



**ZONING BOARD OF ADJUSTMENT MEETING MINUTES
2ND FLOOR – CITY COUNCIL CHAMBER
NOVEMBER 12, 2007
1:30 P.M.**

The Zoning Board of Adjustment meeting was called to order at 1:30 p.m. by Chairman Larry Nance. Mr. Nance thanked all veterans present in the audience for their service and protecting our freedom.

The following Board Members answered roll call:

Mr. Larry Nance (Chair)
Mr. Robert Veliz (Vice-Chairman)
Mr. Oscar Perez
Mr. Rick Cordova
Mr. Jose Melendez
Mr. Samuel J. Barela
Mr. Servando Hernandez
Ms. Vivian Rojas
Mr. Rigoberto Mendez

The following City staff members were present:

Ms. Mirian Spencer, Planner
Mr. Robert Peña, Secretary, Zoning Board of Adjustment
Ms. Linda Castle, Senior Planner
Mr. Juan Estala, Building Plans Examiner
Mr. Ernie Rodriguez, City Attorney's Office
Ms. Margarita Molina, Engineering-Traffic

ITEM 1:

ZBA07-00177 4955 Rutherford Drive Philip D. Stepchuck and Maria A. Held
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 an existing 18' by 20' carport to encroach 17' into the required 20' front yard setback. A front yard setback of 20' is required in an R-4 zone.

Ms. Spencer gave a PowerPoint presentation and explained the Applicants were cited in August 2007 for installing a pre-fabricated metal carport without building permit. An 18' by 17' portion of the carport is encroaching in the required front yard setback. The Engineering-Traffic Division has reviewed the site and notes no apparent concerns with the carport encroaching in the front setback. Building Permits & Inspections has reviewed the structural drawings and notes the carport meets the structural requirements of the City of El Paso. Additionally, Staff recommends approval of the existing carport as the carport meets the requirements of the code as submitted.

Mr. Phillip Stepchuck, Applicant, and explained he had installed the carport without a permit and received a citation. He added he contacted the contractors and was told he did not need a permit.

Ms. Castle added these carports are being sold by out-of-town contractors at local hardware stores and explained Staff is recommending that the carports be constructed with building materials that are in harmony with the existing structure. Additionally, there were no phone calls or letters in opposition to the application.

Mr. Veliz suggested the City file a complaint with the Better Business Bureau (“BBB”) against the out-of-town carport contractors and suggested that, as part of the motion, the Applicant will file a report with the BBB explaining Coast to Coast Carports, Inc. sells carports without permits.

Mr. Bill Stern, Chief Building Inspector, Building Permits & Inspections, explained City staff had obtained a copy of the Applicant’s contract with Coast to Coast Carports, Inc. and had sent a letter to the company explaining that they could no longer sell these carports without the required permits. Additionally, Mr. Stern spoke with the Owner of the company and notified him that contractors selling these carports must be bonded, insured, and registered with the City. Mr. Stern noted that contractors must notify property owners that they are required to secure a permit, home owner or contractor, prior to installing the carports. He noted the City would contact Lowe’s, Home Depot, etc., that they must advise the carport purchasers they must acquire a permit prior to installing the carports.

Mr. Nance suggested the City file the BBB complaint rather than the Applicant.

Mr. Ernie Rodriguez reiterated City staff had placed the manufacturer(s) and seller(s) of these carports that they have been placed on notice. Additionally, he opined the BBB limits the filing of complaints to consumers; however, he would research that information for Mr. Nance.

Mr. Hernandez explained the Board is trying to put a stop to these carports as they do not maintain the neighborhood harmony and do not match the architecture/presentation of the homes.

Mr. Melendez added the drawings do not resemble the carport installed and requested that the Applicant’s submit specific drawings, not generic.

Ms. Castle responded the drawings were provided by the Applicant.

Mr. Juan Estala commented that the drawings submitted by the manufacturer are engineer-drawn and added the dimensions are “per the Code”.

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, Ms. Rojas seconded, and carried to **APPROVE THE APPLICATION WITH THE CONDITION THE APPLICANT FILE A COMPLAINT WITH THE BETTER BUSINESS BUREAU STATING THE COMPANY DID THE WORK WITHOUT PERMIT.**

1ST MOTION – AMENDED:

Mr. Perez moved, Mr. Melendez seconded and unanimously carried to **POSTPONE ZBA07-00184, 3144 AMARILLO STREET, TO THE DECEMBER 10, ZBA MEETING AND REQUIRE THE APPLICANT TO SUBMIT ACCURATE DRAWINGS.**

AYES: Messrs. Perez, Cordova, Melendez, Barela, Nance, Veliz, Hernandez, Rojas, and Mendez

NAYS: N/A

The Motion passed. (9-0)

ITEM 6:

ZBA07-00185 6205 Snowheights Court Liza L. and Lizardo Gomez, Jr.
Applicants request 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 a 23' by 10.5' addition that is proposed to encroach 10' into the required rear setback. A 25' rear yard setback is required in an R-3 zone.

Ms. Mirian Spencer explained the Applicants are proposing several additions to the rear of their house. A 23' by 10' portion of one of the additions will encroach in the rear yard setback. Staff recommends approval of the rear yard encroachment as the application meets the requirements of the Special Exception as submitted.

Mr. Javier Carrera, Representative, explained the Special Exception request.

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. Barela seconded, and unanimously carried to **APPROVE THE APPLICATION.**

AYES: Messrs. Perez, Cordova, Melendez, Barela, Nance, Veliz, Melendez, and Marquez

NAYS: N/A

ABSTAIN: Mr. Hernandez

The Motion passed. (9-0)

ITEM 7:

ZBA07-00186 904 Warwick Road Carmen A. Sedeño
Applicant requests a Special Exception under Section 2.16.050 Q (Carport over a Driveway) in an R-3 zone of the City of El Paso Zoning Ordinance. This would permit the construction of a 27' by 20' carport that is proposed to encroach 15' into the front setback. A 25' front yard setback is required in an R-3 zone.

Ms. Spencer stated the applicant is proposing to add a carport, of which a 27' by 15' portion will encroach in the required front yard setback. The Engineering-Traffic Division has reviewed the site and notes no concerns with the proposed carport. The Building Permits & Inspections Division has reviewed the structural drawings and notes that the rafters and ceiling joists are overspanned

Mr. Perez stated his concerns regarding the carport structure, specifically the flat roof.

Mr. Melendez noted the flat roof was appropriate.

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. Hernandez seconded, and unanimously carried to **APPROVE THE APPLICATION.**

AYES: Messrs. Perez, Cordova, Melendez, Barela, Nance, Veliz, Hernandez, Rojas, and Mendez

NAYS: N/A

The Motion passed. (9-0)

ITEM 9:

ZBA07-00153

445 Pinewood Street

Victor A. and Juana Flores

Mr. Victor Flores, Applicant, was sworn in prior to the discussion.

Applicants request a Special Exception under Section 2.16.050 Q (Carport over a Driveway) in an R-4 zone. This would permit the construction of a 21'6" by 22'6" carport proposed to be located to within 0' of the front property line. A 20' front yard setback is required in an R-4 zone.

Ms. Spencer gave a PowerPoint presentation and noted at the October 22, 2007, meeting, the Board postponed this item until the November 12, 2007, meeting to allow the applicant to submit a revised site plan to clarify the location of the carport. The applicant is requesting a 483.75 square foot carport that encroaches in the required front yard setback. The applicant was permitted an addition in 1985 that encroaches in the rear yard setback more than one-third the lot width and is located to within 6' of the rear property line. The Engineering-Traffic Division has reviewed the request and notes no problem with the carport over the driveway. The Building Permits & Inspection Division has reviewed the structural drawings for the carport and has found the design to be acceptable. Staff recommends denial of the request for the proposed carport as it would add to the already over-intensive use of the site. In addition, the existing 10' high gate at the front of the driveway opens out onto the sidewalk, creating an unsafe condition for the property owner, for drivers turning the corner and for pedestrians using the sidewalk.

Copies of the revised drawing were distributed to the Board prior to the meeting.

Mr. Flores explained the request for the Special Exception and responded to questions and/or comments of Staff and Board Members. He stated Staff had requested he take the screen off the gates, for safety.

FOR THE RECORD Ms. Castle stated notes written on the 1985 Site Plan state "driveways at the front and rear are not to be roofed or enclosed".

Mr. Hernandez commented on “over-intensive use of the site” as noted in the backup information and added there is enough property for the Applicant to place a carport, as per Staff’s calculations.

Ms. Castle responded “over-intensive use of the site” was Staff’s recommendation.

Mr. Peña explained that in 1985, the inspector did not calculate the front and back yard properly.

Mr. Nance asked Mr. Ernie Rodriguez if anything prevented the Board from approving this application.

Mr. Rodriguez responded it was the Board’s discretion to determine whether there was an over-intensive use of the site and nothing prevented the Board from approving the application. However, there are no specific guidelines for “over-intensive use of the site”.

Mr. Hernandez asked where the extension would be located; front, side or back yard.

Ms. Castle responded the front yard.

Mr. Peña reiterated the front yard, the front of the property, is on Dell Haven; however, the applicant’s address is on Pinewood.

Mr. Veliz noted there were no variances in the late 1940’s, early 1950’s when the neighborhood was built.

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. Mendez seconded, and to **APPROVE THE APPLICATION.**

AYES: Messrs. Perez, Cordova, Veliz, Rojas, and Mendez

NAYS: Messrs. Melendez, Barela, Nance, and Hernandez

The Motion to approve failed. (5-4)

OTHER BUSINESS:

10. Approval of Minutes – October 22, 2007

NO ACTION WAS TAKEN.

DEVELOPMENT SERVICES REPORT:

11. Revisions to Title 20 Zoning Ordinance

Ms. Spencer stated the revisions to Title 20 were approved by Council and are effective as of November 1st.

Ms. Castle stated Staff will distribute the revised Ordinance at the December ZBA meeting.

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

Mr. Philip Etiwe, Development Review Manager, informed the Board of a training class offered to ZBA and CPC (City Plan Commission) Board Members in December, January, and some 2008 classes. He thanked the Board for their service to the City and distributed plaques from the World Town Planning Day event.

Cub Scouts from Troop 96 were present and came forward to shake hands and take pictures with Board Members.

EXECUTIVE SESSION ITEM:

13. Pending litigation regarding 5000 and 5015 Love Road.

Mr. Veliz requested that the attorney representing the City be present at the December 2007 ZBA meeting to provide answers for Board Member questions.

ADJOURNMENT:

Motion made by Mr. Veliz, seconded by Mr. Nance, and unanimously carried to adjourn at 3:40 p.m.

AYES: Messrs. Perez, Cordova, Melendez, Barela, Nance, Veliz, Hernandez, Rojas and Mendez

NAYS: N/A

The Motion passed. (9-0)

Robert Peña, Secretary
Zoning Board of Adjustment