



**ZONING BOARD OF ADJUSTMENT MEETING MINUTES
2ND FLOOR – CITY COUNCIL CHAMBER
MARCH 10, 2008
1:30 P.M.**

The Zoning Board of Adjustment meeting was called to order at 1:32 p.m. by Chair Larry Nance.

The following Board Members answered roll call:

Mr. Larry Nance (Chair)
Mr. Robert Veliz (Vice-Chair)
Mr. Oscar Perez
Mr. Rick Cordova
Mr. Randy Bowling
Ms. Vivian Rojas
Mr. Servando Hernandez
Ms. Alisa Jorgensen
Mr. David Marquez

The following City staff members were present:

Ms. Linda Castle, Development Services Department, Senior Planner
Mr. Robert Peña, Development Services Department, ZBA Secretary
Mr. Tony De La Cruz, Development Services Department, Building Plans Examiner
Ms. Cynthia Osborn, City Attorney's Office, Assistant City Attorney
Ms. Mirian Spencer, Development Services Department, Planner

CHANGES TO THE AGENDA:

Staff recommended that Item #5, ZBA08-00014, 10010 Montana Avenue, Appeal of Administrative Official's Decision be deleted. Ms. Castle explained the sign permit should not have been revoked.

Mr. Raypher F. Perez-Lopez, YESCO Outdoor Media, thanked Staff for their assistance and requested the Board Members delete the item from the agenda.

Motion made by Mr. Perez, seconded by Mr. Cordova and unanimously carried to **DELETE ZBA08-00014, 10010 MONTANA AVENUE.**

AYES: Ms. Rojas and Ms. Jorgensen and Messrs. Perez, Cordova, Bowling, Nance, Veliz, Hernandez, and Marquez

NAYS: N/A

The Motion passed. (9-0)

ITEM 1:

ZBA08-00015

12416 Tierra Cebada

Walter Connor

Applicant requests a Special Exception under Section 2.16.050 Q (Canopy Over a Driveway) in an R-3A zone. This would permit the construction of a 20'7" by 19'9" carport that is proposed to encroach 20' into the required front yard setback. The required cumulative front and rear yard setback total is 45' in an R-3A zone.

Ms. Spencer gave a PowerPoint presentation and noted Staff recommended the application be approved as it meets the requirements of Special Exception Q. Ms. Spencer explained that the Applicant was requesting to add a carport that is proposed to be within 0' of the front property line. The Engineering-Traffic Division has reviewed the site and has no apparent traffic concerns with the proposed carport, but notes that carports may not encroach onto sidewalks. The Building Permits & Inspections Division has reviewed the structural plans for the carport and finds them acceptable.

Mr. Tomas Delgado, Representative, responded to comments from the Board Members.

Mr. Nance questioned whether the canopy would be constructed to conform to the home.

Mr. Delgado concurred.

Mr. Hernandez questioned if other canopies were within the immediate area and/or neighborhood; additionally, he asked if Staff had received any phone calls and/or letters in opposition to the application.

Ms. Spencer responded no to both questions.

Additionally, Mr. Hernandez asked Staff to comment on the 10' utility easement.

Mr. De La Cruz explained letters from the utility companies vacating the easement would be required prior to the Board approving the application.

Mr. Veliz opined in the event a utility company required access to an easement, whether it be located in the front or rear of the property, repairs to the property are the responsibility of the property owner.

Mr. De La Cruz concurred and added utility companies usually do not object; however, the property owner is made aware that if access to the easement is necessary, the utility company has that authority.

Mr. Perez explained when street right-of-ways are 52" in width, easements are given to utilities. Normally utility companies stipulate no permanent structures be built over easements.

Motion made by Mr. Veliz, seconded by Mr. Perez and unanimously carried to **POSTPONE TWO (2) WEEKS, ZBA08-00015, 12416 TIERRA CEBADA DRIVE.**

AYES: Ms. Rojas and Ms. Jorgensen and Messrs. Perez, Cordova, Bowling, Nance, Veliz, Hernandez, and Marquez

NAYS: N/A

The Motion passed. (9-0)

ITEM 2:

ZBA08-00016

1608 Billy Casper Drive

Andy & Monica Dominguez

Applicants request a Special Exception under Section 2.16.050 G (Rear Yard Setback) in an R-3 zone. This would permit the construction of an addition of which a 27' by 17' portion is proposed to encroach 14' into the required rear yard setback. The required cumulative front and rear yard setback total is 50' in an R-3 zone.

Ms. Spencer gave a PowerPoint presentation and noted Staff recommends approval of the request as it meets the requirements of the Special Exception G. She explained the Applicants are proposing a 27' wide addition to their house that will encroach into the required rear yard setback in order to expand their living room, family room and bedrooms.

Mr. Chavez, Representative, was present on behalf of the Applicants.

Ms. Jorgensen questioned Staff whether the carport had been constructed recently.

Ms. Spencer responded yes; however, the carport was within the 150 square feet of an encroachment.

Ms. Rojas questioned whether Staff had received any phone calls or letters in favor of or in opposition to the application.

Ms. Spencer replied no.

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. Hernandez seconded and unanimously carried to **APPROVE ZBA08-00016**.

AYES: Ms. Rojas and Ms. Jorgensen and Messrs. Perez, Cordova, Bowling, Nance, Veliz, Hernandez, and Marquez

NAYS: N/A

The Motion passed. (9-0)

ITEM 3:

ZBA08-00017

5521 Woodfield Drive

Enrique Franco Jr., Inc.

Applicant requests Special Exceptions under Section 2.16.050 G (Rear Yard Setback) and Section 2.16.050 V (Front Yard Setback) in an R-1/sp zone. This would permit the construction of a new residence of which a 22' by 15' portion proposed to encroach 15' into the required rear yard setback and a 6' by 2' portion proposed to encroach 2' into the rear yard setback. This would also permit a 32' by 10' portion of the residence that is proposed to encroach 10' into the front yard setback. The required cumulative front and rear yard setback total is 100' in an R-1/sp zone.

Ms. Spencer presented the case and noted Staff recommended denial of this request because new houses in new subdivisions should be designed and built within the required setbacks. Additionally, she explained the Applicant is proposing to build a new house that encroaches in front and rear setbacks. In this subdivision of 77 lots, there have been 43 requests, including this request, for Special Exceptions.

Mr. Enrique Franco, Jr., Applicant, questioned why Staff recommended denial when other similar special exceptions had been granted in the past. He displayed nine (9) letters from surrounding neighbors in favor of the application.

Mr. Nance noted Staff was currently revising Chapter 2.16 Zoning Board of Adjustment of the El Paso City Code and questioned whether those revisions applied to this particular application.

Ms. Osborn responded the ordinance language revisions have not yet been approved by City Council and clarified that the application could be considered under the ordinance language as it was read.

Mr. Hernandez noted this particular subdivision has been in existence for several years and the Board has approved other similar special exceptions in the past. He referred to the Staff recommendation language *“Staff recommends denial of this request because new houses in new subdivisions should be designed and built within the required setbacks.”*

Ms. Castle reiterated the recommendation was for “new houses.”

Ms. Osborn clarified the application pertained to construction of a new home on a vacant lot; therefore, Staff recommended the home be built in accordance to the current Zoning Code setbacks for an R-1 zone.

Ms. Jorgensen questioned whether or not the Board had set a precedent by approving the previous special exceptions or did each case require individual review.

Ms. Osborn responded each case is individually reviewed; however, the Board must ensure its decision(s) are not arbitrary.

Mr. Hernandez reiterated the Board had previously approved 42 requests for special exceptions for this subdivision.

Mr. Nance clarified the Board cannot arbitrarily deny the application when previous special exceptions had been granted.

Ms. Osborn interjected the Staff recommendation to deny was not improper and added it is the City Code which sets the guidelines.

Ms. Jorgensen asked the Applicant if the home would be built for a client and suggested that the Applicant construct a two-story home.

Mr. Franco responded he would be constructing the home for a family of five and added they had requested a 4,000 square foot home. He noted that after deducting the garage and front porch, the actual living space was 3,982 square feet. . He asked the Board to approve his request to encroach into the 50' front and rear setbacks.

Mr. Bowling noted that the Board had approved 42 special exceptions for the same subdivision, including granting special exceptions for spec homes. He commented on vesting and marketing concerns within this subdivision.

Ms. Castle explained that the requested accessory structure must be limited to 120 square feet.

Ms. Rojas asked Staff if the setbacks were reduced, would there be any safety concerns.

Ms. Castle responded no.

Mr. Perez questioned whether Staff had reviewed on-site ponding.

Mr. De La Cruz responded Staff had reviewed and approved the on-site ponding and added no more than 50 percent of the lot would be developed.

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. Veliz moved, Mr. Bowling seconded and unanimously carried to **APPROVE ZBA08-00017.**

AYES: Ms. Rojas and Ms. Jorgensen and Messrs. Perez, Cordova, Bowling, Nance, Veliz, Hernandez, and Marquez

NAYS: N/A

The Motion passed. (9-0)

ITEM 4:

ZBA08-00020

116 Calle Olaso Drive

Federico & Mary Candia

Applicants request a Special Exception under Section 2.16.050 V (Front Yard Setback) in an R-3 zone. This would permit the existence of a residence of which a 25' by 5' portion encroaches into the required front yard setback. The required cumulative front and rear yard setback total is 50' in an R-3 zone.

Ms. Mirian Spencer gave a PowerPoint presentation and noted that Staff recommended approval of the application. She stated the Applicants were selling the home, which they had built in 2002; however, a survey showed the home was encroaching in the required 20' front setbacks.

Mr. Federico Candia, Applicant,

Ms. Castle noted the structure in the rear was a permitted accessory structure.

Mr. De La Cruz noted the address has been issued a Certificate of Occupancy and gave a chronological history of permits pulled on this property.

Ms. Jorgensen asked whether the Applicant had constructed the home from its foundation.

Mr. Candia explained he had built the home from bottom to top.

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 ZBA08-00020.**

AYES: Ms. Rojas and Ms. Jorgensen and Messrs. Perez, Cordova, Bowling, Nance, Veliz, Hernandez, and Marquez

NAYS: N/A

The Motion passed. (9-0)

ITEM 5:

ZBA08-00014

10010 Montana Avenue

Amex Properties

Motion made by Mr. Perez, seconded by Mr. Cordova and unanimously carried to **DELETE ZBA08-00014, 10010 MONTANA AVENUE.**

AYES: Ms. Rojas and Ms. Jorgensen and Messrs. Perez, Cordova, Bowling, Nance, Veliz, Hernandez, and Marquez

NAYS: N/A

The Motion passed. (9-0)

OTHER BUSINESS:

6. Approval of Minutes – February 11, 2008; February 25, 2008

NO ACTION WAS TAKEN ON THE FEBRUARY 11, 2008 MINUTES.

Motion made by Mr. Veliz, seconded by Ms. Perez, and unanimously carried to approve the **FEBRUARY 25, 2008, ZBA MEETING MINUTES.**

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

ABSTAIN: Ms. Rojas and Mr. Bowling

NAYS: N/A

The Motion passed. (7-2)

DEVELOPMENT SERVICES REPORT:

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

Ms. Castle noted the changes to the ordinance language, as previously requested by the board, had been added and Staff had distributed copies of the newly revised ordinance prior to today's meeting.

Mr. Cordova noted the language in Section G, 1, page six, should read:

"1. *The lot is in a legally recorded and developed subdivision of at least ten (10) years;*" and requested that the language be incorporated, as previously suggested.

Mr. Bowling requested Staff email the document after the language had been revised.

Motion made by Ms. Jorgensen, seconded by Mr. Nance and unanimously carried to approve the revised ordinance language as presented today, with the exception on Section G, changing 30 years to 10 years.

AYES: Ms. Rojas and Ms. Jorgensen and Messrs. Perez, Cordova, Bowling, Nance, Veliz, Hernandez, and Marquez

NAYS: N/A

The Motion passed. (9-0)

ADJOURNMENT:

Motion made by Mr. Veliz, seconded by Mr. Perez, and unanimously carried to adjourn the ZBA meeting at 2:19 p.m.

AYES: Ms. Rojas and Ms. Jorgensen and Messrs. Perez, Cordova, Bowling, Nance, Veliz, Hernandez, and Marquez

NAYS: N/A

The Motion passed. (9-0)

Robert Peña, Secretary
Zoning Board of Adjustment