



**ZONING BOARD OF ADJUSTMENT MEETING MINUTES  
2ND FLOOR – MAIN CONFERENCE ROOM  
JULY 28, 2008  
1:30 P.M.**

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

The following Board Members answered roll call:

Mr. Robert Veliz (Chair)  
Mr. David Marquez (Vice-Chair)  
Mr. Rick Cordova  
Mr. Servando Hernandez  
Mr. Rigoberto Mendez  
Mr. Larry Nance  
Mr. Randy Bowling  
Mr. Jose Melendez  
Mr. Oscar Perez

The following City Staff members were present:

Ms. Mirian Spencer, Development Services Department, Planning Division, Planner  
Ms. Cynthia Osborn, City Attorney's Office, Assistant City Attorney  
Ms. Linda Castle, Development Services Department, Planning Division, Senior Planner  
Mr. Robert Peña, Development Services Department, Planning, Secretary, Zoning Board of Adjustment  
Mr. Juan Estala, Development Services Department, BP&I, Chief Plans Examiner

**CHANGES TO THE AGENDA**

Staff requested the following changes:

1. ZBA08-00058, 12008 Sal Rasura Court, postpone two (2) weeks – per the Applicant
2. ZBA08-00037, 5005 Love Road, postpone two (2) weeks – per the Representative

Prior to the vote, the Board and Staff discussed the postponement request for ZBA08-00037, 5005 Love Road.

Ms. Osborn explained the Representative had faxed over a memorandum requesting the postponement. Per the ZBA by-laws, City ordinances or State statute – there is no limit to the number of times an Applicant/Representative can request a postponement.

Mr. Hernandez questioned what scheduling options were available.

Ms. Osborn responded the Representative had submitted timely postponement notices, with the exception of the first request to postpone. The first request to postpone was submitted late Friday afternoon prior to the Monday meeting.

Mr. Nance asked Staff whether or not the Board was obligated to postpone even if the Applicant/Representative requested the postponement. He requested Staff research whether or not the Board is required to grant the postponement.

Ms. Osborn would research and provide an answer to the Board and added the Representative had preserved the right to appeal by submitting the postponement requests in a timely manner.

Mr. Hernandez asked Staff whether or not there was a time limit on appeals.

Ms. Osborn responded there is no such language in the State statute.

Mr. Veliz asked Staff whether or not the Board is authorized to deny the request to postpone but still hear the case.

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

Mr. Bowling clarified, in this instance, the Applicant had not violated the Code, i.e., built without a permit; the Representative was appealing the decision of the Administrative Official.

Mr. Perez asked Staff about notification.

Ms. Osborn responded the Representative had, with the exception of the first request to postpone, submitted the request to postpone in a timely manner.

Mr. Veliz requested that when the item is heard before the Board, the item is placed at the end of the agenda.

Ms. Castle responded, at that meeting, the Board could make that determination and explained how items are placed on the agenda.

Mr. Nance asked Staff whether or not the Representative was postponing to allow the Applicant the opportunity to build what they had initially requested to build.

Ms. Castle responded the contractor had assured the City they had not proceeded with any construction.

Additionally, Ms. Osborn reiterated the Applicant would be violating the Code.

Mr. Marquez explained that a request to postpone the item had been submitted by the Representative; therefore, any discussion was moot and the Board should move to the next item on the agenda.

Motion made by Mr. Melendez, seconded by Mr. Perez and unanimously carried to **POSTPONE TWO (2) WEEKS THE FOLLOWING:**

- 1. ZBA08-00058, 12008 SAL RASURA COURT; AND**
- 5. ZBA08-00037, 5005 LOVE ROAD**

**AYES:** Messrs. Cordova, Hernandez, Mendez, Nance, Marquez, Veliz, Bowling, Melendez and Perez

**NAYS:** N/A

The Motion passed. (9-0)

**ITEM 1:**

ZBA08-00058

12008 Sal Rasura Court

David Pedregon

Applicant requests a Special Exception from Section 2.16.050 K (Carport over a Driveway) in an R-5 (Residential) zone. This would permit the existence of a 24' by 14' carport proposed to encroach 14' into the required front yard setback. The required cumulative front and rear yard setback total is 45' in an R-5 zone. The applicants were cited on March 31, 2008 for constructing a carport that encroaches 14' into the required front yard setback without the applicable building permits. The applicants submitted the application for the Zoning Board of Adjustment on June 17, 2008 after the second inspection and certified letter were sent to the property owner. The carport rises above the highest point of the roof of the dwelling and is not constructed of the same material, structural design, and color scheme as the existing residential structure. The Building Permits and Inspections Division has reviewed the plans and found them to not be acceptable. The existing and proposed beams are not compliant with the building code load requirements. In addition, there is a 10' utility easement located at the front property line; the owner will have to obtain permission from the utility companies in order to build within the easement. *Staff recommends denial of the Special Exception as the application does not meet requirements 2, 3, and 4 of Section 2.16.050 K of the El Paso Municipal Code.*

Motion made by Mr. Melendez, seconded by Mr. Perez and unanimously carried to **POSTPONE TWO (2) WEEKS ZBA08-00058, 12008 SAL RASURA COURT, PER THE APPLICANT.**

**AYES:** Messrs. Cordova, Hernandez, Mendez, Nance, Marquez, Veliz, Bowling, Melendez and Perez

**NAYS:** N/A

The Motion passed. (9-0)

**ITEM 2:**

ZBA08-00060

14257 Tierra Bronce Drive

Xavier Homes Inc.

Applicant requests a Special Exception under Section 2.16.050 G (Builder Error) in an R-5 (Residential) zone. This would permit the existence of a new residence encroaching 0.3' into the easterly side yard setback. The required interior side yard setback is 5' in an R-5 (Residential) zone. The applicant is requesting the Special Exception to legalize the existing 0.3' encroachment into the interior side yard setback. The inadvertent error was caused when measurements were taken during the setting of the foundation. The home passed all applicable inspections, however, when the completed home was surveyed for sale, the survey showed the encroachment. The builder has not submitted a request for an error in construction within twelve months.

Ms. Spencer gave a PowerPoint presentation and noted *Staff recommends approval of the Special Exception as the application meets the requirements under Section 2.16.050 G of the El Paso Municipal Code.*

Mr. Melendez asked Staff whether or not the Applicant had submitted a plat with a surveyor's certification seal.

Ms. Iliana Clint, Vice-President, Xavier Homes Inc., presented a copy of the plat with the surveyor's seal for the Board

Ms. Castle responded a copy of the plat was in the file.

Mr. Veliz asked Staff how many errors a builder was allowed per year.

Ms. Spencer responded three errors per 12 months.



**ITEM 4:**

ZBA08-00063

3401 Tea Rose Place

Ruben and Oralia Salazar

Applicants request a Special Exception from Section 2.16.050 F (Side Street Yard Setback) in an R-3A/c/sp (Residential/conditions/special permit) zone. This would permit the existence of a porch that encroaches 5' into the required side street yard setback. The required side street yard setback in an R-3A/c/sp zone is 10'. The applicants were building the porch encroaching 5' into the required side street yard setback when they were issued a correction notice by an inspector on June 10, 2008. The applicants submitted the application to the Zoning Board of Adjustment on July 7, 2008. The Engineering Department – Traffic Division has no objections to the proposed open porch.

Ms. Spencer gave a PowerPoint presentation and noted *Staff recommends approval of the Special Exception as the application meets the requirements of Section 2.16.050 F with the conditions that the porch beams and posts must be located a minimum 5' from the side street yard setback and the porch shall not be enclosed. The applicants shall not request additional reductions in setbacks per condition 2 of Section 2.16.050 F.*

***The Zoning Board of Adjustment is empowered under Section 2.16.050 F to:  
“Modify district side street yard requirements where the following conditions are met:  
2. The minimum front and rear setbacks shall not be reduced***

Mr. Nance remarked that the beams must be moved another seven inches, as per the plan.

Ms. Oralia Salazar, Applicant, responded she was aware that one of the beams must be moved.

Ms. Spencer explained enclosing the patio would encroach into the rear yard setback due to the Applicant's existing 180 square feet open patio.

Mr. Cordova asked Staff to clarify the lay of the roof to the property line.

Ms. Castle explained the Applicants could encroach 24”.

Prior to the vote, Ms. Salazar stated she had brought letters from her neighbors in favor of the construction.

Mr. Bowling reiterated Staff recommends the beam must be moved seven inches over.

Mr. Melendez clarified the pole can move over but the beam could stay where it is, as long as the support was inside the five feet.

Mr. Estala explained Staff would need to review the plans.

Chair Veliz asked if members of the audience were present to speak in favor of or in opposition to the application. There being none, Mr. Perez moved, Mr. Melendez seconded and unanimously carried to **APPROVE THE APPLICATION WITH THE CONDITIONS THAT THE PORCH BEAMS MUST BE LOCATED A MINIMUM 5' FROM THE SIDE STREET YARD SETBACK AND THE PORCH SHALL NOT BE ENCLOSED.**

**AYES:** Messrs. Cordova, Hernandez, Mendez, Nance, Marquez, Veliz, Bowling, Melendez and Perez

**NAYS:** N/A

The Motion passed. (9-0)



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Robert Peña, Secretary, Zoning Board of Adjustment