



**ZONING BOARD OF ADJUSTMENT MEETING MINUTES  
2ND FLOOR – CITY COUNCIL CHAMBERS  
DECEMBER 8, 2008  
1:30 P.M.**

The Zoning Board of Adjustment meeting was called to order at 1:30 p.m.

The following Board Members answered roll call:

Mr. Robert Veliz (Chair)  
Mr. David Marquez (Vice-Chair)  
Mr. Sam Barela  
Mr. Rick Cordova  
Mr. Randy Bowling  
Mr. Servando Hernandez  
Mr. Jose Melendez  
Mr. Rigoberto Mendez  
Mr. Larry Nance

The following City Staff members were present:

Ms. Mirian Spencer, Development Services Department, Planning Division, Planner  
Mr. Robert Peña, Development Services Department, Planning Division, ZBA Secretary  
Ms. Linda Castle, Development Services Department, Planning Division, Senior Planner  
Mr. Mike Neligh, Development Services Department, BP&I, Senior Plans Examiner  
Mr. Mark Shoosmith, City Attorney's Office, Assistant City Attorney

**CHANGES TO THE AGENDA**

Staff requested the following:

3. ZBA08-00090, 920 N. Stanton Street, **POSTPONE FIVE (5) WEEKS UNTIL THE JANUARY 12, 2009, ZBA MEETING**, per the Applicant's request.
5. ZBA08-00087, 1409 Pintoresco Drive, **BE WITHDRAWN**, per the Applicant's request.

Motion made by Mr. Nance, seconded by Mr. Mendez and unanimously carried to **APPROVE THE CHANGES TO THE AGENDA.**

**AYES:** Messrs. Barela, Cordova, Bowling, Marquez, Veliz, Hernandez, Melendez, Mendez and Nance  
**NAYS:** N/A

The Motion passed. (9-0)

**ITEM 1:**

ZBA08-00088

7320 Mojave Drive

Rogelio and Asuncion Lomas

Applicants request a Special Exception under Section 2.16.050 K (Carport over a Driveway) in an R-3 zone. This would permit the construction of a 22' by 20' carport of which a 22' by 13' portion is proposed to encroach 13' into the required front yard setback. The required cumulative front and rear yard setback total is 50 feet in an R-3 (Light Density Residential) zone. The Applicants are requesting to add a carport that is proposed to be located to within 7' 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 Applicant states that the carport will be approximately 11' high at the ridge line and that pre-engineered trusses will be used for the roof structure. Building Permits & Inspections has reviewed the structural plans and found them acceptable.

Ms. Castle gave a PowerPoint presentation and stated **Staff recommends approval of the request for the carport as it meets the requirements of the Special Exception K, with the condition that the carport roof shall rise no higher than the roof of the house.**

Mr. Andy Lomas, Representative (Applicant's son), was present.

Chair Veliz asked if Board Members had questions for either the Representative or Staff. There were no questions.

Chair Veliz asked if members of the audience were present to speak in favor of or in opposition to the application. There being none, Mr. Bowling moved, Mr. Melendez seconded and unanimously carried to **APPROVE THE APPLICATION, WITH THE CONDITION THAT THE CARPORT ROOF SHALL RISE NO HIGHER THAN THE ROOF OF THE HOUSE.**

**AYES:** Messrs. Barela, Cordova, Bowling, Marquez, Veliz, Hernandez, Melendez, Mendez and Nance

**NAYS:** N/A

The Motion passed. (9-0)

**ITEM 2:**

ZBA08-00089

1581 Billie Marie Drive

Rudy Velasquez

Applicant requests a Special Exception under Section 2.16.050 C (Rear Yard Setback) in an R-3 zone. This would permit a 24.53' by 15' portion of an addition that is proposed to encroach 15' into the required rear yard setback and to be located to within 10' of the rear property line. The required cumulative front and rear yard setback total is 50 feet in an R-3 (Light Density Residential) zone. The Applicant is requesting an addition that will encroach in the required rear yard setback. He has already poured a slab that is 26'1" wide and wants an addition that is 26'1" wide; however, the Special Exception C only allows encroachments that are 1/3 the average lot width. This means that the structure will have to be reduced to a width of 24'6" (24.53') beginning 25' from the rear property line. There is approximately 18' of buildable area, including the existing porch, before the addition encroaches in the required 25' setback and the 1/3 average lot width is required. The Applicant has indicated that he will remove one of the two storage sheds in the rear yard. The remaining storage shed will need to be relocated in the rear yard to be at least 3' from the side property line.

Ms. Castle gave a PowerPoint and offered suggestions to the Applicant to meet the required setback. She stated **Staff recommends approval of a 24'6" (24.53') by 15' encroachment in the rear yard setback that will meet the requirements of the Special Exception C, with the condition that the remaining storage shed will be relocated in the rear yard to be 3' from the side property line and shall not exceed 180 square feet in area.**

Mr. Rudy Velasquez, Applicant, distributed information to Board Members prior to his remarks. He commented on the existing slab and stated he would prefer reducing the right side 1.5 feet; however, he was concerned the footing would be off. He added the footing may be a safety issue and was concerned the City inspector may not approve. He stated the City requires 12" footing. Additionally, he opined the application may fall under Section 2.15.050 G (Builder Error) due to the contractor having poured the slab incorrectly, three years ago.

Ms. Castle responded that the Builder Error is for setbacks, and does not allow for errors in lot width.

Regarding the 26'1", Mr. Veliz explained to Mr. Velasquez that the Board can only approve 1/3 the lot width. Mr. Veliz recommended the Applicant come in 8.5" on each side to meet the recommended setback requirement. He explained, 1/3' the lot width, or in this case, 24'6", was the maximum amount the Board could approve.

Mr. Velasquez clarified the Builder Error does not apply to the side and reiterated Mr. Veliz's suggestion was to come in 8.5" on both sides or moving in on one side and take off the footing on the one side.

Mr. Neligh explained the applicant will have to uncover the slab enough to allow the footing to be inspected; additionally, the City typically requires one foot for the footing. He stated the wall must rest on a proper footing.

Mr. Veliz interjected the applicant was before the Board to ask for approval of 24'6", and that the City inspectors will then do a physical inspection.

Mr. Cordova commented on the side property line being perpendicular to the front but not the back and asked if the applicant had enough space in the corner.

Ms. Castle explained the Applicant had used an incorrect scale for the original site plan; however, Staff has insured the Applicant had the required minimum setback of 10'.

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

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

Mr. Nance moved, Mr. Hernandez seconded to **APPROVE BASED ON THE STAFF RECOMMENDATION OF THE 24'6" WIDTH AND THE STORAGE SHED BEING MOVED.**

Prior to the vote, Mr. Velasquez asked, as far as the 26.5", if he could postpone this for the next meeting, would it be an issue, that he had just wanted to get a feel where the Board is on this.

Mr. Veliz asked the Applicant why he wanted to postpone.

Mr. Velasquez responded I want to see if my options, what I actually want to do as far as going forward with this or what I actually want to do--if it's at all possible to postpone to the next meeting.

Mr. Veliz responded there are many things the Board can/cannot approve; however, 1/3 the width is the maximum allowed, that cannot change. He added, if the Board approves, you have the option of doing or not doing it.

Mr. Peña added the Applicant could utilize the suggestions made by Staff and the Board as long as he meets the 24'6".

Mr. Velasquez asked if I do the 8.5' on each side, I have very little room, but if I do move it 8.5', I would still be within the footing I wouldn't have to do anything else.

Mr. Veliz responded the City inspectors will determine that.

Mr. Hernandez added that has nothing to do with the Board.

Mr. Velasquez responded that's going to determine to me if I want to postpone or not. He asked if he moves it 8.5", would I still be within the footing, if they're okay with that.

Mr. Veliz questioned so you're saying that, suppose you do have the one foot footing, would they allow you the 8.5" on each side.

Mr. Velasquez: if I do 8.5", it would still be resting on the footing. In other words, you have one foot, I move it in 8.5", the walls would still rest on the footing on each side.

Mr. Nance responded I don't know how the City could guarantee that because they would have to actually go out and make a physical inspection of the property. In other words, if the Board approves it, you can arrange it anyway you want, as long as you fall within the 1/3.

Mr. Velasquez responded my concern would be if I do move it 8.5" and the inspectors sees it has the one foot footing, I don't know if the City requires it be right on the edge ...

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

Mr. Nance moved, Mr. Hernandez seconded and unanimously carried to **APPROVE THE APPLICATION PER STAFF RECOMMENDATION OF A 24'6" WIDTH (24.53') BY 15' ENCROACHMENT IN THE REAR YARD SETBACK THAT WILL MEET THE REQUIREMENTS OF THE SPECIAL EXCEPTION C, WITH THE CONDITION THAT THE REMAINING STORAGE SHED WILL BE RELOCATED IN THE REAR YARD TO BE 3' FROM THE SIDE PROPERTY LINE AND SHALL NOT EXCEED 180 SQUARE FEET IN AREA.**

**AYES:** Messrs. Barela, Cordova, Bowling, Marquez, Veliz, Hernandez, Melendez, Mendez and Nance

**NAYS:** N/A

The Motion passed. (9-0)

**ITEM 3:**

ZBA08-00090

920 North Stanton Street

Robert Malooly

Motion made by Mr. Nance, seconded by Mr. Mendez and unanimously carried to **POSTPONE FIVE (5) WEEKS UNTIL THE JANUARY 12, 2009, ZBA MEETING, PER THE APPLICANT'S REQUEST.**

**AYES:** Messrs. Barela, Cordova, Bowling, Marquez, Veliz, Hernandez, Melendez, Mendez and Nance

**NAYS:** N/A

The Motion passed. (9-0)

**ITEM 4:**

ZBA08-00091

10211 Castletown Drive

Nestor Arzola

Applicant requests a Special Exception under Section 2.16.050 K (Carport over a Driveway) in an R-3 zone. This would permit the existence of a 22' by 22' carport that encroaches in the required front yard setback in an R-3 zone. The required cumulative front and rear yard setback total is 50' in an R-3 (Light Density Residential) zone. The Applicant was cited on November 11, 2008 for building a carport without permit. He is requesting to legalize the carport that is located to within 2'9" 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 carport rises no higher than the roof of the house. Building Permits & Inspections has reviewed the structural plans and finds them acceptable. Staff has received one phone call in opposition to the carport. The Applicant will need to relocate the storage shed located in the side yard.

Ms. Castle gave a PowerPoint presentation and stated **Staff recommends approval of the request for the carport as it meets the requirements for the Special Exception, with the condition that the storage shed located in the side yard be removed or relocated to the rear yard.**

Mr. Nestor Arzola, Applicant, explained he had paid a contractor in August to construct the carport; however, the contractor had not applied for a permit. He would be filing for a permit himself; additionally, he would be hiring another contractor to complete the construction.

Ms. Spencer explained the individual who called in opposition did not give a reason why they were opposed.

Chair Veliz asked if members of the audience were present to speak in favor of or in opposition to the application. There being none, Mr. Nance moved, Mr. Mendez seconded and unanimously carried to **APPROVE THE APPLICATION WITH THE CONDITION THAT THE STORAGE SHED LOCATED IN THE SIDE YARD BE REMOVED OR RELOCATED TO THE REAR YARD.**

**AYES:** Messrs. Barela, Cordova, Bowling, Marquez, Veliz, Hernandez, Melendez, Mendez and Nance  
**NAYS:** N/A

The Motion passed. (9-0)

**ITEM 5:**

ZBA08-00087

1409 Pintoresco Drive

Joe and Mary De Angelis

Motion made by Mr. Nance, seconded by Mr. Mendez and unanimously carried to **WITHDRAW ZBA 08-00087, PER THE APPLICANT'S REQUEST.**

**AYES:** Messrs. Barela, Cordova, Bowling, Marquez, Veliz, Hernandez, Melendez, Mendez and Nance  
**NAYS:** N/A

The Motion passed. (9-0)

**OTHER BUSINESS:**

6. Approval of Minutes November 10, 2008

Motion made by Mr. Melendez, seconded by Mr. Marquez and unanimously carried to **APPROVE THE MINUTES OF THE NOVEMBER 10, 2008 ZBA MEETING.**

**AYES:** Messrs. Cordova, Bowling, Marquez, Veliz, Hernandez, Melendez, Mendez and Nance  
**NAYS:** N/A  
**ABSTAIN:** Mr. Barela

The Motion passed. (8-1)

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**DEVELOPMENT SERVICES REPORT:**

7. Discussion and action regarding Zoning Board of Adjustment issues.

Prior to the meeting, Staff distributed the 2009 ZBA Hearing Schedule and explained if the trend continued, there would be one ZBA meeting per month.

Mr. Bowling commented on cumulative encroachment into the rear yard setback, as opposed to, doing a narrow/long and asked Staff if there had been any progress on this issue. He referred to an applicant who wanted to go the length of the house; however, the Code states, longer/narrower.

Ms. Castle opined it comes down to percentage of lot coverage. She added there had not been discussion on the issue from upper management; however, the issue could be looked at again.

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**ADJOURNMENT:**

Motion made by Mr. Hernandez to **ADJOURN THE ZBA MEETING AT 2:06 P.M.**

**AYES:** Messrs. Barela, Cordova, Bowling, Marquez, Veliz, Hernandez, Melendez, Mendez and Nance

**NAYS:** N/A

The Motion passed. (9-0)

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Robert Peña, Secretary, Zoning Board of Adjustment