



**ZONING BOARD OF ADJUSTMENT MEETING MINUTES  
CITY COUNCIL CHAMBERS, 2<sup>ND</sup> FLOOR, CITY HALL  
MARCH 12, 2012  
1:30 P.M.**

Chair Aguilar called the meeting to order at 1:31 p.m.

The following Board Members answered roll call:

Mr. Ken Gezelius  
Mr. Robert Garland  
Mr. Robert Concha, Jr.  
Mr. Rick Cordova  
Mr. Rick Aguilar, Chair  
Mr. Scott Walker  
Mr. Lamar Skarda

The following City Staff were present:

Ms Linda Castle, Planning & Economic Development, Zoning Board of Adjustment Coordinator  
Ms. Sol Cortez, City Attorney's Office, Assistant City Attorney  
Ms. Cynthia Osborn, City Attorney's Office, Assistant City Attorney  
Mr. Juan Estala, Building Permits & Inspections, Chief Plans Examiner

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**ITEM 1:**

PZBA12-00007                      10108 Newcastle Street                      Jon Hantzsche  
Applicant requests a Special Exception under Section 2.16.050 C (Rear Yard Setback) in an R-4 (Residential) zone. This would allow an 11' by 13.5' addition that is proposed to encroach in the required rear yard setback and to be located to within 13 feet of the rear property line. The required front and rear yard cumulative total setback is 45 feet in the R-4 zone district. The applicant is requesting to enclose part of the patio for a sunroom, of which an 11' by 6.5' portion is encroaching 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 received one phone call of inquiry.

The following commented and/or asked questions:

1. Mr. Rick Cordova noted the storage shed was within the side setback. He asked Staff to check the shed for any concerns/issues.
2. Ms. Castle responded Staff had no objection with the storage shed. She explained if the shed is located closer than five feet to the existing home, it becomes part of the existing home.
3. Mr. Juan Estala explained, per the Code, the storage shed must be five feet away from the roof of the existing home. He requested the applicant fire rate the wall facing the property.
4. Mr. Gary Thomas, representing the applicant, clarified the exact location of the shed.
5. Mr. Jon Hantzsche, applicant, explained the rock wall was over six feet high and the shed is made of metal; there is no fire hazard. Mr. Hantzsche stated he would demolish the storage shed.

Chair Aguilar asked if anyone in the audience wished to speak in favor of or opposition to the request. There was no response from the audience.



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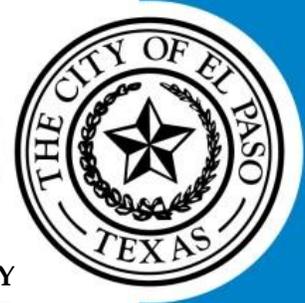
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**MOTION:**

Motion made by Mr. Garland, seconded by Mr. Skarda and **UNANIMOUSLY CARRIED TO APPROVE PENDING THE RELOCATION OF EXISTING SHED.**

**ITEM 2:**

PZBA12-00008                      1608 Billy Casper Drive                      Andy Dominguez  
Applicant requests a Special Exception under Section 2.16.050 C (Rear Yard Setback) in a R-3 (Residential) zone. This would permit an addition of which a portion, approximately 280 square feet, is proposed to encroach in the required rear yard setback and to be located to within 10' of the rear property line. The required front and rear yard cumulative setback total is 50 feet in the R-3 zone district. The ZBA approved Special Exceptions for this same project on March 10, 2008 and June 8, 2009 (see decision letters), but building permits were never requested and the approvals expired. The applicant is proposing additions and improvements to his house, of which approximately 280 square feet is proposed to encroach in the rear yard setback. **STAFF RECOMMENDATION IS FOR APPROVAL AS IT MEETS THE REQUIREMENTS OF THE SPECIAL EXCEPTION C.**

Ms. Castle gave a PowerPoint presentation.

Mr. Henry Ordonez, representing the applicant, was present.

Chair Aguilar asked if anyone in the audience wished to speak in favor of or opposition to the request. There was no response from the audience.

**MOTION:**

Motion made by Mr. Cordova, seconded by Mr. Garland and **UNANIMOUSLY CARRIED TO APPROVE.**



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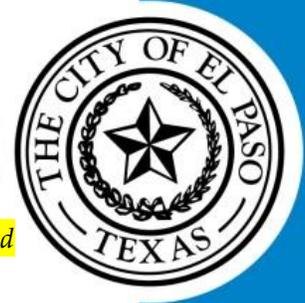
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Prior to the meeting copies of the revised Cover Sheet were distributed to Board Members and Staff.

**REVISED**

**ITEM 3:**

PZBA12-00009                      5631 Dyer Street                      Walmart Real Estate  
Applicant requests a Variance under Section 2.16.030 from Section 20.18.450 B., On-premise sign regulations. The request is for a Variance from the sign regulations in the El Paso City Code, Section 20.18.450 B., On-premise signs, pole sign, C-4 zone district, primary sign with arterial frontage. This would permit a pole sign with a height greater than the permitted 25 feet for a primary pole sign on a major arterial. The applicant is requesting the Variance for a pole sign higher than 25 feet, with a sign area of 95 square feet, for their new Walmart store. The applicant's representative has been contacted to provide an elevation drawing that shows the requested sign height and also to explain the unnecessary hardship, by reason of topography of land or odd shaped lot. **The applicant's response is that they are requesting a 45 feet high sign.** **STAFF RECOMMENDS DENIAL OF THE VARIANCE REQUEST AS THERE ARE NO SPECIAL CONDITIONS, NEITHER TOPOGRAPHIC NOR ODD SHAPE OF THE LOT, EXISTING ON THE SUBJECT PROPERTY.**

Ms. Castle gave a PowerPoint presentation and noted the applicant is requesting a 45 feet high pole. The representative did not submit a revised site plan.

**The following questions should be carefully considered in order to grant a variance:**

1. Is the variance consistent with public interest?
2. Is the need for the variance due to special conditions?



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3. Would a literal enforcement of the ordinance create an unnecessary hardship?
4. Would the spirit of the ordinance be observed and substantial justice done if the variance is approved?

*Definition of Unnecessary Hardship, Section 20.02.1128*

*“Unnecessary hardship” means a hardship by reason of exceptional shape of a lot, exceptional topographic conditions, or other exceptional physical conditions of a parcel of land. Unnecessary hardship shall not include personal or financial hardship or any other hardship that is self-imposed.”*

The following commented and/or asked questions:

1. Ms. Sunday Baugher, architect representing the applicant, explained the applicant is requesting a visibility variance for a 45’ high pole.
2. Mr. Concha, Jr.
3. Mr. Walker
4. Mr. Cordova
5. Chair Aguilar
6. Ms. Osborn provided legal guidance

**APPENDIX A: Findings – Variances**

INQUIRY		FINDINGS
<p>Is the request for a variance owing to special condition inherent in the property itself?</p> <p>If yes, <b>CONTINUE</b> If no, <b>STOP</b></p> <p><b>NO: Messrs. Gezelius, Garland, Concha, Jr., Cordova, Aguilar, Walker and Skarda</b></p>		<p>The property is/has ... (e.g., odd-shaped, unusual topography, etc.)</p>



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Chair Aguilar asked if anyone in the audience wished to speak in favor of or opposition to the request. There was no response from the audience.

**MOTION:**

Motion made by Mr. Garland, seconded by Mr. Gezelius and **UNANIMOUSLY CARRIED TO DENY THE REQUEST.**

*Prior to the meeting, copies of the Building Permits & Inspections Memorandum were distributed to Board Members and Staff.*

**REVISED**

**ITEM 4:**

PZBA12-00010                      9213 Nottingham Drive                      Pablo S. Hernandez  
Applicant requests a Special Exception under Section 2.16.050 J (Carport over a Driveway) in an R-3 (Residential) zone. This would permit a 25' by 15' carport that is proposed to encroach into the front yard setback and to be located to within 8 feet of the front 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 carport which will encroach in the front yard setback. There is no utility easement at the front property line. The elevation drawings show that the carport will match the house in materials and design and that the carport roof will rise no higher than the roof of the house. BP&I failed the structural design. The applicant's representative is submitting revised structural plans for further review. **STAFF RECOMMENDATION IS PENDING REVIEW OF REVISED STRUCTURAL PLANS.**

Ms. Castle gave a PowerPoint presentation and noted the Building Permits & Inspections approval memorandum has been received and revised Site Plan Structural Drawings were distributed to the Board.



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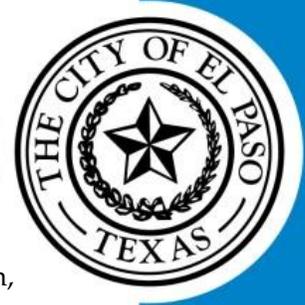
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The following commented and/or asked questions:

1. Mr. Joel Rivera, representing the applicant, explained the existing porch, and possibly the canopy over the doorway, would be demolished.
2. Mr. Rick Cordova

Chair Aguilar asked if anyone in the audience wished to speak in favor of or opposition to the request. There was no response from the audience.

**MOTION:**

Motion made by Mr. Skarda, seconded by Mr. Gezelius and **UNANIMOUSLY CARRIED TO APPROVE.**

*Prior to the meeting, copies of the revised Site Plan were distributed to Board Members and Staff.*

**ITEM 5:**

PZBA12-00011    830 E. San Antonio Avenue and 109 S. Virginia Street    ORO Partners Ltd. Applicant requests a Special Exception under Section 2.16.050 B (Two or More Non-Conforming) in a C-4 (Commercial) zone. This would permit the construction of a new structure located to within 0 feet of the side street and rear property lines. The required side street setback is 10 feet and the required rear yard setback is 10 feet in the C-4 zone district. The applicant is requesting to construct a new building at the corner of San Antonio Avenue and Virginia. The new building is proposed to be on the 109 S. Virginia Street parcel and to be attached to the existing building at 830 San Antonio Avenue. There are several properties in the same block and directly or diagonally across the street that are built to the side street property line: 830 E. San Antonio Avenue, 800 E. San Antonio Avenue, 100 Ochoa Street and 909 E. San Antonio Avenue. The properties at 800 and 810 E. San Antonio Avenue are built to the rear property line. The property is in the Downtown 2015 Plan area and parking regulations do not apply; however, the owner is providing parking for the subject property

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on his adjacent lot to the west. **STAFF RECOMMENDATION IS FOR APPROVAL OF THE REQUEST FOR THE SPECIAL EXCEPTION B, WITH A CONDITION THAT STREET TREES ARE PROVIDED ON BOTH SAN ANTONIO AVENUE AND VIRGINIA STREET.**

Ms. Castle gave a PowerPoint presentation and noted the revised Site Plan was distributed to the Board prior to the meeting.

The following commented and/or asked questions:

1. Mr. Eric Madrigal, representing the applicant,
2. Mr. Rick Cordova remembered the Board had approved angled parking for the Mexican Consulate several months ago. He was curious whether or not the angled parking had affected the parking in the area.
3. Ms. Castle reiterated this area is in the Downtown 2015 Plan, parking regulations do not apply at all. She believed the Consulate project had not yet begun.
4. Mr. Eddie Guzman, representing the applicant, explained the parking for the Mexican Consulate is not angled, it is parallel.

Chair Aguilar asked if anyone in the audience wished to speak in favor of or opposition to the request. There was no response from the audience.

**MOTION:**

Motion made by Mr. Cordova, seconded by Mr. Gezelius and **UNANIMOUSLY CARRIED TO APPROVE.**

Mr. Garland amended the motion to include the landscaping per Staff recommendation.

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**AMENDED MOTION:**

Motion made by Mr. Cordova, seconded by Mr. Gezelius and **UNANIMOUSLY CARRIED TO APPROVE STAFF'S RECOMMENDATION WHICH INCLUDES THE CONDITION.**

**ITEM 6:**

PZBA12-00012                      6331 Alabama Street                      El Maida Shrine  
Applicant requests a Variance under Section 2.16.030 from Section 20.18.410 B., Sign Regulations, R-4 zone district. The application is for a Variance under Section 2.16.030 from the sign regulations in the El Paso City Code, Section 20.18.410 B, to allow additional signage for El Maida Shrine. A nonresidential use in a Residential zone district is permitted one identification sign, either a wall sign or a monument sign. El Maida Shrine is requesting a new illuminated monument sign, 5 feet high, 20 square feet; however, they have an existing sign on a rock wall at the entry to the property. In addition, there is an ironwork Shriner symbol above the rock wall that is labeled as a sculpture on the plans, plus they have signage on their building. They want to keep existing signage and add the new monument sign. The plans indicate that the topography blocks the view of the building from the street. The applicant believes additional signage is needed to identify their property. The applicant had requested a rezoning to C-4 (Regional Commercial District) last year, but the request was denied by City Council on April 25, 2011. An applicant who has been denied a rezoning can reapply after one year. **STAFF RECOMMENDS DENIAL OF THE REQUEST FOR THE ADDITIONAL SIGN BECAUSE WITH THEIR EXISTING SIGNAGE, THE APPLICANT IS ALREADY EXCEEDING SIGNAGE ALLOWANCES FOR A NONRESIDENTIAL USE IN THE R-4 ZONE DISTRICT. STAFF RECOMMENDS THAT THE APPLICANT APPLY FOR REZONING AGAIN TO A ZONE DISTRICT THAT WOULD ALLOW MORE SIGNAGE THAN THE R-4 ZONE DISTRICT ALLOWS.**

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**The following questions should be carefully considered in order to grant a variance:**

1. Is the variance consistent with public interest?
2. Is the need for the variance due to special conditions?
3. Would a literal enforcement of the ordinance create an unnecessary hardship?
4. Would the spirit of the ordinance be observed and substantial justice done if the variance is approved?

*Definition of Unnecessary Hardship, Section 20.02.1128*

*"Unnecessary hardship" means a hardship by reason of exceptional shape of a lot, exceptional topographic conditions, or other exceptional physical conditions of a parcel of land. Unnecessary hardship shall not include personal or financial hardship or any other hardship that is self-imposed."*

Prior to the PowerPoint presentation, Ms. Castle asked if any Board Members were Shriners. There was no response from Board Members. Ms. Castle explained the proposed monument sign would meet the requirements of the Code, for a non-residential use, if that was the only sign for the property.

The following commented and/or asked questions:

1. Ms. Osborn stated the proposed sign does comply with the Code, if allowed. She clarified the applicant is requesting a variance to exceed the number of signs allowed. The variance is to vary the number of signs allowed. Staff is recommending that the Board not grant this additional sign; however, should the Board approve the proposed sign, the Board add the condition that the applicant remove the existing signage.
2. Chair Aguilar



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3. Mr. Gregory Cook, architect, representing the applicant, felt the applicant needed more signage. He explained that because of the topography of the land, you cannot see the building from Alabama Street. Additionally, there is no building frontage identifying the building. Mr. Cook felt the applicant needed more signage. He stated the applicant requires two types of signage:
  - a. *Yes, We Are Open, signage explaining events happening at the Shrine; and*
  - b. *Fixed sign identifying who were are*
4. Mr. Garland
5. Ms. Castle explained if the Board approves the sign which the applicant is requesting and meets the Code, Staff recommends that the applicant take down their other signage. Ms. Castle stated the applicant could have one of the following sign types:
  - a. Wall sign of a certain size; or
  - b. Monument sign of a certain size
6. Mr. Cordova questioned and/or commented on:
  - a. What sign(s) would the applicant remove;
  - b. Different types of sign
7. Mr. Cook clarified if the Board approves with a condition that a building sign is allowed (sign placed on the actual building); rather than approve a building sign, he requested/suggested that the Board allow signage be placed on the rock wall.
8. Mr. Goff gave a PowerPoint presentation.
9. Per the PowerPoint presentation, Mr. Skarda noted Mr. Goff stated the applicant would be renaming the existing signage. Mr. Skarda explained, per the Code, address signage is required. Mr. Skarda suggested the applicant leave the address and remove all other existing signage.

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10. Ms. Castle believed the C-4 rezoning request was denied by the City Council because City Council felt the C-4 zoning was too intense. Per Mr. Goff's PowerPoint presentation, Ms. Castle clarified the applicant is requesting a 5' monument sign which is not the same height as the sign for the neighboring property, Bethel Temple Church.
11. Chair Aguilar reiterated, according to the application, the applicant is requesting an illuminated monument sign, 5' high and 20 square feet.

At this time, Chair Aguilar requested Board Members read through **Appendix A: Findings – Variance** based on a 20 square foot, 5' in height, illuminated sign.

Ms. Osborn clarified the variance is that the Board is varying the number of signs allowed.

**APPENDIX A: Findings – Variances**

INQUIRY	FINDINGS
<p>Is the request for a variance owing to special condition inherent in the property itself?</p> <p>If yes, <b>CONTINUE</b> If no, <b>STOP</b></p> <p><b>YES:</b> Messrs. Gezelius, Garland, Concha, Cordova, Aguilar, Walker, and Skarda</p>	<p>The property is/has ... (e.g., odd-shaped, unusual topography, etc.)</p>

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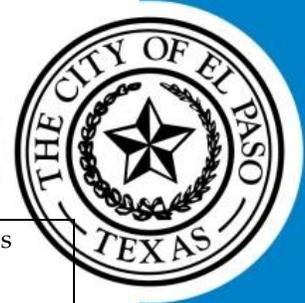
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<p>Is the condition one unique to the property requesting the variance?</p> <p>If yes, <b>CONTINUE</b> If no, <b>STOP</b></p> <p><b>YES:</b> Messrs. Gezelius, Garland, Concha, Cordova, Aguilar, Walker, and Skarda</p>	<p>The condition is unique to this property.</p>
<p>Is the condition self-imposed or self-created?</p> <p>If yes, <b>STOP</b> If no, <b>PROCEED</b></p> <p><b>NO:</b> Messrs. Gezelius, Garland, Concha, Cordova, Aguilar, Walker, and Skarda</p>	<p>The condition necessitating the request was not created by the property owner.</p>
<p>Will the literal enforcement of the zoning ordinance result in an unnecessary hardship?</p> <p>If yes, <b>CONTINUE</b> If no, <b>STOP</b></p> <p><b>YES:</b> Messrs. Gezelius, Garland, Concha, Cordova, Aguilar, and Walker</p> <p><b>NO:</b> Mr. Skarda</p>	<p>Strict enforcement of the zoning ordinance would impose a hardship above that suffered by the general public.</p>

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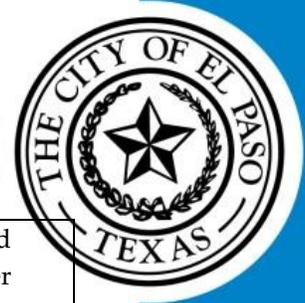
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<p>Will the hardship prevent any reasonable use whatsoever?</p> <p>If yes, <b>CONTINUE</b> If no, <b>STOP</b></p> <p><b>NO:</b> Messrs. Gezelius, Garland, Concha, Cordova, Aguilar, Walker, and Skarda</p>	<p>Without the grant of the requested variance, the property owner would be deprived of the right to use his property. Financial considerations alone cannot satisfy this requirement.</p>
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Chair Cordova asked if members of the audience were present to speak in favor of or in opposition to the application. There were none.

**MOTION:**

Motion made by Mr. Skarda, seconded by Mr. Cordova and **UNANIMOUSLY CARRIED TO DENY THE VARIANCE.**

After the vote, Mr. Cordova asked Staff to research the Bethel Temple Church sign.

**Other Business:**

- 7. Approval of Minutes: February 13, 2012

Chair Aguilar asked Board Members if they had any additions/corrections/revisions to the minutes.

**MOTION:**

Motion made by Mr. Gezelius, seconded by Mr. Walker **AND UNANIMOUSLY CARRIED TO APPROVE THE FEBRUARY 13, 2012 MINUTES.**

**AYES:** Messrs. Gezelius, Garland, Concha, Cordova, Walker, and Skarda

**ABSTAIN:** Chair Aguilar



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Motion passed. 6-3

**MOTION:**

Motion made by Mr. Gezelius, seconded by Mr. Walker AND  
**UNANIMOUSLY CARRIED TO ADJOURN AT 3:10 P.M.**

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Linda Castle, Senior Planner

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