

AYES: Messrs. Mendez, Cordova, Perez, Barela, Nance, Veliz, Hernandez, Marquez and Ms. Jorgensen

NAYS: N/A

The motion passed. (9-0)

ITEM 2:

ZBA08-00008

12304 Tierra Humeda

Gabriel & Mirna Gardea

Applicants request a Special Exception under Section 2.16.050 G (Rear Yard Setback) in an R-5 zone. This would permit the construction of a 17' by 10' addition that is proposed to encroach 8' into the required rear yard setback.

The applicants are requesting to enclose an open porch that is proposed to encroach 8' into the required rear yard setback. The applicants are also adding a new open porch.

Mr. Robert Pena presented the case and noted Staff recommends approval of this request as it meets the requirements of the Special Exception G, with the condition that the proposed new porch shall never be enclosed. Ms. Mirna Gardea, Applicant, was present to represent the case.

Chair Nance asked if members of the audience were present to speak in favor of or in opposition to the application. There being none, Mr. Mendez moved, noting the condition of never enclosing the new open porch, Mr. Oscar Perez seconded, and unanimously carried to **APPROVE THE APPLICATION.**

AYES : Messrs. Mendez, Cordova, Perez, Barela, Nance, Veliz, Hernandez, Marquez and Ms. Jorgensen

NAYS: N/A

The motion passed. (9-0)

ITEM 3:

ZBA08-00009

12465 Nancy Lee Drive

Juan & Rosario

Mena

Applicants request a Special Exception under Section 2.16.050 G (Rear Yard Setback) in an R-3A zone. This would permit a 15' by 20' addition that is proposed to encroach 14' into the required rear yard setback. The required cumulative front and rear yard setback total is 45' in an R-3A zone. Ms. Castle noted that one-third the average lot width is 16.66' ($50 \div 3$).

The applicants are requesting to construct an addition that is proposed to encroach in the rear yard setback.

Mr. Robert Pena presented the case and noted Staff recommends approval of this request as it meets the requirements of the Special Exception G. Freddy Oliver, F&O Construction, represented the Applicants.

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

Mr. David Marquez moved, Mr. Mendez seconded, and unanimously carried to **APPROVE THE APPLICATION.**

AYES: Messrs. Mendez, Cordova, Perez, Barela, Nance, Veliz, Hernandez, Marquez and Ms. Jorgensen

NAYS: N/A

The motion passed. (9-0)

ITEM 4:

ZBA08-00010

3508 Alameda

Benjamin Ornelas

Applicant requests a Special Exception under Section 2.16.050 C (Rear Yard Setback) in a C-4 zone. This would permit the construction of a 60' by 40' warehouse that is proposed to encroach 10' into the required rear yard setback. The required rear yard setback is 10' in a C-4 zone.

The applicant is requesting to build a new warehouse that is proposed to be located to within 0' of the rear property line. There are several properties in the same block on the same side of the street that are built to the rear property line. The subject property is currently used for parking for Mr. Ornelas' restaurant next door. The restaurant requires a minimum of 12 parking spaces, and the warehouse requires 1 parking space, for a total of 13 required parking spaces. The site plan shows 19 parking spaces provided.

Mr. Robert Pena presented the case and noted Staff recommends approval of this request as it meets the requirements of the Special Exception C. The Applicant, Mr. Ornelas, was present to represent the case. In response to questioning by the Board, Mr. Ornelas said that he plans to use the warehouse for storage for his restaurant but that he may consider renting it in the future.

Chair Nance asked if members of the audience were present to speak in favor of or in opposition to the application. There being none, Mr. Robert Veliz moved, Mr. Marquez seconded, and unanimously carried to **APPROVE THE APPLICATION.**

AYES: Messrs. Mendez, Cordova, Perez, Barela, Nance, Veliz, Hernandez, Ms. Jorgensen, and Mr. Marquez

NAYS: N/A

The motion passed. (9-0)

ITEM 5:

ZBA08-00011

79 Sierra Crest Drive

Robert & Cynthia Chizen

Applicants request a Variance (Front Yard Setback) from Section 20.12.020 (Table of Density & Dimensional Standards, Single-family detached) in a PR-1/sc zone. This would permit the construction of a new residence that is proposed to encroach 5' into the required front yard setback. The required front yard setback is 10' in a PR-1 zone.

The applicants are requesting to build a new 75' by 56' residence that is proposed to be built encroaching the entire width of the house into the required front yard. The lot is located in mountain terrain in the Sierra Crest subdivision. The buildable area of the lot is reduced due to steep drop-offs at the rear of the lot.

Mr. Robert Pena presented the case and noted Staff recommends approval of the Variance due to the special condition of the buildable area of the lot being reduced. Teri Froetschel of Willis Homes represented the Applicants.

Chair Nance asked Mr. Veliz to read the following questions from a Variance worksheet and asked Mr. Pena to poll the Board on their responses to the following questions:

1. Is the request for a variance owing to a special condition inherent in the property itself?

AYES: Messrs. Mendez, Cordova, Perez, Barela, Nance, Veliz, Hernandez, Ms. Jorgensen, and Mr. Marquez

NAYS: None

2. Is the condition one unique to the property requesting the variance?

AYES: Messrs. Mendez, Cordova, Perez, Barela, Nance, Veliz, Hernandez, Ms. Jorgensen, and Mr. Marquez

NAYS: None

3. Is the condition self-imposed or self-created?

AYES: None

NAYS: Messrs. Mendez, Cordova, Perez, Barela, Nance, Veliz, Hernandez, Ms. Jorgensen, and Mr. Marquez

4. Will the literal enforcement of the zoning ordinance result in an unnecessary hardship?

AYES: Messrs. Mendez, Cordova, Perez, Barela, Veliz, Hernandez, Ms. Jorgensen, and Mr. Marquez

NAYS: Mr. Nance

5. Will the hardship prevent any reasonable use whatsoever?

AYES: Messrs. Mendez, Cordova, Perez, Barela, Veliz, Hernandez, Ms. Jorgensen, and Mr. Marquez

NAYS: Mr. Nance

6. Would the grant of the variance be contrary to public interest?

AYES: None

NAYS: Messrs. Mendez, Cordova, Perez, Barela, Nance, Veliz, Hernandez, Ms. Jorgensen, and Mr. Marquez

7. Is the request within the spirit of the ordinance and does it further substantial justice?

AYES: Messrs. Mendez, Cordova, Perez, Barela, Nance, Veliz, Hernandez, Ms. Jorgensen, and Mr. Marquez

NAYS: None

Chair Nance asked if members of the audience were present to speak in favor of or in opposition to the application. There being none, Mr. Perez moved, Mr. Mendez seconded, and the motion carried to **APPROVE THE APPLICATION.**

AYES: Messrs. Mendez, Cordova, Perez, Barela, Veliz, Hernandez, Ms. Jorgensen, and Mr. Marquez

NAYS: Mr. Nance

The motion to approve the Variance passed (8-1).

ITEM 6:

ZBA08-00012

77 Sierra Crest Drive

Victor Miramontes

Applicant requests a Variance from Section 20.12.020 (Table of Density & Dimensional Standards, Single-family detached) in a PR-1/sc zone. This would permit the construction of a new residence that is proposed to encroach 5' into the required front yard setback. The required front yard setback is 10' in a PR-1 zone.

Mr. Robert Pena presented the case and noted Staff recommends approval of the Variance due to the special condition of the lot. Margarita Villalobos was present to represent the applicants.

Chair Nance asked Mr. Veliz to read the following questions from a Variance worksheet and asked Mr. Pena to poll the Board on their responses to the following questions:

1. Is the request for a variance owing to a special condition inherent in the property itself?

AYES: Messrs. Mendez, Cordova, Perez, Barela, Nance, Veliz, Hernandez, Ms. Jorgensen, and Mr. Marquez

NAYS: None

2. Is the condition one unique to the property requesting the variance?

AYES: Messrs. Mendez, Cordova, Perez, Barela, Nance, Veliz, Hernandez, Ms. Jorgensen, and Mr. Marquez

NAYS: None

3. Is the condition self-imposed or self-created?

AYES: None

NAYS: Messrs. Mendez, Cordova, Perez, Barela, Nance, Veliz, Hernandez, Ms. Jorgensen, and Mr. Marquez

4. Will the literal enforcement of the zoning ordinance result in an unnecessary hardship?

AYES: Messrs. Mendez, Cordova, Perez, Barela, Veliz, Hernandez, Ms. Jorgensen, and Mr. Marquez

NAYS: Mr. Nance

5. Will the hardship prevent any reasonable use whatsoever?

AYES: Messrs. Mendez, Cordova, Perez, Barela, Veliz, Hernandez, Ms. Jorgensen, and Mr. Marquez

NAYS: Mr. Nance

6. Would the grant of the variance be contrary to public interest?

AYES: None

NAYS: Messrs. Mendez, Cordova, Perez, Barela, Nance, Veliz, Hernandez, Ms. Jorgensen, and Mr. Marquez

7. Is the request within the spirit of the ordinance and does it further substantial justice?

AYES: Messrs. Mendez, Cordova, Perez, Barela, Nance, Veliz, Hernandez, Ms. Jorgensen, and Mr. Marquez

NAYS: None

Chair Nance asked if members of the audience were present to speak in favor of or in opposition to the application. Margarita Molina, Engineering-Traffic Division, asked that the height of any walls at the street be limited to three feet high so that visibility for drivers is not impaired. Mr. Hernandez moved, with the condition that any walls at the front shall be limited to three feet high, Mr. Mendez seconded, and the motion carried to **APPROVE THE APPLICATION.**

AYES: Messrs. Mendez, Cordova, Perez, Barela, Veliz, Hernandez, Ms. Jorgensen, and Mr. Marquez

NAYS: Mr. Nance

The motion to approve the Variance passed (8-1).

ITEM 7:

ZBA08-00013

10613 Gala Street

Michael & Cynthia Daniels

Applicants request a Special Exception under Section 2.16.050 G (Rear Yard Setback) in an R-3 zone. This would permit a 17' by 23' portion of an addition that is proposed to encroach 8' into the required rear yard setback. The required cumulative front and rear yard setback total is 50' in an R-3 zone. Ms. Castle noted that one-third the average lot width is 23.33' ($70 \div 3$).

The applicants are proposing a two-story addition, a portion of which is proposed to encroach in the rear yard setback.

Mr. Robert Pena presented the case and noted Staff recommends approval of this request as it meets the requirements of the Special Exception G. Michael Daniels, Applicant, was present to represent the case.

Chair Nance asked if members of the audience were present to speak in favor of or in opposition to the application. There being none, Mr. Mendez moved, Ms. Jorgensen seconded, and unanimously carried to **APPROVE THE APPLICATION.**

AYES: Messrs. Mendez, Cordova, Perez, Barela, Nance, Veliz, Hernandez, Ms. Jorgensen, and Mr. Marquez

NAYS: N/A

The motion passed. (9-0)

ITEM 8:

ZBA08-00014

10010 Montana Avenue

Amex

Properties

Applicant is appealing an Administrative Official's Decision under Section 2.16.040 in a C-3 zone. Amex Properties has filed an Appeal of an Administrative Official's Decision with the Zoning Board of Adjustment under Section 2.16.040, Appeals, concerning property located at 10010 Montana Avenue in a C-3 zone.

The Applicant, and Applicant's representative, Young Electric Sign Company, are appealing a determination made regarding the following section of the El Paso Municipal code: **20.18.240 Setback requirements**. D. Signs larger than seventy two square feet and up to three hundred square feet in area must be three hundred and fifty feet from property line of the following zoning districts when located on the same side of the street: R-F, R-1, R-2, R-2A, R-3, R-3A, R-4, R-5, P-RI, P-RII, RMH, PMD, A-1, A-2, A-3, A-4, A-M, A-3/O, A-O, R-MU, G-MU, or I-MU.

Christina Valles presented the case, noting that a sign permit had been issued for a billboard on the subject property based on an erroneous interpretation of the code regarding setbacks, that being that the required 350 foot setback from any of the aforementioned zones was to be in a linear direction, along the frontage of Montana from the proposed sign location. As Zoning Administrator, she stated she made the decision that the sign permit should be revoked because the proposed sign location is approximately 140 feet from an A-O district. She said that the Zoning Code may need to be changed to include language requiring a setback of a 350 foot radius from a proposed sign to any of these zones.

Jared Johnson and Rafer Perez-Lopez were present to represent their company, Young Electric Sign Company, and the owner, Amex Properties.

It was noted that the Section of the Code that is referenced, 20.18.240 D., refers to signs up to 300 square feet, and the request is for a 672 square foot sign.

Mr. Johnson asked when the stop work order was issued. Mr. Larry Nichols, Building Official, responded that the notice of public hearing serves as notice that work is to stop pending this Board's decision.

After discussion, Assistant City Attorney Cynthia Osborn asked that the Board retire to Executive Session. Motion was made, seconded and passed to retire to Executive Session at approximately 2:50 p.m.

At approximately 3:15 p.m., the Board returned to City Council Chamber. Motion was made, seconded and passed to return to the Regular Public Hearing portion of the agenda.

Ms. Jorgensen moved to postpone this item under the March 10, 2008 ZBA meeting, Mr. Mendez seconded, and the motion passed unanimously to postpone this Appeal item to the March 10, 2008, ZBA meeting. The Board requested that City Staff meet with the applicant's representative to determine if the permit application date of October 29, 2007, just prior to the adoption of the current code on November 1, 2007, would affect the decision to revoke the sign permit; to make a correction on the code section; and, to provide the Board with copies of the permit application.

AYES: Messrs. Mendez, Cordova, Perez, Barela, Nance, Veliz, Hernandez, Marquez and Ms. Jorgensen

NAYS: N/A

The motion passed. (9-0)

OTHER BUSINESS:

9. Approval of Minutes – January 28, 2008

Motion made by Mr. Cordova, seconded by Mr. Mendez, and unanimously carried to approve the **JANUARY 28, 2008, ZBA MINUTES.**

AYES: Messrs Mendez, Cordova, Barela, Nance, Hernandez and Marquez

NAYS: N/A

ABSTAIN: Ms. Jorgensen and Mr. Veliz

The Motion passed.

DEVELOPMENT SERVICES REPORT:

10. Discussion and action regarding proposed changes to the Zoning Board of Adjustment Ordinance, Section 2.16, City of El Paso Municipal Code.

Ms. Linda Castle asked the Board to refer to their handouts on proposed changes to the ZBA Ordinance. She noted that she had added references to allow some new home construction qualifying for the Special Exceptions for rear, front, duplex and carport setback reductions; however, she said City Attorneys objected to these additions. Assistant City Attorney Cynthia Osborn explained that if a qualifier for these special exceptions is that the home be owner occupied for one year, then new home construction cannot also be included in these Special Exceptions.

After discussion about the addition of the 30 year old subdivision requirement in the Special Exception concerning two or more nonconforming lots, the Board voted to change the requirement to a subdivision age of 10 years.

Ms. Castle said she would make the changes discussed today and provide them to the Board for review.

ADJOURNMENT:

Motion was made, seconded, and unanimously carried to adjourn at 3:50 p.m.

AYES: Messrs. Mendez, Cordova, Perez, Barela, Nance, Veliz, Hernandez, Ms. Jorgensen, and Mr. Marquez

NAYS: N/A

The Motion passed. (9-0)

Robert Peña, Secretary
Zoning Board of Adjustment