

Ms. Castle noted the site plan was revised to show the carport located to within 5' of the front property line.

Mr. Luis Lopez, representing the applicant, was present.

Mr. Melendez asked Mr. Lopez if the carport would be the same height as the existing porch.

Mr. Lopez responded yes.

Chair Bowling asked if Staff had considered the front porch roof line part of the dwelling.

Ms. Castle explained Staff is recommending denial due to the existing residence flat roof.

Mr. Melendez wondered if Staff considered the porch part of the dwelling and if the height of the porch could determine the height of the building. He asked if the residents directly across from the property owner would be able to back out of their driveway without hitting the new carport.

Ms. Castle responded I do and it could. Ms. Castle explained Staff received an email from this property owner objecting the proposed carport.

Mr. Gezelius commented on the aesthetically pleasing double pitched roof; however, wondered if the new carport would create additional congestion due to four residences utilizing the same alley to access their driveways.

Mr. Hernandez concurred with Staff's recommendation to deny due to the proposed carport roof being higher than the existing flat roof.

Mr. Aguilar asked Staff who owns the alleyway.

Ms. Castle responded one portion of the alley is utility and drainage, the other is driveway access.

Mr. Barela noted each Lot should have 12 foot of driveway.

Chair Bowling remarked the proposed carport would relieve congestion due to vehicles parking closer to the home.

Mr. Aguilar expressed if all property owners had carports in the middle of the alley there would be congestion.

Mr. Melendez referred to the site plan drawing and explained the easement cannot extend all the way through otherwise the carport would be built on top of it. Additionally, he noted the drawing does not show property lines.

Chair Bowling concurred and added the front porch is in the right-of-way.

Mr. Hernandez responded perhaps there was an assumption property owners would share that driveway.

Mr. Aguilar noted, according the drawing, the driveway belongs to Lot 2 property owners.

Mr. Lopez explained the center of the street is part of the Lot, from there it's five feet for the easement.

Mr. Aguilar wondered how Lot 1 property owners accessed their driveway.

Mr. Barela noted Lots 1 and 2 both have 12 foot driveways; therefore, the total should be 24 feet with five feet of easement down the center of the drive.

Mr. Lopez concurred and added Lots 3 and 4 have their own driveway.

Mr. Mendez thought the property owners across from the applicant had ample room to back out of their driveway. He felt the additional five feet would not create any problems; additionally, the left hand Lot is currently vacant.

Mr. Cordova concurred.

Mr. Melendez clarified the applicant's property line is the center line with the easement to connect to the street; additionally, there's an additional easement for the other two houses.

Chair Bowling reiterated the property owner directly across has 12 feet of property to back out of her driveway and, if necessary, an additional five feet before she comes close to the proposed carport.

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

MOTION:

Motion made by Mr. Melendez, seconded by Mr. Cordova **TO APPROVE.**

AYES: Messrs. Gezelius, Cordova, Barela, Bowling, Mendez, Melendez and Wakeem

NAYS: Messrs. Aguilar and Hernandez

The Motion passed. (7-2)

ITEM 5:

ZBA09-00030

5902 Quail Lane

Francisco Suarez, Sr.

Applicant requests a Special Exception under Section 2.16.050 H (Lot Size) in an R-4 zone. This would permit the construction of a duplex on a lot that is 6,630 square feet and 65 feet wide. A lot area of 7,000 square feet and a lot width of 70' are required for a duplex in an R-4 zone. The lot depth of 102 feet exceeds the R-4 lot depth requirement of 90 feet. The required front and rear yard cumulative setback total is 45' in the R-4 (Light Density Residential) zone. The applicant is requesting the Special Exception to build a duplex on a lot that he purchased in 2004 from the City of El Paso. *The lot is in the Chick-A-Dee Acres subdivision that was recorded in 1953 with 20 lots. Over the years, some of the lots have been changed by metes and bounds, and there are now 32 lots in the subdivision. It appears the subject lot has existed as a separate lot since 1979. The ZBA has granted three Variances to properties in this subdivision: in 1978 for the south ½ of Lot 17; in 1979 for Lots 6 and 7; and, in 1980 for Lot 10. All three Variances were granted to permit the construction of duplexes on lots that did not meet the required 70 feet width for a duplex in the R-4 zone district. Other duplexes have been constructed in the subdivision, including the lot adjacent to the subject property, on lots that meet the 70 feet width. Technically, the ZBA has not yet granted this Special Exception for this subdivision. If the Special Exception is granted to the applicant, the 5 percent limit would be used up, based on one lot equaling 5 percent of the original 20 lots.*

Ms. Spencer gave a PowerPoint presentation and noted **STAFF RECOMMENDS APPROVAL OF THE REQUEST AS IT TECHNICALLY MEETS THE REQUIREMENTS OF THE SPECIAL EXCEPTION H.**

Mr. Hernandez wondered if Board Members might consider 5% of 32 Lots.

Ms. Castle felt it appropriate the Board consider 5% of original 20 Lots. For clarification, she explained the original Lots were divided and sold by metes and bounds.

Ms. Spencer noted Staff received two objections to the proposed request; one phone call from the property owner located at 10077 Chick-A-Dee Street and one individual, present in the audience.

Mr. Mendez asked what the property owner at 10077 Chick A Dee was opposed to.

Ms. Castle responded the caller did not want a duplex built on the property.

reduction for this property. A review by Staff notes that there is a canopy at the front of the building that encroaches over the sidewalk, and the owner is required to apply for a Special Privilege for a structure that encroaches over City right-of-way.

Ms. Spencer gave a PowerPoint presentation and noted **STAFF RECOMMENDS APPROVAL OF THE REQUEST AS IT MEETS THE REQUIREMENTS OF THE SPECIAL EXCEPTION.**

Ms. Yolanda Giner, attorney representing the applicant, thanked Staff for their recommendation.

Ms. Castle explained the request was submitted to legalize the property per the Code. She noted the Special Permit/Special Privilege requests that are pending. Furthermore, the Special Exception applies to the land.

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

MOTION:

Motion made by Mr. Hernandez, seconded by Mr. Cordova and unanimously carried **TO APPROVE.**

AYES: Messrs. Aguilar, Gezelius, Cordova, Barela, Bowling, Hernandez, Mendez, Melendez and Wakeem

NAYS: N/A

The Motion passed. (9-0)

Other Business:

7. Approval of Minutes: July 13, 2009

Chair Bowling asked Board Members if there were any corrections to the minutes for July 13, 2009.

MOTION:

Motion made by Mr. Bowling, seconded by Mr. Hernandez and unanimously carried **TO APPROVE THE JULY 13, 2009 MEETING MINUTES.**

AYES: Messrs. Aguilar, Gezelius, Barela, Bowling, Hernandez, Mendez and Melendez

NAYS: N/A

ABSTAIN: Messrs. Cordova and Wakeem

The Motion passed. (7-0)

Development Services Report:

8. Discussion and action regarding Zoning Board of Adjustment issues:
Draft of revision to Section 2.16 C Special Exception, Rear Yard Setback

Chair Bowling explained Board Members approved removing the highlighted language at the previous ZBA meeting.

Ms. Castle asked if Board Members had any questions and/or comments.

Mr. Gezelius referred to Section C. Rear Yard Setback, Single-Family Residence and Section D. Rear Yard Setback, Duplex and noted: He noted Section C measures using the Lot width; however, Section D, uses the width of the Unit.

Mr. Hernandez added the assumption is the duplex units are individually owned.

Ms. Castle responded the language is a little confusing.

Mr. Gezelius would like to use the same standards for both Sections. He then referred to Section C, Item 5. *accessory structures shall not exceed one hundred eighty square feet*. However, Section D, Item 5. states *accessory structures shall not exceed one hundred square feet*, assuming there are two families residing in the duplex, they are allowed one unit.

Ms. Castle responded the intent of the language was *one hundred square feet per side*. She proposed revising Item 5. to read "The total floor area of all detached accessory structure(s) existing or later constructed on ***each*** site shall not exceed one hundred square feet.

Mr. Cordova referred to Section 2.16.050 Special exceptions. and suggested revising the language as follows: "Include any conditions and safeguards which the board deems appropriate, such as *but not limited to*, site arrangement, landscaping and hours of operation."

Ms. Osborn, Assistant City Attorney, explained revising Section 2.16.050 Special exception language was not posted on the agenda. She suggested Staff place this on the next regularly scheduled ZBA meeting.

1st MOTION:

Motion made by Mr. Cordova, seconded by Mr. Barela to revise Section 2.16.050 Special exception. *No vote was taken.*

Prior to the vote, Chair Bowling asked if Mr. Cordova's motion was to revise Section 2.16.050 Special exception specifically or to discuss the rules in their entirety.

Ms. Castle responded she had not provided Board Members with a copy of Section 2.16 ordinance language in its entirety.

Ms. Osborn stated if the Board would like to discuss the ordinance language in its entirety Staff can take care of those concerns all at once.

1st MOTION AMENDED:

Motion made by Mr. Cordova, seconded by Mr. Barela and unanimously carried to discuss Section 2.16 ordinance language, in its entirety.

AYES: Messrs. Aguilar, Gezelius, Cordova, Barela, Bowling, Hernandez, Mendez, Melendez and Wakeem

NAYS: N/A

The Motion passed. (9-0)

Chair Bowling requested Staff post the item for next month's ZBA agenda.

Ms. Castle read into the record the revised language for Section D. Rear Yard Setback, Duplex, Item 5. "The total floor area of the all detached accessory structure(s) existing or later constructed on *each* site shall not exceed one hundred square feet *per unit*".

Mr. Gezelius asked if a decision had been made regarding property/site width versus the width of the duplex.

Ms. Castle explained, regarding the duplex, if a property owner wanted to they could incorporate the whole two-thirds for their one unit, with the permission of the adjoining duplex owner.

Mr. Melendez suggested measuring from the end of the duplex to the property line.

Ms. Castle responded, individually, yes, they could; however, the Special Exception currently allows one unit to be given the two-thirds for the whole site. The language could be revised to restrict each unit the permitted one-third times three-fifths.

Mr. Melendez thought measuring from the end of the duplex to the property line, one-third of that measurement.

Ms. Castle concurred.

Mr. Cordova explained the language is confusing, the word "unit" means two different things in two separate paragraphs.

Ms. Osborn requested Staff clarify the following Section D. Rear Yard Setback, Duplex, Item 2.a. into the record: "the total of all extensions granted to one dwelling unit shall not project into the required rear yard for a depth in excess of three-fifths of the required yard, and shall not exceed one-third the average width of that unit, and the total of all extensions for either unit of the duplex shall exceed not two-thirds of the average width of that unit;"

Mr. Cordova suggested revising "width of unit" to "width of the overall duplex".

Ms. Castle explained the language allows one side of the duplex the two-thirds, with the permission from the adjoining duplex owner.

Ms. Osborn noted the sentence itself does not make any sense.

Mr. Cordova reiterated the word "unit" is used in two different contexts.

Ms. Osborn added same section, Item 2b., the language is confusing as well.

Chair Bowling requested the language be flexible.

2nd MOTION:

Motion made by Mr. Aguilar to table the item to the next ZBA meeting to allow Staff to revise the language. No vote was taken.

Regarding Section D. Rear Yard Setback, Duplex, Chair Bowling asked Board Members how the language should read. He suggested allowing the property owner the option of using it all for one unit or splitting the option 75%/25%, etc. He thought that was the intent of the language.

Ms. Castle concurred and asked the Board how they wanted Staff to continue; additionally, she felt adding a third option, letter "c", would be beneficial.

3RD AND FINAL MOTION:

Motion made by Chair Bowling, seconded by Mr. Gezelius and unanimously carried to allow the flexibility of a duplex property to use the Exception in any percentage agreed upon by the owner(s) of the duplex and to allow each duplex owner(s) 100 square feet of detached accessory structure(s).

AYES: Messrs. Aguilar, Gezelius, Cordova, Barela, Bowling, Hernandez, Mendez, Melendez and Wakeem

NAYS: N/A

The Motion passed. (9-0)

After the vote, Chair Bowling asked if Board Members were comfortable with the language in Section C. Rear Yard Setback, Single-Family Residence.

Board Members offered no revisions/corrections.

ADJOURNMENT:

MOTION:

Motion made by Mr. Gezelius, seconded by Mr. Barela and unanimously carried to **ADJOURN THE ZBA MEETING AT 3:10 P.M.**

AYES: Messrs. Aguilar, Gezelius, Cordova, Barela, Bowling, Hernandez, Mendez, Melendez and Wakeem

NAYS: N/A

The Motion passed. (9-0)

Linda Castle, Senior Planner