

CITY DEVELOPMENT DEPARTMENT

**ZONING BOARD OF ADJUSTMENT MEETING MINUTES
CITY COUNCIL CHAMBERS, 2ND FLOOR, CITY HALL
AUGUST 13, 2012
1:30 P.M.**

Chair Aguilar called the meeting to order at 1:32 p.m.

The following Board Members answered roll call:

Mr. Rick Aguilar, Chair
Mr. Rigoberto Mendez, Vice-Chair
Mr. Ken Gezelius (1:43 p.m.)
Mr. Robert Garland
Mr. Michael Bray
Mr. Rick Cordova
Mr. Scott Walker
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

CHANGES TO THE AGENDA

None.

Two Civic Center Plaza
El Paso, TX 79901
(915) 541-4290

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Prior to the meeting, Staff distributed copies of the Building Permits and Inspections Divisions Memorandum approving the carport's structural design with the condition that the applicant provide truss design package when applying for the building permit.

ITEM 1:

PZBA12-00025 8609 W H Burges Drive Evans Walker
Applicant requests a Special Exception under Section 2.16.050 C (Rear Yard Setback) and Special Exception J (Carport over a Driveway) in an R-4 (Residential) zone. This would allow a 35' by 9'7" addition of which a 35' by 3' portion is proposed to encroach into the required rear yard setback and to be located to within 17' of the rear property line. This would also allow a 20'4" by 18' carport proposed to be located to within 5.5' of the front property line. The required front and rear yard cumulative setback total is 45 feet in the R-4 zone district. The ZBA approved this same request for the applicant on September 13, 2010 (see copy of decision letter); however, a building permit was not requested and the ZBA approval expired. The applicant is requesting additions that will encroach into both the front yard, for a carport, and into the rear yard. There is no utility easement at the front property line. The structural plans for the carport have been reviewed and approved by Building Permits & Inspections. The carport will match the house in materials and design and the carport roof will rise no higher than the roof of the house.
STAFF RECOMMENDATION IS FOR APPROVAL OF THE APPLICATION AS IT MEETS THE REQUIREMENTS OF THE SPECIAL EXCEPTIONS C AND J.

Ms. Castle gave a PowerPoint presentation.

Mr. Jerry Shinn, Gila Mesa Builders, representing the applicant, was present.

Chair Aguilar asked if Board Members had any questions and/or comments. There were none.

Chair Aguilar asked if anyone in the audience wished to speak in favor of or in opposition to the request.

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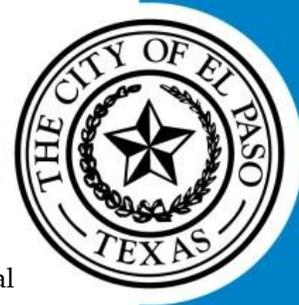
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MEMBER OF THE PUBLIC

Ms. Virginia Aveles, resides behind the applicant, is opposed to the Special Exception C, rear yard setback, allowing the applicant 8 feet more than what the City requires; she needs safety and privacy. She clarified there is a reason why the ordinance states no more than 25 feet. She suggested the applicant go lengthwise instead of going all the way around.

Chair Aguilar explained there are some exceptions to the ordinance which is why the Board is present today to review and make decisions.

Mr. Garland noted there is no dimension to the edge of the carport itself, he asked if it would encroach into the 5’.

Ms. Castle responded it does scale off at 5’. There were no phone calls, letters or emails in favor of or in opposition to the request.

Due to the applicant’s health, Mr. Shinn explained, the proposed rear yard addition and front yard carport are necessary.

MOTION:

Motion made by Mr. Garland, seconded by Mr. Bray AND UNANIMOUSLY CARRIED TO APPROVE AS LONG AS THE CARPORT IS IN EXCESS OF 5’ FROM THE SIDE.

Prior to the meeting, Staff distributed copies of the revised site plan.

ITEM 2:

PZBA12-00027 10152 Pheasant Road Javier Perez
Applicant requests a Special Exception under Section 2.16.050 C (Rear Yard Setback) in an R-4 (Residential) zone. This would permit an addition of which approximately 275 square feet is proposed to encroach into the required rear yard setback and to be located to within 17 feet of the rear property line. The required front and rear yard cumulative setback total is 45 feet in the R-4 zone district. The applicant started building an addition without permit that encroaches into the required rear yard setback. The applicant is required to apply for the special exception to encroach into the required rear yard setback.

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A site visit shows that the addition is closer to the rear property line than the 17 feet distance indicated on the site plan. *The applicant's representative has been requested to provide a revised site plan.* ~~STAFF RECOMMENDATION IS PENDING SUBMITTAL OF REVISED SITE PLAN.~~ *The applicant's representative submitted a revised site plan.* **STAFF RECOMMENDS APPROVAL OF 275 SQUARE FEET AND THAT THE APPLICANT COME NO CLOSER THAN 10' TO THE REAR PROPERTY LINE.**

Mr. Gezelius arrived at 1:43 p.m.

Ms. Castle gave a PowerPoint presentation and noted the revised site plan indicates any addition will be no closer than 10' from the rear property line

Mr. Sam Romo, Triple S Construction, representing the applicant, was present.

Mr. Garland asked Mr. Romo how close does the overhang get to the back property line.

Mr. Romo responded approximately 10 or 11 feet, from the corner to the back wall. The existing overhang is way over and will be cut back to size.

Mr. Skarda clarified the plans show the 10'; he thought that was supposed to be perpendicular to the property line.

Mr. Garland noted that with the 10 foot easement, if he is outside the easement, that is still 10 feet and the dimensions still are wrong.

Mr. Skarda responded that is not what is shown on the site plan.

MEMBER OF THE PUBLIC

Ms. Gloria Isela Montes-Nicholson explained she had spoken with the applicants yesterday and that she was in favor of the request.

Ms. Castle noted that Staff did not receive any phone calls regarding the request.

CLARIFICATION – 10' MINIMUM FROM THE BACK WALL

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Mr. Skarda explained there must be a 10' minimum from the back wall; furthermore, if it's 10', as drawn in the site plan, and perpendicular from the back wall it will not be 10'.

Ms. Castle clarified the back wall will be inside (or outside) the 10' utility easement; either way the addition will be 10' from the rear property line.

Mr. Cordova asked Staff if Board Members could ensure the minimum 10' from the back wall, not as shown on the site plan.

Ms. Castle responded the Board could approve the request *with the condition that the back wall be 10' from the rear property line.*

Mr. Skarda asked if that condition included the overhang.

Ms. Castle explained the Zoning Code allows a 24" roof overhang to encroach into the rear setback but the building wall will have to be 10' from the rear property line.

Mr. Bray remembered Board Members having a similar discussion with regard to front yard property lines and carports. He asked if Board Members would be treating rear overhangs differently than front overhangs and carports.

Ms. Castle responded Board Members could approve the request *with the condition that there be no overhang.* The Zoning Code allows a certain amount of roof overhang to encroach into the rear yard setback.

Chair Aguilar asked if Board Members had any questions and/or comments.

Mr. Cordova noted the townhouse behind the applicant's home looks to be very close.

Ms. Castle responded a special contract has been placed on that area; she was unsure what the special contract pertained to. She speculated that the neighbor's yard might be considered the side property line, so that the applicant could only be 5' away from the neighbor.

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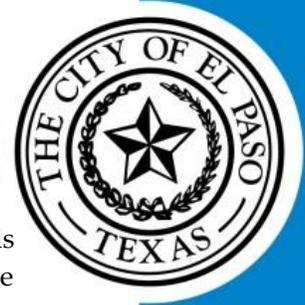
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Mr. Skarda clarified the minimum side setback is 5'; which goes back to his original question, will the applicant be able to intrude in that 5' with the overhang.

Ms. Castle responded he could, per the Code it is 24" that the roof overhang is allowed into required side yard.

Mr. Skarda noted that would effectively give 6' space between the two structures with both hanging over the 24".

Ms. Castle responded, in this case, it would be 10' from side to side.

MOTION:

Motion made by Mr. Walker to approve per Staff recommendations.

Mr. Skarda asked if the motion included the 10' setback.

Mr. Walker responded with the 10' setback; he had no concerns with regard to the existing 5' overhang encroachment on the house behind the applicant's.

MOTION:

Motion made by Mr. Walker, seconded by Mr. Cordova AND UNANIMOUSLY CARRIED TO APPROVE PER STAFF RECOMMENDATIONS WITH THE 10' SETBACK.

Other Business – Discussion and Action:

3. Approval of Minutes: July 9, 2012

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

MOTION:

Motion made by Mr. Bray, seconded by Vice-Chair Mendez AND UNANIMOUSLY CARRIED TO APPROVE THE JULY 9, 2012 MEETING MINUTES.

ABSTAIN: Chair Aguilar and Messrs. Garland and Wolff

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MOTION:

Motion made by Mr. Skarda, seconded by Mr. Cordova AND
UNANIMOUSLY CARRIED TO ADJOURN AT 1:54 P.M.

Linda Castle, Senior Planner

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