She added Mr. Hernandez was appointed regular board member for District 1 replacing Mr. Nance.

Mr. Nance thanked the Board for their support and stated it was his pleasure to serve as Chair.

Mr. Cordova added "Job Well Done".

Mr. Hernandez stated "You've done a super job".

Following those comments, Mr. Nance received a round of applause.

Mr. Hernandez nominated Mr. Robert Veliz as Chair.

Mr. Castle explained Mr. Veliz would serve as Chair until February 2009.

1ST MOTION:

Motion made by Mr. Hernandez, seconded by Mr. Nance and unanimously carried to appoint Mr. Veliz Chair of the Zoning Board of Adjustment.

AYES: Ms. Jorgensen and Messrs. Cordova, Melendez, Barela, Nance, Veliz, Hernandez and Marquez

NAYS: N/A

The Motion passed. (8-0)

Mr. Veliz nominated Mr. David Marquez as Vice-Chair.

2ND MOTION:

Motion made by Mr. Veliz, seconded by Mr. Nance and unanimously carried to appoint Mr. Marquez Vice-Chair of the Zoning Board of Adjustment.

AYES: Ms. Jorgensen and Messrs. Cordova, Melendez, Barela, Nance, Veliz, Hernandez and Marquez

NAYS: N/A

The Motion passed. (8-0)

ADJOURNMENT:

Motion made by Mr. Veliz, seconded by Mr. Hernandez and unanimously carried to **ADJOURN THE ZBA MEETING AT 2:13 P.M.**

AYES: Ms. Jorgensen and Messrs. Cordova, Melendez, Barela, Nance, Veliz, Hernandez and Marquez

NAYS: N/A

The Motion passed. (8-0)

Robert Peña, Secretary, Zoning Board of Adjustment