ZONING BOARD OF ADJUSTMENT MEETING MINUTES
CITY COUNCIL CHAMBERS, 2ND FLOOR, CITY HALL
JUNE 27, 2011
1:30 P.M.

Chair Cordova called the meeting to order at 1:42 p.m.

The following Board Members answered roll call:

Mr. Rick Cordova, Chair
Mr. Oscar Perez
Mr. Robert Garland
Mr. Rigoberto Mendez
Mr. Jose Melendez
Mr. Lamar Skarda
Mr. Michael Bray

The following City Staff were present:

Ms. Linda Castle, Planning & Economic Development, Planning, Senior Planner
Mr. Juan Estala, Engineering & Construction Management, Chief Plans Examiner
Mr. Robert Almonte, City Attorney's Office, Assistant City Attorney

ITEM 1:
PZBA11-00016 10771 Limas Drive Gilbert C. and Hortencia L. Widner
Applicants request a Special Exception under Section 2.16.050 K (Carport over a Driveway) in an R-3 (Residential) zone. This would permit a 19'6" by 21' carport that is proposed to encroach into the required front yard setback and to be located to within 9' of the front property line. The required front and rear yard setback cumulative total is 50 feet in the R-3 zone district. The applicant is requesting a carport that will match the existing house in materials and design. The carport roof shall not rise higher than the roof of the house. There is no utility easement at the front property line. The site plan shows two accessory buildings. During the site visit, it appeared that one of the accessory buildings has less than 5' required side setback and the other accessory building appears to have less than 5' distance from the main building. Engineering & Construction Management reviewed the carport structural plans and found them to be acceptable. The contractor has provided a revised structural drawings and site plan. **STAFF RECOMMENDATION IS FOR APPROVAL OF THE REQUEST AS IT MEETS THE REQUIREMENTS OF THE SPECIAL EXCEPTION K.**

Ms. Castle gave a PowerPoint presentation.

Chair Cordova asked what the Staff recommendation was regarding the two accessory structures.

Mayor
John F. Cook

City Council

District 1
Ann Morgan Lilly

District 2
Susannah M. Byrd

District 3
Emma Acosta

District 4
Carl L. Robinson

District 5
Rachel Quintana

District 6
Eddie Holguin Jr.

District 7
Steve Ortega

District 8
Beto O'Rourke

City Manager
Joyce A. Wilson

El Paso ★★★★★ All-America City 2010

Ms. Castle responded Staff recommends they be left as they are.

Mr. Gilbert C. Widner, applicant, and his son were present.

Chair Cordova asked if Board Members had any questions for staff or the representative. There were none.

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. Melendez, seconded by Mr. Mendez and **UNANIMOUSLY CARRIED TO APPROVE.**

ITEM 2:
PZBA11-00017 11656 Great Spirit Circle Juanita Antunez
Applicant requests a Special Exception under Section 2.16.050 C (Rear Yard Setback) in an R-3A (Residential) zone. This would permit a 24′ by 13′ addition that is proposed to encroach in the rear yard setback and to be located to within 20 feet of the rear property line. The required front and rear yard setback cumulative total is 45 feet in the R-3A zone district. The applicant is requesting an addition which will encroach in the required rear yard setback. **STAFF RECOMMENDATION IS FOR APPROVAL OF THE REQUEST 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 in favor of or opposition to the request.

Mr. Victor Pastrana, Pastrana Home Remodeling, representing the applicant, was present.

Chair Cordova asked if Board Members had any questions for staff or the representative. There were none.

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. Mendez, seconded by Mr. Skarda and **UNANIMOUSLY CARRIED TO APPROVE.**

ITEM 3: ***RECONSIDERATION***
ZBA10-00025 1233 Galloway Drive Maria L. Ramirez
Applicant requests *Reconsideration of a Variance (Yard Setbacks)* under Section 2.16.030 in an R-4 (Residential) zone. The request is for reconsideration of a Variance from Title 20, Zoning, Section 20.12, Density and Dimensional Standards, Yard Setback Requirements. *The request is for reconsideration of a previously approved application (Case # ZBA10-00025) to the Zoning Board Adjustment for a Variance from the El Paso City Code, Title 20, Zoning, Section 20.12, Density and Dimensional Standards, Yard Setback*

Requirements, for a new residential structure at 1233 Galloway. The ZBA previously approved a 15′ front setback along Galloway and a 7′ rear setback along Morrow, with 5′ and 41′9″ side setbacks. The applicant subsequently submitted plans for permit (RSP10-01390), but the plans failed for encroachment into the approved 15′ front setback. The designer/contractor has revised the permit set of plans and is requesting the additional encroachment of 2′6″ into the previously approved 15 feet front yard setback on Galloway in order to accommodate an entry portico. **STAFF RECOMMENDS APPROVAL OF A VARIANCE DUE TO THE ODD SHAPE OF THE LOT WITH A RECOMMENDATION THAT THE FRONT SETBACK ALONG GALLOWAY BE 12′6″ FROM THE PROPERTY LINE.**

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."

Ms. Castle gave a PowerPoint presentation and noted the developer has submitted revised plans from the previously submitted plans approved at the September 13, 2010 ZBA meeting. Staff did receive one phone call from a property owner on Galloway; the property owner was not opposed to the request but had several questions for Staff.

Chair Cordova clarified Board Members are considering the change to the front yard setback; additionally, the applicant has until September, 2011 to apply for building permits.

Ms. Castle concurred.

Mr. Rafael Padilla, Padilla Homes, representing the applicant, thanked Board Members for reconsidering the variance request.

Mr. Melendez noted the site plan, per the backup information, does not show the same driveway that he remembered being approved previously.

Ms. Castle agreed that there is a mistake with the site plan in the packet, that the approved site plan did have a pass-through driveway. She explained, at the September 13, 2010 meeting, Board Members considered two different site plans. She then read into the record the motion from the September 13, 2010 ZBA meeting as follows: *Motion made by Mr. Bowling, seconded by Mr. Mendez and unanimously carried* ***TO APPROVE THE APPLICATION WITH THE DRIVEWAY GOING OUT BOTH DIRECTIONS BASED ON TRAFFIC NOT HAVING ANY ISSUE WITH IT.***

Mr. Bray wondered if there would be a garage. He was concerned that, sometime in the future, the property owner may want to add a carport over the driveway.

Mr. Padilla responded there will be a garage; the entry to the garage is located at the corner.

APPENDIX A: Findings – Variances

INQUIRY		FINDINGS
Is the request for a variance owing to special condition inherent in the property itself? If yes, **CONTINUE** If no, **STOP** **YES:** Messrs. Perez, Garland, Bray, Cordova, Mendez, Melendez, and Skarda		The property is/has … (e.g., odd-shaped, unusual topography, etc.)
Is the condition one unique to the property requesting the variance? If yes, **CONTINUE** If no, **STOP** **YES:** Messrs. Perez, Garland, Bray, Cordova, Mendez, Melendez, and Skarda		The condition is unique to this property.
Is the condition self-imposed or self-created? If yes, **STOP** If no, **PROCEED** **NO:** Messrs. Perez, Garland, Bray, Cordova, Mendez, Melendez, and Skarda		The condition necessitating the request was not created by the property owner.
Will the literal enforcement of the zoning ordinance result in an unnecessary hardship? If yes, **CONTINUE** If no, **STOP** **YES:** Messrs. Perez, Garland, Bray, Cordova, Mendez, Melendez, and Skarda		Strict enforcement of the zoning ordinance would impose a hardship above that suffered by the general public.

Will the hardship prevent any reasonable use whatsoever? If yes, **CONTINUE** If no, **STOP** **YES:** Messrs. Perez, Garland, Bray, Cordova, Mendez, Melendez, and Skarda		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.
Would the grant of the variance be contrary to public interest? If yes, **STOP** If no, **CONTINUE** **NO:** Messrs. Perez, Garland, Bray, Cordova, Mendez, Melendez, and Skarda		
Is the request within the spirit of the ordinance and does it further substantial justice? If yes, **CONTINUE** If no, **STOP** **NO:** Messrs. Perez, Garland, Bray, Cordova, Mendez, Melendez, and Skarda		

Chair Cordova asked if Board Members had any questions for staff or the representative. There were none.

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. Garland, seconded by Mr. Mendez and **UNANIMOUSLY CARRIED TO APPROVE WITH THE CONDITION THAT THE FRONT SETBACK BE 15' EXCEPT THE FRONT ENTRY UNDER CONSIDERATION TODAY.**

Other Business:

4. Approval of Minutes: June 13, 2011

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

   MOTION:
   Motion made by Mr. Garland, seconded by Mr. Bray **AND UNANIMOUSLY CARRIED TO APPROVE THE JUNE 13, 2011 MINUTES.**

   ABSTAIN: Mr. Perez

   Motion passed. (6-1)

5. Discussion and action on proposed changes to Chapter 2.16, Special Exception for carport over a driveway, regarding the calculation and measurement of carport area.

   Ms. Castle gave a PowerPoint presentation.

   ESTABLISHING MEASUREMENT UNIFORMITY
   Mr. Skarda commented on the 20% of the floor space of the home that can be used as carport area and wondered how the carport area would be measured. Regarding the measurements for previous carport over a driveway requests, there has not been any real uniformity. He recommended that the Board establish some type of measurement uniformity.

   SPECIAL EXCEPTION K - PHRASING
   Mr. Melendez referred to the phrasing *"… no more than 30 inches into the required front yard setback"* of the proposed Special Exception K language and stated the phrasing does not make sense. He explained the required setback is actually farther from the property line. He suggested "*… cannot extend beyond the property line."*

   Mr. Bray suggested "*… no more than an additional 30" into the required front yard setback."*

   Mr. Melendez responded no, it's not the front yard setback. For example, from the column of the carport you can go 30" but you cannot exceed past the property line. If you stay one foot from the property line, then you're okay; you can go 30" but not within one foot of the property line, or whatever number is determined.

   Ms. Castle responded the carport could extend to the front property line as long as it does not extend over the property line.

   Mr. Melendez suggested the language read *"…30" from the column but not beyond the property line."*

Mr. Estala concurred with Mr. Melendez.

EAVES

Mr. Melendez suggested the following "*… the front of the carport eave cannot be beyond the property line.*" He explained currently the encroachment area is based on 1/5 the first floor area; therefore, the applicant can be two feet from the property line with the column.

Ms. Castle thought the idea was to keep the eaves from being four feet.

Mr. Melendez responded it would permissible to be 30" from the column, but not beyond the property line. When Staff refers to *"from the outside of the post"*, Mr. Melendez explained, it means from the post toward the front you go 30", but not beyond the property line.

Ms. Castle suggested the proposed language read "*… and no more than 30" beyond …"*

Mr. Skarda suggested "*... or side street yard setback and extend no further than the front property line."*

Chair Cordova explained once you limit the eave from going into the property line, the matter is resolved.

Mr. Melendez suggested the following "*… no more than 30" from the face of the column and no further than the property line."*

CARPORTS WITH NO FASCIA

Mr. Garland asked what about a carport without a fascia, a carport with a 4' cantilever.

Chair Cordova reiterated once you limit the eave from going into the property line, the matter is resolved.

Mr. Perez asked why bother with the column, why don't we measure to the end of the eave.

Mr. Garland explained, if we go 1/5, that's what the International Building Code uses, including the overhangs. He added the occupied space is the space in the interior face of the exterior walls.

Mr. Skarda asked if Mr. Garland was considering 1/5 of the first-floor area as gross floor area.

Mr. Garland replied the overhangs are not included in the gross floor area. Per the International Building Code, when you do the area of the building, you have to include eaves, overhangs, corners that stick out; we could do it to the edge of the overhangs.

Mr. Skarda explained that was his original thought, to measure from the edge of the roof to the edge of the roof.

Mr. Garland suggested doing it the way the code is, include the overhangs and everything in the building when they do the building take off and explain to the applicant they have to go to the edge of the canopy, the covered area.

Ms. Castle don't you want to then restrict what the canopy can be.

Mr. Garland responded we are limiting them to 1/5 the size of the building, get rid of the columns and just go with the covered area.

Chair Cordova stated the language would then state "*… the area of the carport canopy should not exceed 1/5 of the floor area.*"

Mr. Garland clarified "*… of the building area.*"

Ms. Castle stated another issue would be if you calculate the area of the carport as 1/5 of the first-floor area; however, Staff has been including the first floor area *under roof*. Should Staff include garages and porches to calculate the 1/5?

Mr. Melendez explained Staff is using the gross area of the building, which includes the overhangs of the building, but the carport is going to be 1/5 including the overhangs.

Mr. Garland concurred.

For example, Ms. Castle stated if there is 2,000 square feet house that includes everything—garage and porches *under roof*--then 1/5 of that is 400 square feet as the allowable area of the carport. To clarify, Ms. Castle suggested the language state "*…the first floor area <u>under</u> <u>roof</u>.*"

Mr. Skarda agreed.

Mr. Melendez added the 1/5 includes the overhangs for the carport. To simplify, he suggested, "*… 1/5 of the total roof area, including the roof area for the canopy.*"

Ms. Castle clarified Board Members are restricting the size of the carport by including the entire canopy. To conclude, Staff will revise the language as follows:

1. *the area of the carport shall not exceed 1/5 the first floor area of the dwelling;*
2. *the carport shall be measured from the outside of the overhangs of the carport in both directions.*

Mr. Almonte suggested Staff draft the revised language for presentation to the Board at the next ZBA meeting.

NO ACTION WAS TAKEN.

MOTION:
Motion made by Mr. Bray, seconded by Mr. Skarda **AND UNANIMOUSLY CARRIED TO ADJOURN THE MEETING AT 2:37 P.M.**

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Linda Castle, Senior Planner