



Planning & Inspections Department

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COUNCIL CHAMBERS, CITY HALL BUILDING

JULY 27, 2015

1:30 P.M.

Chairman Concha called the meeting to order at 1:30 p.m., quorum present.

The following Board Members answered roll call:

Mr. Robert Concha, Chairman

Mr. Robert Garland, Vice-Chairman

Mr. Roy Gilyard, Vice-Chairman

Ms. Margaret Livingston

Mr. Luis De La Cruz

Mr. Sam Barela

Mr. Rick Cordova

Mr. Lamar Skarda

Mr. James Graham (1:32 p.m.)

The following City staff members were present:

Mr. Andrew Salloum, Planner, Planning & Inspections Department

Ms. Martha Macias, Sign Language Interpreter, Municipal Clerk

Mr. Art Rubio, Senior Planner, Planning & Inspections Department

Ms. Kristen Hamilton-Karam, Assistant City Attorney, City Attorney's Office

Mr. Tony De La Cruz, Senior Plans Examiner, Planning & Inspections

CHANGES TO THE AGENDA

None.

PUBLIC HEARING

REGULAR AGENDA:

ITEM 1:

PZBA15-00008

745 Jamestown Road

Raul and Maria I. Alvarez

Applicants request a Special Exception under Section 2.16.050 J (Carport over a Driveway) in an R-3 (Residential) zone.

This would allow an 18' by 21.11' carport (395 square feet) which is proposed to encroach in the required front yard setback and to be located to within 0 foot and 3.5 foot of the front property line. The required cumulative front and rear yard setback total is 50 feet in the R-3 zone district.

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The applicants are requesting Special Exception J Carport over a Driveway which will encroach into the required front yard setback. There are no utility easements within the front property line. The plans show that the carport will match the house in materials and design and will rise no higher than the roof of the existing house. The Building Development and Permitting Division reviewed the required structural plans and have determined they meet code requirements.

The Planning Division has not received any communications in support or opposition to the special exception request.

STAFF RECOMMENDS APPROVAL OF THE REQUEST AS IT MEETS THE REQUIREMENTS OF SPECIAL EXCEPTION J AND THE STRUCTURAL PLANS SUBMITTED.

Mr. Salloum gave a presentation and responded to comments and questions from Board Members. Ms. Macias provided sign language interpretation for Mr. Salloum.

Mr. Luis Chavez, representing the property owners, responded to comments and questions from Board Members in Spanish.

Mr. Luis De La Cruz, Board Member, provided Spanish language translation.

Chairman Concha, Vice-Chairman Garland and Board Member Mr. Cordova commented and/or asked questions of staff.

Mr. Rubio responded to comments and questions from Board Members.

Chairman Concha asked Board Members if they had any further comments and/or questions for the representative or staff. *There were none.*

MOTION:

Motion made by Vice-Chairman Garland, seconded by Mr. Barela AND UNANIMOUSLY CARRIED TO APPROVE.

ITEM 2:

PZBA15-00014 3248 Mountain Walk Drive Fred A. and Marie E. Loweree
Applicants request a Special Exception under Section 2.16.050 K (15 Years or More) in an R-2 (Residential) zone.

Special Exception K would allow the existing 186.81 sq. ft. (12.3' x 15.3') accessory storage structure which is located to within zero feet (0') of the side property line to remain. The required side and side street yard cumulative setback is 20 feet.

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The applicants are requesting Special Exception K to allow the existing encroachments into the side yard setback for a 12.3' x 15.3' accessory storage structure. The applicants have provided an affidavit, 1996 aerial map, the original warranty deed, and probate court document. The accessory storage structure was constructed in 1994. The 1996 aerial shows the property existing then as it does today, with the accessory structure in its current configuration.

The Planning Division has not received any communications in support or opposition to the special exception request.

STAFF RECOMMENDS APPROVAL OF THE REQUEST FOR THE SPECIAL EXCEPTION K, AS EVIDENCE SUBMITTED SUPPORTS THE SPECIAL EXCEPTION AND THE APPLICANT MEETS ALL REQUIREMENTS.

NOTE TO APPLICANT:

APPLICANT WILL HAVE TO COMPLY WITH CODE REQUIREMENTS DUE TO THE CLOSE PROXIMITY OF THE ACCESSORY STRUCTURE TO THE MAIN HOUSE.

Mr. Salloum gave a presentation and responded to comments and questions from Board Members. Ms. Macias provided sign language interpretation for Mr. Salloum.

Mr. Fred Loweree, property owner, responded to comments and questions from Board Members.

Chairman Concha and Vice-Chairman Gilyard commented and/or asked questions of staff.

Mr. Tony De La Cruz explained the ***"Note to Applicant:"*** language request, per the El Paso Municipal Code, Title 20, Zoning Ordinance, any structure less than five feet from the main structure is considered an addition to the structure. Because this addition is less than five feet from the side yard property line, the wall of the addition adjacent to the side yard property must meet the required fire rating. Staff will work with the applicant to achieve that code requirement.

MOTION:

Motion made by Ms. Livingston, seconded by Vice-Chairman Garland AND UNANIMOUSLY CARRIED TO APPROVE.

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ITEM 3:

PZBA15-00017

9528 Roanoke Drive

Jaime and Carmen Chavez

Applicants request a Special Exception under Section 2.16.050 J (Carport over a Driveway) in an R-4 (Residential) zone.

This would allow a 22.5' by 20.75' carport (467 square feet) which is proposed to encroach in the required front yard setback and to be located to within 5.50 feet of the front property line. The required cumulative front and rear yard setback total is 45 feet in the R-4 zone district.

The applicants built a carport which encroaches into the required front yard setback. The existing carport was not issued a building permit nor approved by the ZBA. The applicants are requesting Special Exception J carport over a driveway which will encroach into the required front yard setback. There are no utility easements within the front property line. The plans show that the carport will match the house in materials and design and will rise no higher than the roofline of the existing house. The Building Development and Permitting Division reviewed the required structural plans and have determined they meet code requirements.

The Planning Division has not received any communications in support or opposition to the special exception request.

STAFF RECOMMENDS APPROVAL OF THE REQUEST AS IT MEETS THE REQUIREMENTS OF THE SPECIAL EXCEPTION J AND THE STRUCTURAL PLANS SUBMITTED.

NOTE TO APPLICANT:

DRIVEWAYS MUST MEET CODE REQUIREMENTS AND THE BUILDING PERMITS MUST BE OBTAINED IF NOT ALREADY SECURED.

Mr. Salloum gave a presentation and responded to comments and questions from Board Members. Ms. Macias provided sign language interpretation for Mr. Salloum.

Prior to the discussion, Board Member Luis De La Cruz explained many years ago when he was a city employee in the Engineering Department, Mr. Fermin Dorado was the City Engineer and his boss; furthermore, Mr. Dorado is a very good friend. Mr. De La Cruz wondered, because of his relationship with Mr. Dorado, if there a conflict of interest for him.

Ms. Hamilton-Karam explained per the Conflict of Interest, Ethics Code requires the Board Member to recuse themselves from the discussion when that Board Member, or a family member, benefits financially.

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Chairman Concha, Vice-Chairman Garland and Board Members Barela commented and/or asked questions of Mr. Dorado and staff.

Mr. Fermin Dorado, engineer, responded to comments from Board Member Mr. Barela.

MOTION:

Motion made by Mr. Barela, seconded by Vice-Chairman Garland AND UNANIMOUSLY CARRIED TO APPROVE.

ITEM 4:

PZBA15-00019

109 N. Coldwell Street

Peter Spier

Applicant requests a Special Exception under Section 2.16.050 B (Two or More Non-Conforming) in an C-4 (Commercial) zone.

This would allow an existing a new 6'1" by 10' restaurant addition which is proposed to encroach into required rear yard setback and to be located to within 3'11" feet of the rear property line. The required rear yard setback in the C-4 zone district is 10 feet. The applicants are requesting a restaurant/bar addition to be built to 3'11" feet of the rear property line. There are several properties in the same block and in the block across the street with a similar nonconforming situation, built to the rear property line. At least two of these properties exist today as they existed in the 1956 aerial, 111 Coldwell Street and 534 Missouri Avenue.

The Planning Division has not received any communications in support or opposition to the special exception request.

STAFF RECOMMENDS APPROVAL OF THE REQUEST AS IT MEETS THE REQUIREMENTS OF THE SPECIAL EXCEPTION B.

NOTE TO APPLICANT:

ANY ENCROACHMENT MUST MEET CODE REQUIREMENTS.

Mr. Salloum gave a presentation and responded to comments and questions from Board Members. Ms. Macias provided sign language interpretation for Mr. Salloum.

Chairman Concha, Vice-Chairman Garland and Board Members Mr. De La Cruz, Ms. Livingston, Mr. Graham, Mr. Skarda and Mr. Cordova commented and/or asked questions of staff.

The following members of the public spoke in opposition to the request:

1. Mr. Albert Rivera, resides at 537 W. Franklin Avenue, the Black Bird Cantina Deluxe is located three feet from his backyard. Mr. Rivera spoke in opposition to the request.
2. Mr. Alarcon, resides across the alley adjacent to Black Bird Cantina Deluxe, spoke in opposition to the request.

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Mr. Jonathan Escalante, representative, responded to comments and questions from staff and Board Members.

The following staff members responded to comments and/or questions from Board Members:

1. Mr. Rubio;
2. Mr. Tony De La Cruz; and
3. Ms. Hamilton-Karam affirmed a noise ordinance is written in the *El Paso Municipal Code*. From the *El Paso Municipal Code*, **Section 2.16.050 – Special exceptions.**, Ms. Hamilton read the following into the record:

The zoning board of adjustment in specific cases may, after notice and a public hearing, make specific exceptions to the zoning code only as provided in Titles 2 and 20 of this Code. More than one special exception may be made for a lot so long as the total of the exceptions granted do not exceed the maximum exception which could have been obtained if all the requests for exceptions were combine into one request. The board shall not grant a special exception unless it makes, and records, in its minutes, specific findings that:

1. *The exceptions will be in harmony with the spirit and purpose of Titles 2 and 20, including preservation of the essential character of the district in which he property is located;*
2. *The public convenience and welfare will be substantially serviced;*
3. *The use of neighboring property will not be substantially injured; and*
4. *Include any conditions and safeguards which the board deems appropriate, such as, but not limited to, site arrangement, landscaping and hours of operation.*

To conclude, Ms. Hamilton-Karam recommended neighbors call the police should the noise become unbearable.

MOTION:

Motion made by Ms. Livingston, seconded by Mr. Luis De La Cruz AND CARRIED TO APPROVE.

AYES: *Ms. Livingston, Mr. De La Cruz, Mr. Barela, Vice-Chairman Garland, Chairman Concha, Vice-Chairman Gilyard, Mr. Cordova*

NAYS: *Mr. Skarda and Mr. Graham*

Motion passes. (7-2)

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Other Business – Discussion and Action:

5. Approval of Minutes: June 8, 2015

Chairman Concha asked Board Members if they had any additions, corrections and/or revisions. *There were none.*

MOTION:

Motion made by Mr. Luis De La Cruz, seconded by Vice-Chairman Garland AND UNANIMOUSLY CARRIED TO APPROVE THE JUNE 8, 2015 MEETING MINUTES.

ABSTAIN: *Mr. Skarda*

MOTION:

Motion made by Mr. Cordova, seconded by Vice-Chairman Gilyard AND UNANIMOUSLY CARRIED TO ADJOURN AT 2:42 P.M.

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