



**ZONING BOARD OF ADJUSTMENT MEETING MINUTES
2ND FLOOR - CITY COUNCIL CHAMBERS
MAY 4, 2009
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. Randy Bowling, Chair
Mr. Rick Cordova, Vice-Chair
Mr. Oscar Perez
Mr. Ken Gezelius
Mr. Servando Hernandez
Mr. Jose Melendez
Ms. Alisa Jorgensen
Mr. Charlie Wakeem

The following City Staff members were present:

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

CHANGES TO THE AGENDA

Staff noted the following:

1. **ITEM 2 – ZBA09-00014**, 5516 Dearborne Drive, Special Exception K (Carport over a Driveway), postpone to the June 8, 2009 ZBA ,meeting; and
2. **ITEM 3 – ZBA09-00015**, 3437 Nairn Street, Special Exception C (Rear Yard Setback), Representative submitted letter requesting the application be withdrawn

MOTION:

Motion made by Ms. Jorgensen, seconded by Mr. Melendez and unanimously carried **TO APPROVE THE CHANGES TO THE AGENDA.**

AYES: Ms. Jorgensen and Messrs. Perez, Cordova, Gezelius, Bowling, Hernandez, Melendez, and Wakeem

NAYS: N/A

The Motion passed. (8-0)

ITEM 1:

ZBA09-00013

11429 Fred Marti Lane

Miguel A. and Terri Quintana

Applicants request a Special Exception under Section 2.16.050 C (Rear Yard Setback) in an R-3 zone. This would permit a 23' by 20' addition of which a 23' by 15' portion is proposed to encroach in the required rear yard setback. The required front and rear yard cumulative setback total is 50' in the R-3 (Light Density Residential) zone. The applicants are proposing a new addition that will encroach in the required rear yard setback and is proposed to be located to within 10 feet of the required rear yard setback.

Ms. Castle gave a PowerPoint presentation and explained **STAFF RECOMMENDS APPROVAL AS IT MEETS THE REQUIREMENTS OF THE SPECIAL EXCEPTION C, WITH A CONDITION THAT THE STORAGE SHED IS EITHER REMOVED ENTIRELY FROM THE SITE OR RELOCATED FROM THE SIDE YARD TO THE REAR YARD.**

Mr. Melendez noted the site plan does not show the rear porch.

Mr. Art Telles, JCL Construction, Inc., representing the applicants, responded that the lot width dimension that he showed on the plan was not accurate and asked if he could submit a revised site plan at today's meeting.

Chair Bowling wondered if the 20' x 23' measurements had changed.

Mr. Art Marquez, JCL Construction, Inc., representing the applicants, responded yes and explained, via information received from the Central Appraisal District and Engineering Department, they would be going 20' from the rear of the house to the back fence and 26' to 27' in width rather than the proposed 23'.

Chair Bowling asked if the applicants understood the storage shed must be either removed or relocated.

Mr. and Mrs. Quintana, applicants, understood.

Per the revised site plan, Ms. Castle noted the new addition would be more centrally located to the existing home.

Mr. Marquez clarified the revised site plan showed the width would increase from 23' to 26' or 27', due to the actual lot width dimension of 84'.

Ms. Castle recommended the application be postponed to the June 8th ZBA meeting.

Chair Bowling asked if the Board could approve the maximum width rather than postponing for a month.

Ms. Castle explained the revised site plan showed the new addition would be larger than the originally submitted site plan; therefore, Staff must mail notification letters to neighbors again.

Ms. Jorgensen asked if the legal representative concurred.

Mr. Shoemith stated the revised site plan measurements have changed; therefore, notice must be given again.

Chair Bowling noted applications for Special Exception C ask for 1/3 the average width of the lot.

Ms. Castle concurred; however, notification letters state specific measurements. Additionally, Staff had received one telephone call from a neighbor, the neighbor was neither in favor of or opposed to the proposed construction. She said the applicants would not be required to file another application to the ZBA.

Chair Bowling reiterated due to notification letters stating specific measurements; legal has opined notification letters must be mailed again due to the revised site plan.

Mr. Shoemsmith responded this is a due process matter; furthermore, neighbors have not been notified of the revised site plan measurements.

Ms. Castle explained notification would not be necessary if the encroachment was less than previously submitted.

Mr. Cordova remarked it was unfair to Staff that revised site plans were submitted at this meeting; additionally, the original site plans submitted were incomplete, the accessory structures were missing and Traffic-Engineering has not approved the curved driveway.

Ms. Jorgensen concurred.

Ms. Castle noted the curved driveway already exists and agreed it was not shown in the originally submitted site plans.

Motion made by Mr. Cordova, seconded by Mr. Wakeem and unanimously carried to **POSTPONE ZBA09-00013 TO THE JUNE 8, 2009 ZBA MEETING, PER STAFF RECOMMENDATION.**

PRIOR TO THE VOTE – Chair Bowling asked Staff if Board Members could approve the 23 feet today, then approve the revised site plan at the next ZBA meeting. This would allow the applicants to draw their plans and continue with the process.

Ms. Castle responded Staff has not reviewed the revised site plan.

Mr. Hernandez concurred with Chair Bowling's suggestion.

Mr. Melendez asked Staff if it would be permissible to allow the applicants to submit their drawings for plan review without the ZBA approval.

Mr. Neligh explained plan review would only require a few minutes; however, BP&I could not approve because the encroachment would need ZBA approval.

Chair Bowling noted Staff recommended approval based on what was originally submitted. He calculated the measurement to be 25.41 feet and asked the Representative if he would like the Board to approve the application.

Mr. Tellez responded yes, if he were allowed the 25 feet.

MOTION:

Motion made by Mr. Cordova, seconded by Mr. Wakeem and unanimously carried to **POSTPONE ZBA09-00013 TO THE JUNE 8, 2009 ZBA MEETING, PER STAFF RECOMMENDATION.**

AYES: Ms. Jorgensen and Messrs. Perez, Cordova, Gezelius, Bowling, Hernandez, Melendez and Wakeem

NAYS: N/A

The Motion passed. (8-0)

Chair Bowling 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. Wakeem and unanimously carried to **APPROVE**.

AYES: Ms. Jorgensen and Messrs. Perez, Cordova, Gezelius, Bowling, Hernandez, Melendez and Wakeem

NAYS: N/A

The Motion passed. (8-0)

Other Business:

7. Approval of Minutes: April 6, 2009

Chair Bowling asked Board Members if they had any corrections to the minutes for April 6, 2009.

Chair Bowling corrected his name to read "Randy," not "Bobby" as shown.

Mr. Gezelius noted he had abstained from voting on the March 9, 2009 ZBA minutes.

MOTION:

Motion made by Mr. Gezelius, seconded by Ms. Jorgensen and unanimously carried to **APPROVE THE APRIL 6, 2009 MEETING MINUTES AS CORRECTED**.

AYES: Ms. Jorgensen and Messrs. Gezelius, Bowling, Hernandez, Melendez and Wakeem

NAYS: N/A

ABSTAIN: Messrs. Perez and Cordova

The Motion passed. (6-0, 2 abstentions)

Development Services Report:

8. Update regarding 12567 Kari Anne Drive – Special Exception K (Carport over a Driveway)

Ms. Castle explained the carport on Kari Anne passed the final inspection.

9. Discussion regarding Chair Bowling's request to consider percentage of lot coverage as an alternative to current Special Exception requirements.

Ms. Castle explained she had spoken with Mathew McElroy, Deputy Director of Planning, and Fred Lopez, Lead Project Planner, and it was determined that since the Zoning Code does not make any provision for percentage of lot coverage, the Staff is not ready to change the zoning code to include it. As an alternative, Mr. McElroy suggested the Board consider the maximum square footage permitted by the Special Exception as an alternative to the 1/3 lot width and 3/5 depth requirement of the Rear Yard Special Exception.

FOR EXAMPLE - ZBA09-00013, 11429 Fred Marti Lane, the 23' by 15' maximum encroachment would convert to 345 square feet. If Board Members use the 345 square footage, rather than the 1/3 lot width, and if the applicants used the entire width of the home, the depth would be 6.27 feet times 55 feet, the width of the house.

Chair Bowling opined this was an improvement, more flexibility and less intrusive on the neighbors behind, should the applicants choose to build wider rather than deeper.

Mr. Melendez referred to a previous case where the applicant had wanted to increase the size of a room 10 feet, made sense in the plans.

Ms. Castle asked if Staff should prepare more examples for future discussion.

Ms. Jorgensen would like to see more examples.

Staff will have examples for discussion at the June 8th ZBA meeting.

Mr. Wakeem would like to defer this discussion to the next ZBA meeting and wondered if Mr. McElroy could address the Board Members.

Ms. Castle would ask if Mr. McElroy could be present at the next ZBA meeting. Ms. Castle then introduced Mr. Andrew Salloum, Planner, and added Mr. Salloum will be working on ZBA cases.

Ms. Spencer introduced Mr. Jared Mendoza, Traffic-Engineering Department, and added Mr. Mendoza will be working on ZBA cases.

ADJOURNMENT:

Motion made by Mr. Gezelius, seconded by Mr. Hernandez and unanimously carried to **ADJOURN THE ZBA MEETING AT 2:12 P.M.**

AYES: Ms. Jorgensen and Messrs. Perez, Cordova, Gezelius, Bowling, Hernandez, Melendez and Wakeem

NAYS: N/A

The Motion passed. (8-0)

Linda Castle, Senior Planner