



Chair Cordova asked if members of the audience were present to speak in favor of or in opposition to the application.

*Mr. Guillermo Gutierrez spoke in Spanish with Ms. Esther Guerrero, Planning Staff, providing translation.*

Mr. Guillermo Gutierrez, 3420 Sunnyside Court, spoke in opposition to the application. Mr. Gutierrez explained he resides directly behind the applicant and due to the difference in elevation (*the applicant's home is at a higher elevation*) the proposed construction would exceed the permitted height and obstruct his view of the mountain. Mr. Gutierrez added the chain link fence between the properties obstructs his view somewhat. Additionally, Mr. Gutierrez had concerns regarding the 5 foot utility easement, as shown in the site plan; it was his understanding the easement should be 15 feet. Planning Staff will review the plat.

Ms. Castle explained the city does not protect views.

**1<sup>st</sup> MOTION:**

Motion made by Mr. Gezelius, seconded by Mr. Mendez **TO APPROVE.**

Chair Cordova requested adding "*the applicant shall work with the adjacent property owner regarding screening material*" be included in the motion.

Mr. Gezelius withdrew his motion.

Mr. Mendez requested language regarding the driveway be included in the motion.

Chair Cordova suggested "*and that the driveway be constructed if the applicant would be parking vehicles there*".

Mr. Aguilar did not think screening was an issue and added once the new addition is constructed there will be plenty of shade.

**2<sup>nd</sup> AND FINAL MOTION:**

Motion made by Mr. Aguilar, seconded by Mr. Mendez and unanimously carried **TO APPROVE AS RECOMMENDED BY STAFF.**

**AYES:** Ms. Jorgensen and Messrs. Perez, Gezelius, Aguilar, Cordova, Hernandez, Mendez, Melendez, and Barela

**NAYS:** N/A

The Motion passed. (9-0)

**ITEM 2:**

ZBA09-00047

4737 Lucy Drive

Betty Mitchell

Applicant requests a Special Exception under Section 2.16.050 C (Rear Yard Setback) in an R-3 (Residential) zone. This would permit a 25' by 14' addition that is proposed to encroach 12' into the required rear yard setback. The required front and rear yard setback cumulative total is 50 feet in the R-3 zone district. The applicant is requesting an addition that will encroach in the required rear yard setback and is proposed to be located to within 13 feet of the rear property line. Staff notes there are two storage sheds in the side yard. The applicant's representative was requested to submit a revised site plan to indicate the size of the storage sheds. **STAFF RECOMMENDS APPROVAL OF THE REQUEST AS IT MEETS THE REQUIREMENTS OF THE SPECIAL EXCEPTION, WITH THE CONDITION THAT THE STORAGE SHEDS SHALL BE NO MORE THAN THE 180 SQUARE FEET OF FLOOR AREA PERMITTED BY THE SPECIAL EXCEPTION AND THAT THE SETBACK REQUIREMENTS FOR THE STORAGE SHEDS SHALL BE 5 FEET FROM THE SIDE PROPERTY LINE AND 60 FEET FROM THE FRONT PROPERTY.**

Ms. Castle gave a PowerPoint presentation and noted Staff has received a revised site plan. Additionally, Staff did not receive any phone calls or emails regarding this application. (*Board Members reviewed the revised site plan during the presentation*)

Ms. Betty Mitchell, applicant, was present.

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

**1<sup>st</sup> MOTION:**

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

Ms. Jorgensen requested Mr. Gezelius specify the staff recommendation in his motion.

Mr. Gezelius withdrew his motion.

**2<sup>nd</sup> AND FINAL MOTION:**

Motion made by Ms. Jorgensen, seconded by Mr. Perez and unanimously carried **TO APPROVE AS PER THE STAFF RECOMMENDATION.**

**AYES:** Ms. Jorgensen and Messrs. Perez, Gezelius, Aguilar, Cordova, Hernandez, Mendez, Melendez, and Barela

**NAYS:** N/A

The Motion passed. (9-0)

**ITEM 3:**

ZBA09-00048

301 Serrania Drive

Robert and Naomi Pridemore

Applicants request a Special Exception under Section 2.16.050 L (Front and Rear Yard Setbacks) in an R-2 (Residential zone. This would permit an existing residential structure that is encroaching 0.2' into the required front yard setback and that is located to within 29.8' of the front property line. This would also permit an existing encroachment of 7.8' into the required rear yard setback, located to within 22.2' of the rear property line. The required front and rear yard cumulative setback total is 60 feet in the R-2 zone district. The applicants were in the process of selling their house and discovered that it is encroaching into the required rear yard setback. The applicants state that they were unaware that enclosed porch was encroaching and that the enclosed porch existed when they purchased the house in 2002. The 1986 aerial shows an encroachment into the rear yard. There is no record of when the porch was enclosed; however, there is a record of Building Permit 94-18887 that was issued in August 1994 for "repair of existing enclosed porch, new exterior walls, siding, sheetrock, new roofing material, new concrete walk." This is an indication that an enclosed porch existed at least 15 years ago. Staff notes that there is an accessory structure located at the westerly side property line. The applicant states that it houses the pool equipment. **STAFF RECOMMENDS APPROVAL OF THE REQUEST AS IT MEETS THE REQUIREMENTS OF THE SPECIAL EXCEPTION, WITH THE CONDITION THAT THE ROCK WALL ABUTTING THE ACCESSORY STRUCTURE BE RAISED TO A HEIGHT MATCHING THE HEIGHT AND WIDTH OF THE ACCESSORY STRUCTURE.**

Ms. Castle gave a PowerPoint presentation and noted Staff received one phone call, the caller was just curious about the request.

Mr. John Birkelbach, representing the applicant, explained the accessory structure has been removed; therefore, the fence will not have to be raised. He brought photos that showed the accessory structure has been removed; photos were displayed on the ELMO for Board Members.

Ms. Jorgensen asked Staff at what point does the PODS storage structure become an accessory structure and for how many months.

Ms. Castle explained temporary placement permits are required for the PODS; additionally, temporary storage structures must be removed.

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



**ITEM 5:**

ZBA09-00050

7935 Artcraft Road

Vipin Bhakta

Applicant is appealing an Administrative Official's Decision under Section 2.16.040 in a C-4 (Commercial/Regional Commercial District) zone. The Applicant has filed an Appeal of an Administrative Official's Decision (**Sign Ordinance**) with the Zoning Board of Adjustment under Section 2.16.040, Appeals, concerning property located at 7935 Artcraft Road in a C-4 (Commercial) zone. The applicant submitted a sign permit request for three wall signs for a new Holiday Inn Express. The request has been denied by the Zoning Administrator, and the applicant is appealing the denial.

*Applicant's Statement*

The applicant has been requested to submit a letter explaining reasons for appeal.

*City's Statement*

The applicant submitted plans for a sign permit to the City on November 23, 2009, for three wall signs and a pole sign. The plans failed zoning review because there are two street frontages for the hotel, on Artcraft Road and Berringer Drive, and one wall sign is permitted per street frontage, for a total of two permitted wall signs, per Section 20.18.450 D of the El Paso Municipal Code:

20.18.450 C-2, C-3, C-4, Q, M-1, M-2 and M-3 districts:

*D. Wall signs shall comply with the following requirements:*

- 1. Permit required: yes;*
- 2. Maximum number: one wall sign for each tenant in a single or multi-tenant facility per street frontage; for apartments, one wall sign for each apartment complex per street frontage and public entryway, not to exceed four signs per complex;*
- 3. Maximum sign area: forty percent of the building facade on each elevation, including any canopies or awnings;*
- 4. Location: shall not project more than eighteen inches from the face of the wall or the surface of the canopy or awning; shall be erected in such a manner that building fenestration is not obscured and the architectural integrity of the building is not altered; shall not extend beyond the edges of the structure;*
- 5. Illumination: internal or indirect; may not be flashing or intermittent.*

**STAFF RECOMMENDATION**

No recommendation.

The Zoning Board of Adjustment is empowered under Section 2.16.040, Appeals, to:

*Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of Title 20. In exercising these powers the board may, in conformity with the state act and this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.*

Also, note the following in Section 2.16.020, Powers:

- B. The concurring vote of seven members of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under Title 20 of this code, or to effect any variation in requirements of Title 20.*

Ms. Castle gave a PowerPoint presentation and noted the sign ordinance was amended October, 2007. This application was submitted November, 2009.

Mr. Martin Gonzalez, representing the applicant, was present.



registered as legally nonconforming, existing prior to 1955, the effective date of the zoning code. This is the first request by the applicants for the Builder Error in the last 12 months. **STAFF RECOMMENDS APPROVAL OF THE REQUEST AS IT MEETS THE REQUIREMENTS OF THE SPECIAL EXCEPTION.**

Ms. Castle gave a PowerPoint presentation.

Mr. Gerardo Blanco, applicant, explained he surveyed the property and measured 5'2"; however, the mortgage company survey measured 4'8", not including the bay window. He must abide by the mortgage company survey. Mr. Blanco gave background information regarding the construction of the retaining walls. Additionally, Mr. Blanco explained the plans he submitted to the city were approved, permits were issued and he passed all inspections, including the bay window.

Mr. Mike Neligh responded Staff would not have approved the site plan as the bay window does not have a one hour fire rating. He added Staff would need to review the original building plans to determine where the discrepancy between the two surveys is.

Mr. Aguilar noted the photo of the bay window in the PowerPoint presentation does not abut the property line.

Mr. Neligh concurred and added there is a distinct possibility the site plan could be incorrect. He asked the applicant if he had received written permission from the adjacent property owner to build the retaining wall.

Mr. Blanco explained the retaining wall was within his property.

Ms. Jorgensen wondered if the motion language would be based on the site plan with the engineer's seal.

Ms. Osborn gave legal guidance regarding the motion language.

Mr. Aguilar stated if the site plan was incorrect then the Board should not be granting the Special Exception.

Mr. Perez suggested postponing the item so that the applicant could have another survey done.

Mr. Melendez noted the applicant was willing to accept the builder error.

Chair Cordova asked Staff if the motion language should include *"that the bay window be confirmed, fire rated or removed."*

Mr. Neligh responded structures that come within three feet of the side and/or rear property line must be fire rated. Based on the survey, the structure is too close to the property line; therefore, the bay window could not exist. However, the photograph shows the bay window may actually be really close to the three feet.

Mr. Melendez noted the site plan does not show the dimension from the bay window to the property line; the Board has only the photograph in the PowerPoint presentation. He wondered if a third survey was taken and the dimensions do not match the first or second survey, someone would then have to determine which survey is correct.

Mr. Perez commented on the poor quality of the survey.

Chair Cordova 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. Gezelius, seconded by Mr. Hernandez and unanimously carried **TO APPROVE THE STAFF RECOMMENDATION.**

**AYES:** Ms. Jorgensen and Messrs. Gezelius, Aguilar, Cordova, Hernandez, Mendez, Melendez and Barela

**NAY:** Mr. Perez

The Motion passed. (8-1)

**ITEM 7:**

ZBA09-00044

3020 Roy Pace Drive

Carlos and Karmina Carlo

Applicants request a Special Exception under Section 2.16.050 K (Carport over a Driveway) in an A-2 (Apartment) zone. This would permit a 23'4" by 20'4" carport that is proposed to encroach 20' into the required front yard setback and to be located to within 5' of the front property line. The required front and rear yard setback cumulative total is 45 feet for a single-family residence in the A-2 (Apartment) zone district. This case was postponed from the November 9, 2009, meeting to the December 14, 2009, meeting. The applicants are requesting the addition of a carport that is proposed to be located to within 5' of the front property line. There are no utility easements at the front property line. The applicant's plans indicate that the materials used for the carport will match the existing house. The roofline of the existing house is noted as 13' on the elevation drawing. The carport roof shall rise no higher than the roof of the house. The Building Permits & Inspection Division has reviewed the structural plans and notes that revisions are necessary. The staff has received one letter in opposition to the request. Staff notes that the height of the existing wall at the intersection of Roy Pace and Pebble Hills exceeds three feet, and does not comply with Section 20.16.050 (vision clearance at intersections). The applicant shall verify that this wall is on private property, and shall reduce the height of the wall within the twenty-foot vision triangle, or may apply in writing for a waiver on the height from the Traffic Engineer. **STAFF IS RECOMMENDING DENIAL AS THE APPLICANT HAS NOT SUBMITTED REVISED STRUCTURAL PLANS.**

Mr. Adrian Zamarripa, representing the applicants, was sworn in prior to the PowerPoint presentation.

Ms. Castle gave a PowerPoint presentation and noted the representative has brought the revised plans as requested; however, Staff has not had an opportunity to review them. Staff recommends postponing the item to allow Staff time to review the revised plans.

Ms. Osborn concurred with Ms. Castle and recommended the Board postpone the item.

**1<sup>ST</sup> MOTION:**

Motion made by Mr. Gezelius to postpone. There was no second. No vote was taken.

Ms. Osborn explained to the representative that the Building Permits & Inspections Division must approve the revised site plans before the Board can grant the Special Exception.

Mr. Melendez stated there should be a dimension on the drawings indicating what the actual location of the overhang is, perhaps Staff would check that when the drawings are reviewed.

Ms. Castle responded no water can be shed onto the public right-of-way; theoretically, they can go all the way to the property line.

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

**2<sup>ND</sup> AND FINAL MOTION:**

Motion made by Mr. Gezelius, seconded by Mr. Melendez and unanimously carried **TO POSTPONE.**

**AYES:** Ms. Jorgensen and Messrs. Perez, Gezelius, Aguilar, Cordova, Hernandez, Mendez, Melendez, and Barela

**NAYS:** N/A

The Motion passed. (9-0)

**Other Business:**

8. Approval of Minutes: November 9, 2009

**1<sup>ST</sup> MOTION:**

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

Prior to the vote, Chair Cordova asked Board Members if they had any corrections/revisions to the minutes for November 9, 2009.

Chair Cordova requested the following be deleted on page 6, *“Chair Bowling asked if members of the audience were present to speak in favor of or in opposition to the application. There being none.*

Mr. Cordova and Ms. Jorgensen requested Staff review the meeting tape and verify if they had seconded the nomination motions.

Staff would review the meeting tape and make the necessary corrections.

**2<sup>nd</sup> AND FINAL MOTION:**

Motion made by Mr. Barela, seconded by Ms. Jorgensen and unanimously carried **TO APPROVE THE NOVEMBER 9, 2009 MEETING MINUTES, AS REVISED.**

**AYES:** Ms. Jorgensen and Messrs. Gezelius, Aguilar, Cordova, Hernandez, Mendez, Melendez, and Barela

**NAYS:** N/A

**ABSTAIN:** Mr. Perez

The Motion passed. (8-0)

**Development Services Report:**

9. Discussion and action regarding Zoning Board of Adjustment issues:

There was no discussion.

**ADJOURNMENT:**

**MOTION:**

Motion made by Mr. Gezelius, seconded by Ms. Jorgensen and unanimously carried to **ADJOURN THE ZBA MEETING AT 3:09 P.M.**

**AYES:** Ms. Jorgensen and Messrs. Perez, Gezelius, Aguilar, Cordova, Hernandez, Mendez, Melendez, and Barela

**NAYS:** N/A

The Motion passed. (9-0)

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Linda Castle, Senior Planner