



**ZONING BOARD OF ADJUSTMENT MEETING MINUTES
2ND FLOOR – CITY COUNCIL CHAMBER
JULY 23, 2007
1:30 P.M.**

The Zoning Board of Adjustment meeting was called to order at 1:42 p.m.

The following Board Members answered roll call:

Mr. Larry Nance, Chairman
Mr. Robert Veliz, Vice-Chairman
Mr. Rick Cordova
Mr. Randy Bowling
Mr. Oscar Perez
Ms. Anna Gill
Ms. Alisa Jorgensen

The following City Staff members were present:

Ms. Mirian Spencer, Development Services Department, Planning Division, Planner
Ms. Linda Castle, Development Services Department, Planning Division, Senior Planner
Mr. Tony De La Cruz, Development Services Department, Building Permits & Inspections Division,
Building Plans Examiner
Ms. Lupe Cuellar, City Attorney's Office, Assistant City Attorney
Mr. Ernesto Rodriguez, City Attorney's Office, Assistant City Attorney

REVISIONS TO THE AGENDA:

Motion made by Mr. Veliz, seconded by Mr. Perez, and unanimously carried to **POSTPONE ZBA07-00110, 600 BRISTOL DRIVE, ZBA07-00092, 5533 MILRAY DRIVE, AND ZBA07-00102, 12456 JAMES REY CIRCLE, FOR TWO (2) WEEKS.**

AYES: Ms. Gill and Ms. Jorgensen and Messrs. Cordova, Bowling, Perez, Nance, and Veliz

NAYS: N/A

The Motion passed. (7-0)

Chairman 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. Veliz seconded, and unanimously carried to **APPROVE THE APPLICATION.**

AYES: Ms. Gill and Ms. Jorgensen and Messrs. Cordova, Bowling, Perez, Nance, and Veliz

NAYS: N/A

The Motion passed. (7-0)

ITEM 3:

ZBA07-00108

1724 Paul Moran Place

Maria I. Lucero

Applicant requests a Special Exception under Section 2.16.050 G (Rear Yard Setback) in an R-3 zone of the City of El Paso Zoning Ordinance. This would permit the existence of a 17' by 3' portion of a structure located to within 22' of the rear property line. A 25' rear yard setback is required in an R-3 zone.

Ms. Mirian Spencer presented the case and noted Staff recommended approval of the Special Exception G with the condition that the encroachment in the southerly side yard setback be reduced to within 5' from the side property line. She read into the record the following:

"The Zoning Board of Adjustment is empowered under Section 2.16.050 G to "Permit an extension of a single-family residential structure into the required rear yard, which shall be measured to the rear property line, not to the centerline of the alley, if one exists; provided, however, that:

3. *The minimum side and side street yards shall not be reduced;"*

Mr. Pablo Fernandez, representing the Applicant, was present and concurred with Staff comments.

Chairman 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, Ms. Gill seconded, to **APPROVE THE APPLICATION, AS RECOMMENDED BY STAFF.**

AYES: Ms. Gill and Ms. Jorgensen and Messrs. Cordova, Bowling, Perez, Nance, and Veliz

NAYS: N/A

The Motion passed. (7-0)

ITEM 4:

ZBA07-00109

3448 Kirkwall Street

Phillip E. and Robin R. Tausch

Applicants request a Special Exception under Section 2.16.050 V (Front Yard Setback) in an R-3 zone of the City of El Paso Zoning Ordinance. This would permit the construction of a 19' by 8' portion of a structure located to within 13' of the front property line. A front yard setback of 25' is required in an R-3 zone.

Ms. Mirian Spencer presented the case and noted Staff recommended approval of the Special Exception V. She noted Staff had received two inquiries; however, no letters or phone calls in support or opposition were received.

Mr. Ed Long, representing the Applicants, concurred with Staff recommendations and expounded on the proposed construction.

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

AYES: Ms. Gill and Ms. Jorgensen and Messrs. Cordova, Bowling, Perez, Nance, and Veliz

NAYS: N/A

The Motion passed. (7-0)

ITEM 5:

ZBA07-00110

600 Bristol Drive

Sheldon Wheeler

1ST MOTION:

Motion made by Mr. Veliz, seconded by Mr. Perez, and unanimously carried to **POSTPONE ZBA07-00110, 600 BRISTOL DRIVE, FOR TWO (2) WEEKS.**

AYES: Ms. Gill and Ms. Jorgensen and Messrs. Cordova, Bowling, Perez, Nance, and Veliz

NAYS: N/A

The Motion passed. (7-0)

2ND MOTION:

Motion made by Mr. Veliz, seconded by Mr. Perez, and unanimously carried to **POSTPONE ZBA07-00110, 600 BRISTOL DRIVE, FOR THREE (3) WEEKS.**

AYES: Ms. Gill and Ms. Jorgensen and Messrs. Cordova, Bowling, Perez, Nance, and Veliz

NAYS: N/A

The Motion passed. (7-0)

ITEM 6:

ZBA07-00111

7713 Parkland Drive

Armando and Norma C. Rosales

Applicants request a Special Exception under Section 2.16.050 Q (Carport over a Driveway) in an R-4 zone of the City of El Paso Zoning Ordinance. This would permit the construction of a 13' by 15' portion of a carport located to within 5' of the front property line. A 20' front yard setback is required in an R-4 zone.

Ms. Mirian Spencer presented the case and noted Staff recommended approval of the carport with the condition that the Applicant revise the structural plans as required by Building Permits & Inspections. Ms. Spencer read into the record the following:

“5. The design and location of the canopy has received written approval, based upon traffic safety and structural design considerations, of the City Engineering and Building Office for Building Services,”

Mr. Larry Nance understood the plans, approved by the Engineering Department, must be present to be approved prior to the Board's approval of the application.

Ms. Lupe Cuellar reread the language read into the record by Ms. Spencer and noted the Applicant must submit the plans and receive written approval prior to the Board granting approval of the application. She suggested postponing the item until receipt and approval of said plans had been granted.

Ms. Linda Castle noted another agenda item had been postponed for the same reason.

Mr. Tony De La Cruz stated he had not spoken with the Representative or Owner regarding correcting the plans. He explained the ridge beam needed better support and added BP&I recommended approval based on the zoning aspect; however, at the time the Applicant applies for permit, BP&I would notify the Applicant the plans would require modification. He noted BP&I could not modify the plans without the approval of the Engineer and added as per the Code, an Architect/Engineer's seal is required on carports over a driveway plans.

Mr. Armando Rosales, Applicant, asked if his item could be postponed to allow him to correct the plans.

1ST MOTION:

Motion made by Mr. Bowling to move the item to the end of the agenda. There was no second.

NO VOTE WAS TAKEN.

2ND MOTION:

Motion made by Ms. Jorgensen to postpone the item for two weeks, give due diligence to the structural safety of the structure. There was no second. **NO VOTE WAS TAKEN.**

1ST MOTION – CONTINUED:

After some discussion, Mr. Veliz seconded Mr. Bowling's motion.

AYES: Ms. Gill and Messrs. Cordova, Bowling, Perez, Nance, and Veliz

NAY: Ms. Jorgensen

The 1st Motion passed. (6-1)

The item was postponed until the end of the agenda.

Ms. Mirian Spencer gave the presentation and noted Staff recommended approval of the application for a 20'6" wide portion of a structure as it met the requirements of the Special Exception G. The existing structure is 28'8" wide; however, the maximum width permitted is 20.66'.

Ms. Margarita Molina translated for Mr. Lucio Rincon, Applicant. She explained the Applicant was unaware a permit was required to build the accessory structure; however, he did apply for and was issued the permit. Mr. Rincon explained he would be removing the excess wood from his backyard and if requested, he would remove the tree house. Additionally, if requested, he would remove the 8' by 12' accessory structure.

Ms. June Ochu, a neighbor residing behind Applicant, objected to the applicant's request and noted there was surplus wood in the Applicant's backyard and noted, in the event of fire, the Fire Department would not be able to contain the fire. She noted the accessory structure had been built without a permit and added her concerns regarding the electrical wiring. She felt the tree house wood was extremely dry, a tinder box.

Ms. Linda Castle stated Staff determined the tree house was not an accessory structure and noted the Applicant was permitted up to 120 square feet of accessory structure.

Mr. Veliz clarified for the record, the measurement was not 20.6" (inches) it was 20.6' (feet) and requested Staff note the existing measurements in the backup information.

Chairman Nance 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. Cordova seconded, to **APPROVE THE APPLICATION, PER STAFF RECOMMENDATION REDUCING THE WIDTH TO 20.6'**.

AYES: Ms. Gill and Ms. Jorgensen and Messrs. Cordova, Bowling, Perez, Nance, and Veliz

NAYS: N/A

The Motion passed. (7-0)

FOLLOWING THE VOTE: Chairman Nance requested Ms. Molina convey to the Applicant that the Board requested he be a good neighbor and remove the tree house.

ITEM 10:

ZBA07-0092

5533 Milray Drive

Hector and Olivia Bitar

1ST MOTION:

Motion made by Mr. Veliz, seconded by Mr. Perez, and unanimously carried to **POSTPONE ZBA07-00092, 5533 MILRAY DRIVE, FOR TWO (2) WEEKS.**

AYES: Ms. Gill and Ms. Jorgensen and Messrs. Cordova, Bowling, Perez, Nance, and Veliz

NAYS: N/A

The Motion passed. (7-0)

Chairman Nance 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, Ms. Gill seconded and unanimously carried **TO APPROVE THE APPLICATION WITHOUT THE REDUCTION SINCE THE APPLICANTS BOUGHT THE HOME IN ITS PRESENT CONDITION. ADDITIONALLY, THE NEIGHBORS ATTESTED THE STRUCTURE DID EXIST.**

Ms. Jorgensen clarified the motion was to approve the exception for the storage building and to approve the carport without the 10 foot reduction.

AYES: Ms. Gill and Ms. Jorgensen and Messrs. Cordova, Bowling, Perez, Nance, and Veliz

NAYS: N/A

The Motion passed. (7-0)

ITEM 12:

ZBA07-00102

12456 James Rey Circle

Sonia Carrasco

1ST MOTION:

Motion made by Mr. Veliz, seconded by Mr. Perez, and unanimously carried to **POSTPONE ZBA07-00102, 12456 JAMES REY CIRCLE, FOR TWO (2) WEEKS.**

AYES: Ms. Gill and Ms. Jorgensen and Messrs. Cordova, Bowling, Perez, Nance, and Veliz

NAYS: N/A

The Motion passed. (7-0)

2ND MOTION:

Motion made by Mr. Veliz, seconded by Mr. Perez, and unanimously carried to **POSTPONE ZBA07-00102, 12456 JAMES REY CIRCLE, FOR THREE (3) WEEKS.**

AYES: Ms. Gill and Ms. Jorgensen and Messrs. Cordova, Bowling, Perez, Nance, and Veliz

NAYS: N/A

The Motion passed. (7-0)

OTHER BUSINESS

ITEM 13:

Approval of Minutes: July 9, 2007

Motion made by Ms. Gill, seconded by Mr. Perez, and unanimously carried to **APPROVE THE MINUTES OF THE JULY 9, 2007, ZBA MEETING.**

AYES: Ms. Gill and Ms. Jorgensen, and Messrs. Nance, Perez, and Veliz

NAYS: N/A

ABSTAIN: Messrs. Cordova and Bowling

The Motion passed. (5-2)

DEVELOPMENT SERVICES REPORT:

ITEM 14:

Discussion and action regarding Zoning Board of Adjustment issues.

Mr. Cordova questioned what procedure(s) could be implemented to approve Carport over a Driveway application(s) "subject to all approvals." He added the permit would be authorized subject to plans finalized "to completion."

Mr. Nance added comments and opined wind load factor is very important for carports. He noted Staff should have notified the Applicant, prior to the meeting, that the drawings required approval of the City Engineer, etc.

Ms. Cuellar responded the Board could make recommendations to the City Council and Council could change the language through an ordinance. She added the Board could direct Staff to modify the language.

Mr. Bowling suggested the language be modified to approve/allow with a condition, see the design and the condition, to be permitted. He proposed the following language for City Council consideration: "the design and location of the canopy will receive written approval," but added the Board needed to review the plans first.

Ms. Linda Castle suggested the following: "that prior to Building Permit being issued that the structural plans would meet the requirements".

Mr. De La Cruz added Staff cannot modify sealed engineering plans without the knowledge of the Engineer.

Mr. Nance added for the next ZBA meeting, Ms. Cuellar would be making a presentation to the Board, some of which would take place during Executive Session.

Ms. Cuellar introduced Mr. Ernie Rodriguez, Assistant City Attorney, ZBA legal advisor. She noted she would prepare a presentation on Variances, last item on next ZBA meeting.

ADJOURNMENT:

Motion made by Mr. Veliz, seconded by Mr. Perez and unanimously carried to **ADJOURN THE JULY 23, 2007 ZBA MEETING** at 3:10 p.m.

AYES: Ms. Gill and Ms. Jorgensen and Messrs. Cordova, Bowling, Perez, Nance, and Veliz

NAYS: N/A

The Motion passed. (7-0)

Linda Castle, Senior Planner