





Furthermore, the storage shed must be removed as it impedes access. Ms. Castle explained the proposed carport will be constructed within the buildable area; however, the required five feet setback must remain clear.

Mr. Barela asked Staff if a special permit would be needed to build a rock wall higher than six feet.

Ms. Castle responded rock walls can be built up to eight feet without having to apply for a special waiver, per the new Code.

Mr. Neligh explained masonry walls, over six feet in height, must be engineered. Additionally, a permit is not required if a wall is built entirely on the property; however, a permit is required if the wall is shared, i.e., a common wall.

Mr. Thomas Myers, applicant, stated he had applied for and received a permit to build the masonry wall as it appears today. He does not want to remove the masonry wall. If necessary, he would remove the storage shed and added the masonry wall and courtyard were built with permit in 2006. He reiterated the storage shed was already there when he bought the house in 2001.

Ms. Castle added the 1986 aerial photo does not show a storage shed; however, the 1996 aerial photo does.

Chair Bowling explained the five foot setback is necessary to prevent fire from jumping house to house. In his opinion the masonry wall at the front is uniform and matches the home.

Ms. Castle clarified, per the PowerPoint photos, which portion of the masonry wall must be removed and where the terrace wall would turn in toward the house.

Mr. Neligh explained the problem is the masonry wall encroaches into the 25 foot front setback which allows the property owner to encroach 150 square feet into the side setback, but not over the 150 square feet. Normally, return walls are built behind the setback.

Chair Bowling asked Staff where in the Code it states the masonry wall cannot exist.

Mr. Neligh responded, per the Code, you are allowed to encroach 150 square feet if you go past the front and side setbacks in the front yard; additionally, per the Code, courtyards are considered that way.

Mr. Aguilar wondered if Board Members could approve the request with the condition the storage shed be removed; however, the masonry wall could remain intact. He added there is plenty of access on the other side.

Ms. Castle responded if the Board can be justify such a condition as far as retaining the access to the rear yard.

Ms. Jorgensen asked for a legal opinion regarding Mr. Aguilar's suggestion.

Ms. Osborn responded she would like to see the language in the Code.

Ms. Castle explained a wall is considered a structure if it is higher than two feet.

Ms. Jorgensen asked Staff what the front porch measurements were.

Ms. Castle responded Staff does not have that information.

**1<sup>ST</sup> MOTION:**

Motion made by Ms. Jorgensen, seconded by Mr. Bowling, to postpone the item to the next ZBA meeting so that Staff could get the porch measurements and find the applicable Code language.



**Development Services Report:**

5. Discussion and action regarding optional requirements for Special Exception C (Rear Yard Setback).

Prior to the meeting Staff distributed copies of proposed changes to the Special Exception C (Rear Yard Setback) language (attached to these minutes), Staff drafted some ideas and requested Board Members input.

Chair Bowling suggested adding the proposed language

- Could not be combined with the current Special Exception.

He thought the following proposed requirements for the “square footage option” were too restrictive:

- A greater minimum setback than the current 10 feet, perhaps 15 feet. A 15 feet setback would more severely impact the R-3A, R-4 and R-5 districts.
- Whatever the minimum setback, no structures attached to the house, including porches, would be permitted to encroach in the minimum setback.

Chair Bowling opined the language for the other bullets is more restrictive; he preferred less restrictive language. He was pleased there would be options, either/or but not both. He clarified you could use the existing language or the proposed language *“The maximum permitted square feet would be calculated by multiplying the 1/3 average lot width by the 3/5 required rear yard setback”*. One or the other, but not both, and it would be a one time Exception.

Ms. Castle explained the applicant could choose the square foot option or another alternative, but not both. She requested applicants not be allowed to return and argue they did not get all they had asked for. Per the existing Code, an applicant can come back and request additional width to the maximum width allowed width, which has happened on occasion.

Chair Bowling concurred.

Mr. Nance wondered if it would not be simpler to change the Zoning Code rather than the Special Exception language.

Ms. Castle explained City Council would have to approve changing the Zoning Code and any changes recommended by the Zoning Board.

Ms. Jorgensen asked what applicants request the most, one room additions or width of the home.

Ms. Castle responded one room additions; Mr. Neligh added small additions are the norm.

Chair Bowling noted it should all be governed by lot coverage, square footage, setbacks, etc. He stated the present Special Exception did not make much sense, the Board can grant a Special Exception one way but not another.

Mr. Neligh commented on maintaining 50 percent open area due to on-site ponding which can be problematic. Additionally, most setback rules are generated by fire prevention concerns.

Chair Bowling thanked Staff and added he would like to see this move forward.

Mr. Nance asked if this meant the other staff suggestions would not be part of the draft ordinance such as the 15 foot setback.

Chair Bowling noted he did not want to include the 15 foot setback nor the proposed third bullet language:

- Whatever the minimum setback, no structures attached to the house, including porches, would be permitted to encroach in the minimum setback.

Ms. Castle clarified the Board would like to move forward, revising the Special Exception C language adding the square footage option.

Mr. Aguilar stated he would like more time to review the options.

Chair Bowling thanked Staff.

Ms. Castle explained Staff would draft the ordinance language and asked Board Members to think about any other considerations/recommendations they would like to have included.

Ms. Osborn recommended Board Members direct Staff to prepare the draft ordinance language for the Board's review.

**MOTION:**

Motion made by Mr. Bowling, seconded by Mr. Gezelius and unanimously carried to direct Staff to prepare the draft ordinance language for the Board's review.

**AYES:** Ms. Jorgensen and Messrs. Gezelius, Aguilar, Nance, Barela, Bowling, Hernandez, Mendez and Melendez

**NAYS:** N/A

The Motion passed. (9-0)

-----

Prior to adjourning, Chair Bowling made comments regarding the Homebuilder's Association concerns regarding new home construction qualifying for the Special Exceptions. He said builders have wondered why there could not be a percentage of new construction in a particular subdivision that could qualify. He noted that the ZBA had discussed this option but had ultimately decided to restrict new home construction altogether.

-----

**ADJOURNMENT:**

**MOTION:**

Motion made by Mr. Gezelius, seconded by Mr. Nance and unanimously carried to **ADJOURN THE ZBA MEETING AT 2:29 PM**

**AYES:** Ms. Jorgensen and Messrs. Gezelius, Aguilar, Nance, Barela, Bowling, Hernandez, Mendez and Melendez

**NAYS:** N/A

The Motion passed. (9-0)

---

Linda Castle, Senior Planner