



**CITY DEVELOPMENT DEPARTMENT  
ZONING BOARD OF ADJUSTMENT MEETING MINUTES  
CITY COUNCIL CHAMBERS, 2ND FLOOR, CITY HALL  
OCTOBER 8, 2012  
1:30 P.M.**

Meeting called to order at 1:31 p.m.

The following Board Members answered roll call:

Mr. Rigoberto Mendez, Vice-Chairman  
Mr. Robert Garland  
Mr. Robert Concha, Jr.  
Mr. Sam Barela  
Mr. Rick Cordova  
Mr. Jeff Gonzalez  
Mr. Lamar Skarda

The following City Staff were present:

Ms. Linda Castle, City Development Department, Zoning Board of Adjustment Coordinator  
Mr. Alex Hoffman, City Development Department, Lead Planner  
Mr. Juan Estala, City Development Department, Chief Plans Examiner  
Ms. Kristen Hamilton, City Attorney's Office, Assistant City Attorney

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Vice-Chairman Mendez asked if Board Members had any questions and/or comments. There were none.

Vice-Chairman Mendez asked if anyone in the audience wished to speak in favor of or in opposition to the request. There was none.

**MOTION:**

*Motion made by Mr. Gonzalez, seconded by Mr. Garland AND UNANIMOUSLY CARRIED TO APPROVE.*

**ITEM 4:**

PZBA12-00035                      9816 Saigon Drive                      Erika Abes Duran  
Applicant requests a Special Exception under Section 2.16.050 C (Rear Yard Setback) in an R-3 (Residential) zone. This would allow an 18' by 18' addition of which an 18' by 9' portion is proposed to encroach into the required rear yard setback and to be located to within 16' of the rear property line. The required front and rear yard cumulative setback total is 50 feet in the R-3 zone district. The applicant is requesting a new addition that will encroach into the required rear yard setback. **STAFF RECOMMENDATION IS FOR APPROVAL AS IT MEETS THE REQUIREMENTS OF THE SPECIAL EXCEPTION C.**

Ms. Castle gave a PowerPoint presentation and noted Staff did not receive any phone calls, letters or emails regarding this request. Per the PowerPoint presentation, the applicant had already poured the slab for the proposed addition.

Mr. Edgar Estrada, representing the applicant, stated he did not have a permit currently but would get one.

Ms. Castle explained property owners are allowed 180 square feet of open patio.

**MOTION:**

Motion made by Mr. Gonzalez to approve.

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*Vice-Chairman Mendez translated Spanish and English for Messrs. Hernandez and Soto.*

Mr. Manuel Hernandez, applicant, and Mr. Jose Soto, representing the applicant, were present.

Mr. Hernandez explained he is here because he received a letter from the Environmental Services Department.

Mr. Soto added Mr. Hernandez bought the home in 2005 and has not made any improvements since that time. However, he recently painted the home, trying to spruce it up; it was then that he received the letter from the City.

Mr. Estala explained the addition is part of the original structure and therefore requires five (5) foot side yard setbacks on the sides. The Zoning Code states that R-4 (Residential) zoning requires five (5) foot side yard setbacks; this structure is built to 0' of the property line. Additionally, the Building Code states anything closer than five (5) feet from the property line must be one hour fire rated construction.

Mr. Hernandez commented on the apartments abutting his property that were built up to his property line; additionally, he explained that there are several properties in his neighborhood that are built to the property line.

Mr. Estala explained an accessory structure must be five (5) feet from the original structure and can be built to the property line; however, the accessory structure must be fire rated and cannot be used as living quarters. Mr. Estala explained that there are two violations of the existing Code for this property, violations of both the Zoning and Building Codes.

Mr. Cordova referred to a previous request where Board Members approved the side yard encroachment on a residence. He wondered if Board Members could approve the Special Exception if the accessory structure were fire rated.

Mr. Garland commented that the accessory structure was built without permits and that the property could not be grandfathered.

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Ms. Castle explained the property was part of the City in 1955, but the addition was not and therefore could not be grandfathered.

Mr. Gonzalez suggested Mr. Hernandez reduce the original structure five feet on both sides and to come back with new site plans.

Ms. Castle added, at the time Mr. Hernandez comes in for permit to demolish any encroaching structures, all issues should become compliant.

**IN SUMMARY**

Vice-Chairman Mendez explained to Mr. Hernandez and Mr. Soto:

1. Is willing to remove five (5) feet from each side yard setback;
2. Is willing to request a permit; and
3. Is willing to maybe make some improvements if the permit requires.

Mr. Gonzalez hoped Mr. Hernandez understood the Board would be denying and that he is advised to remove the five feet so that he does not have to come before the Board again.

Mr. Garland asked if Vice-Chairman Mendez would explain to Mr. Soto that the other properties may have had pre-existing conditions and may be exempt from the current ordinance, grandfathered into the City prior to 1955.

Vice-Chairman Mendez asked if Board Members had any questions and/or comments. There were none.

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

***MOTION:***

***Motion made by Mr. Garland, seconded by Mr. Gonzalez AND UNANIMOUSLY CARRIED TO DECLINE THE REQUEST.***

Following the vote Mr. Cordova asked if Staff would look into next door neighbor's property. Ms. Castle will inform Environmental Services.

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**FOR THE RECORD**

Vice-Chairman Mendez explained to Mr. Soto to:

1. Request a permit;
2. Remove five feet from each side yard setback;
3. Should the property owner request to do other things, he will have to comply with the Code prior to receiving a permit

**Other Business**

6. Approval of Minutes: September 10, 2012

Vice-Chairman Mendez asked if Board Members had any additions/corrections/revisions to the minutes. There was no response.

***MOTION:***

*Motion made by Mr. Gonzalez, seconded by Mr. Garland AND UNANIMOUSLY CARRIED TO APPROVE THE SEPTEMBER 10, 2012 MEETING MINUTES.*

***ABSTAIN:*** Messrs. Cordova and Skarda

7. Discussion and Update: Ethics Training

Ms. Castle explained Board Members have until December 30, 2012 to complete the Ethics Training. The City has posted the training online at: <http://home.elpasotexas.gov/city-attorney/ethics.php>

Following completion of the training, Board Members were asked to notify Ms. Castle or Ms. Martinez that they've completed the Ethics Training.

**CHANGES TO THE AGENDA**

1. Move Item 1. Election of ZBA Chairman to the end of the agenda.

*Motion made by Mr. Cordova, and UNANIMOUSLY CARRIED TO MOVE ITEM 1. ELECTION OF ZBA CHAIRMAN TO THE END OF THE AGENDA.*

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Ms. Castle explained that Vice-Chairman Mendez' term had expired; however, he would be discussing with City Council Representative Holguin to perhaps appoint him as an "Alternate". She explained that only "Regular" Board Members can be appointed Chairman.

Vice-Chairman Mendez nominated Mr. Robert Concha, Jr. as Chairman of the Zoning Board of Adjustment.

**MOTION:**

Motion made by Vice-Chairman Mendez, seconded by Mr. Skarda **AND UNANIMOUSLY CARRIED TO APPOINT MR. ROBERT CONCHA, JR., CHAIRMAN OF THE ZONING BOARD OF ADJUSTMENT.**

Vice-Chairman Mendez nominated Mr. Robert Garland as Vice-Chairman of the Zoning Board of Adjustment.

**MOTION:**

Motion made by Vice-Chairman Mendez, seconded by Mr. Gonzalez **AND UNANIMOUSLY CARRIED TO APPOINT MR. ROBERT GARLAND, VICE-CHAIRMAN OF THE ZONING BOARD OF ADJUSTMENT.**

**MOTION:**

**Motion made by Mr. Cordova, seconded by Vice-Chairman Garland AND UNANIMOUSLY CARRIED TO ADJOURN AT 2:21 P.M.**

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Linda Castle, Senior Planner

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