









**ITEM 5:**

ZBA10-00048

1656 Bob Smith

Maria L. McMillin

Applicant requests Special Exceptions under Section 2.16.050 C (Rear Yard Setback) and Section 2.16.050 L (15 Years or More, Accessory Building) in an R-3 (Residential) zone. This would permit the existence of a 22.7' by 9.7' enclosure of a patio that encroaches in the required rear yard setback and a 10' by 20' storage building located in the rear yard and located less than 5 feet from the main structure. The required cumulative front and rear yard setback total is 50 feet in the R-3 zone district. The applicant purchased the house in 2008 and is requesting to legalize the 200 sq. ft. accessory structure which is located less than 5 feet from the main structure and is located to within 1 foot of the side and rear property lines. There is no building permit for the structure. In addition, the porch that encroaches in the required rear yard setback has been enclosed. The applicant supplied a survey dated 1994 that shows the storage building and the encroachment in the rear yard to within 15.6 feet of the rear property line. The plans submitted for permit in 1978 indicate the encroachment in the rear yard as a porch. The 1986 aerial shows the accessory building and the patio roof existing then as it does now. Staff did not receive any letters and/or phone calls in favor of or opposition to the request.

Ms. Castle gave a PowerPoint presentation and stated:

1. **STAFF RECOMMENDS APPROVAL OF THE SPECIAL EXCEPTION C FOR THE PORCH ENCLOSURE; ADDITIONALLY,**
2. **STAFF RECOMMENDS DENIAL OF THE SPECIAL EXCEPTION L FOR THE ACCESSORY BUILDING DUE TO ITS LOCATION WITHIN 5 FEET OF THE MAIN HOUSE.**

Ms. Osborn stated the accessory structure does not meet Section 2.16.050 C. 5. requirement of *"The total floor area of all detached accessory structure(s) existing or later constructed on the site shall not exceed one hundred eighty square feet"*; further, the accessory structure must meet all Section 2.16.050 L requirements.

Mr. Santamaria and Ms. Jorgensen listed the following issues regarding the accessory structure. Ms. Jorgensen added the issues do not overcome the less than five foot distance between the buildings and proximity to property lines.

1. *it's too large;*
2. *it's too close to the property lines;*
3. *it was built without a permit;*
4. *it was pre-existing for more than 15 years; and*
5. *built by a prior owner*

Chair Cordova asked if the applicant or representative was present.

Mr. Alfonso Soto, representing the applicant, explained the little white building is a metal tool shed. He asked the Board to allow the property owner to keep the larger accessory structure, it would be a hardship for her to remove it. The accessory structure is a Morgan shed, metal roof with wooden sides; additionally, the accessory structure runoff drains onto the property owner's property. The rear neighbor submitted a letter stating both conditions were present at the time they moved into their home in 1986.





His intentions are to notch the house; however, if necessary, he will take the roof off. The corner will be cantilevered over the new wall four feet. He has not submitted the design for the beam because it is existing; it is not cantilevered now because it will become a bearing wall and will be carrying 4' of canopy.

**FOR THE RECORD**

Mr. Aguilar stated he denied the request at the October meeting due to:

1. no permit being issued; and
2. the proximity to the pool was a major concern

Furthermore, the revised site plan does not look any better than the original; just looks like it was erased and 4' was penciled in.

**DISCUSSION REGARDING THE ENGINEER DESIGNED CANTILEVERED CORNER**

*Regarding the cantilevered corner; Mr. Estala noted, anything over three feet must be engineer designed.*

*Mr. Oliver responded he could do that.*

*From the October meeting, Mr. Aguilar remembered, Board Members had requested Mr. Oliver bring an engineer designed cantilever.*

*Mr. Melendez referred to the October 11, 2010 ZBA Meeting Minutes, page 4, and read the following sentence into the record: "Mr. Melendez explained that a corner (a 4' cantilever) of the roof cannot be supported by the existing beam; it would have to be designed by an engineer."*

*Mr. Oliver responded he received a letter from Staff explaining the item had been postponed to the November 8<sup>th</sup> ZBA meeting, that the contractor must provide a revised site plan showing how the addition would be reduced to be 4' from the pool edge and showing all structures in the rear yard. The letter did not state anything about requiring an engineer designed cantilever.*

*Chair Cordova clarified the Motion language could state approval subject to submittal of the plans sealed by an engineer.*

*Mr. Oliver understood he must submit plans, with an engineer seal, prior to receiving permits.*

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

Chair Cordova asked Board Members if they had any further questions of Staff and/or the representative.

Mr. Mendez wondered if the Board could postpone the request to allow the contractor time to get engineer designed plans.

Ms. Osborn clarified the Board can approve the encroachment in the rear yard; plans will be reviewed by another Department. The Board does not approve the plans; plans are required so that the Board can rule on the Special Exception.



Mr. Aguilar noted Staff recommends approval of the request for the Special Exception C, based on the revised site plan, which shows the addition located at least 4 feet from the pool edge. He explained Staff and Board Members have discussed site plan requirements on several occasions; this revised site plan does not meet those requirements and may not be even be to scale.

Ms. Osborn explained Staff does not have to accept the site plan if they do not meet the requirements. Furthermore, Board Members can send it back or deny the request.

**MOTION:**

Motion made by Mr. Santamaria to **APPROVE SPECIAL EXCEPTION C PER STAFF RECOMMENDATION.**

**MOTION REVISED:**

Motion made by Mr. Santamaria, seconded by Mr. Mendez and **UNANIMOUSLY CARRIED TO APPROVE THE SPECIAL EXCEPTION C AND MAKE A SPECIAL NOTE THAT THE FOUR FOOT SETBACK IS MET AND REVIEWED BY THE PERMIT DEPARTMENT.**

**AYES:** Ms. Jorgensen and Messrs. Perez, Mendez, Melendez, Aguilar, Santamaria, Cordova, Skarda and Garland

**NAYS:** N/A

Motion passed. (9-0)

**Other Business:**

7. Approval of Minutes: October 11, 2010

Chair Cordova asked Board Members if they had any corrections/revisions to the minutes. There being none.

**MOTION:**

Motion made by Mr. Melendez and **UNANIMOUSLY CARRIED TO APPROVE THE OCTOBER 11, 2010 MEETING MINUTES**

**AYES:** Ms. Jorgensen and Messrs. Aguilar, Melendez, Cordova and Skarda

**ABSTAIN:** Messrs. Perez, Mendez, Santamaria and Garland

Motion passed. (5-0)

Prior to adjourning, Ms. Castle noted the next ZBA meeting will include the election of Officers.

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**MOTION:**

Motion made by Chair Cordova and **UNANIMOUSLY CARRIED TO ADJOURN.**



**AYES:** Ms. Jorgensen and Messrs. Perez, Aguilar, Bowling, Cordova, Mendez, Melendez, Gezelius and Skarda

**NAYS:** N/A

Motion passed. (9-0)

After the meeting adjourned, Staff and Board Members discussed *front yard encroachments and Special Exception K (Carport over a Driveway.*, “Permit the encroachment into the required front yard setback for a lot in a residential (R) district beyond other allowed modifications for a carport covering a driveway; provided, however, that:, specifically 4. “The area of the carport shall not exceed one-fifth of the first-floor area of the dwelling, ....”

Ms. Osborn felt the language could be reworded for clarification, for example, “the encroachment cannot exceed one-fifth...”

Staff will place an item for discussion and action on the December agenda.

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Linda Castle, Senior Planner

