ZONING BOARD OF ADJUSTMENT MEETING MINUTES
2ND FLOOR - CITY COUNCIL CHAMBERS
NOVEMBER 9, 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. Ken Gezelius
Mr. Ricardo Aguilar
Mr. Sam Barela
Mr. Servando Hernandez
Mr. Rigoberto Mendez
Mr. Jose Melendez
Ms. Alisa Jorgensen

The following City Staff were present:

Ms. Linda Castle, Development Services Department, Planning, Senior Planner
Mr. Juan Estala, Development Services Department, Building Permits & Inspections, Chief Plans Examiner
Ms. Cynthia Osborn, City Attorney's Office, Assistant City Attorney
Ms. Kim Forsyth, Engineering Department – Traffic Division, Senior Planner

RECOGNITION

Chair Bowling presented Mr. Larry Nance with a Certificate of Appreciation. Chair Bowling noted Mr. Nance served on the Zoning Board of Adjustment from June, 2004 to November, 2009 and has been Chair and Vice-Chair.

CHANGES TO THE AGENDA

Staff requested item 4. ZBA09-00044, 3020 Roy Pace Drive, be postponed to the December 14, 2009 ZBA meeting.

MOTION:
Motion made by Mr. Bowling, seconded by Ms. Jorgensen and unanimously carried **TO POSTPONE ZBA09-00044 TO THE DECEMBER 14, 2009 ZBA MEETING.**

AYES: Ms. Jorgensen and Messrs. Gezelius, Aguilar, Cordova, Barela, Bowling, Hernandez, Mendez, and Melendez
NAYS: N/A

Motion passed. (9-0)

ITEM 1:
ZBA09-00041 10053 Alcan Street Maxine Hixon
Applicant requests a Special Exception under Section 2.16.050 K (Carport over a Driveway) in an R-4 (Residential) zone. This would permit a 23'4" by 25' carport, of which a 23'4" by 11' portion is proposed to encroach in the required front yard setback. The required front and rear yard setback cumulative total is 45' in the R-4 zone district. The applicants are requesting the addition of a carport that is proposed to be located to within 2' of the front property line. There are no utility easements at the front property line. The applicant's plans indicate that the materials used for the carport will match the existing house and the roof will be lower than the roofline of the house. A tree is proposed to be removed from the front yard in order to locate the carport. *The Building Permits & Inspection Division has reviewed the structural plans and notes no objections.* **STAFF RECOMMENDS APPROVAL OF THE REQUEST FOR THE SPECIAL EXCEPTION.**

Ms. Castle gave a PowerPoint presentation and noted Staff did not receive any phone calls or letters in favor or opposition to the request. There were no comments from the Traffic Engineering Division; additionally, there were no other carports in the neighborhood.

Mr. Irv Stein, Astro Builders, representing the applicant, confirmed the building materials for the carport would be consistent with the house and the roofline of the carport would be lower than the house.

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. Mendez and unanimously carried **TO APPROVE.**

AYES: Ms. Jorgensen and Messrs. Gezelius, Aguilar, Cordova, Barela, Bowling, Hernandez, Mendez and Melendez
NAYS: N/A

The Motion passed. (9-0)

ITEM 2:
ZBA09-00042 10169 Trinidad Drive Hector E. and Leticia Ramirez
Applicants request a Special Exception under Section 2.16.050 C (Rear Yard Setback) in an R-3 (Residential) zone. This would permit the addition of a 17' by 13' utility room that is proposed to encroach 7' into the required rear yard setback. The required front and rear yard setback cumulative total is 50 feet in the R-3 zone district. The applicants are adding a utility room that is proposed to be located to within 18 feet of the rear property line. **STAFF RECOMMENDS APPROVAL OF THE REQUEST AS IT MEETS THE REQUIREMENTS OF THE SPECIAL EXCEPTION.**

Ms. Castle gave a PowerPoint presentation and noted Staff did not receive any phone calls or letters in favor of or opposition to the request.

Mr. Gilbert Avila, representing the applicants, responded the ceramic tile on the side of the house will be removed. *He corrected the utility room measurements to read "13' x 13' "*.

Chair Bowling asked if members of the audience were present to speak in favor of or in opposition to the application. There being none.

1st MOTION:
Motion made by Mr. Hernandez **TO APPROVE WITH THE CONDITION THE STORAGE AREA BE CLEARED TO SUPPORT THE EASEMENT REQUIREMENT.**

Ms. Jorgensen suggested the language read "To verify that there is no more than 180 square feet."

Mr. Cordova requested adding "and it doesn't interfere with drainage."

Ms. Castle suggested the motion language read "With the condition that there be no buildings over the drainage easement and all side yards be cleared of storage sheds."

Mr. Hernandez withdrew his motion.

2nd MOTION:
Motion made by Ms. Jorgensen **TO APPROVE WITH THE CONDITION THAT THERE IS NOT MORE THAN 180 SQUARE FEET OF OPEN PORCH AND THE ACCESSORY STRUCTURES SATISFY THE ORDINANCES.**

Ms. Castle explained the applicants have met the special exception requirements having no more than one hundred eighty square feet of accessory structures. She clarified the motion language to read "To approve with the condition staff verify the accessory structures and that no more than 180 square feet of accessory structure be permitted."

Ms. Jorgensen requested Staff go back and verify the square footage.

2ND MOTION CLARIFIED:
Motion made by Ms. Jorgensen, seconded by Mr. Hernandez and unanimously carried **TO APPROVE WITH THE CONDITION STAFF VERIFY THE ACCESSORY STRUCTURES AND THAT NO MORE THAN 180 SQUARE FEET OF ACCESSORY STRUCTURE BE PERMITTED.**

AYES: Ms. Jorgensen and Messrs. Gezelius, Aguilar, Cordova, Barela, Bowling, Hernandez, Mendez and Melendez
NAYS: N/A

The Motion passed. (9-0)

ITEM 3:
ZBA09-00043 8530 Euphrates Drive David Arellano
Applicant requests a Special Exception under Section 2.16.050 C (Rear Yard Setback) in an R-3A/c (Residential/conditions) zone. This would permit an existing 17' by 17' patio, located to within 6' of the rear property line, of which a 14' by 4.14' portion is encroaching more than the 180 square feet of permitted open porch in a rear yard. The required front and rear yard cumulative setback total is 45 feet in the R-3A zone district. The applicant is requesting to legalize a 4.5' wide by 14' deep (63 sq. ft.) portion of a patio that is larger than the 180 square feet of open patio that is permitted to encroach in the required rear yard setback. Staff has received several inquiries from neighbors about the request. **STAFF RECOMMENDS APPROVAL OF THE REQUEST AS IT MEETS THE REQUIREMENTS OF THE SPECIAL EXCEPTION, WITH THE CONDITION THAT THE 17' BY 17' PATIO SHALL NEVER BE ENCLOSED.**

Ms. Castle gave a PowerPoint presentation and added Staff received several inquiries from neighbors regarding the request. The neighbors were not opposed to the request, just curious.

Mr. David Arellano, applicant, gave background information regarding previous construction projects.

Following the Board's approval, Mr. Estala explained the applicant will then submit his plans to Building Permits and Inspections. BP&I staff will review the plans, issue permits, and perform inspections.

Chair Bowling asked if members of the audience were present to speak in favor of or in opposition to the application. There being none.

1st MOTION:
Motion made by Mr. Gezelius, seconded by Mr. Aguilar **TO APPROVE.**

Mr. Barela amended the motion language to include "with the condition the patio never becomes enclosed." He further clarified the motion "To approve with the condition those three sides never become enclosed."

1ST MOTION AMENDED:
Motion made by Mr. Gezelius, seconded by Mr. Aguilar and unanimously carried **TO APPROVE WITH THE CONDITION THOSE THREE SIDES NEVER BECOME ENCLOSED.**

AYES: Ms. Jorgensen and Messrs. Gezelius, Aguilar, Cordova, Barela, Bowling, Hernandez, Mendez and Melendez
NAYS: N/A

The Motion passed. (9-0)

ITEM 4:
ZBA09-00044 3020 Roy Pace Drive Carlos and Karmina Carlo Rivera
Applicants request a Special Exception under Section 2.16.050 K (Carport over a Driveway) in an A-2 (Apartment) zone. This would permit a 23'4" by 20'4" carport that is proposed to encroach 20' into the required front yard setback and to be located to within 5' of the front property line. The required front and rear yard setback cumulative total is 45 feet for a single-family residence in the A-2 zone district. The applicants are requesting the addition of a carport that is proposed to be located to within 5' of the front property line. There are no utility easements at the front property line. The applicant's plans indicate that the materials used for the carport will match the existing house. The roofline of the existing house is noted as 13' on the elevation drawing. The carport roof shall rise no higher than the roof of the house. *The Building Permits & Inspection Division has reviewed the structural plans and notes no objections.* A site visit reveals a wall at the front that appears to be higher than the 42" of solid masonry wall permitted in the front yard. *Staff has received one letter in opposition to the request. No recommendation at this time.*

MOTION:
Motion made by Mr. Bowling, seconded by Ms. Jorgensen and unanimously carried **TO POSTPONE ZBA09-00044 TO THE DECEMBER 14, 2009 ZBA MEETING.**

AYES: Ms. Jorgensen and Messrs. Gezelius, Aguilar, Cordova, Barela, Bowling, Hernandez, Mendez, and Melendez
NAYS: N/A

Motion passed. (9-0)

ITEM 5:
ZBA09-00045 824 Agua Caliente Drive Robert W. Chiu
Applicant requests a Special Exception under Section 2.16.050 K (Carport over a Driveway) in an R-3 (Residential) zone. This would permit a 17' by 15' carport of which a 17' by 12' portion is proposed to encroach 12' into the required front yard setback and to be located to within 8' of the front property line. The required cumulative front and rear yard setback total is 50 feet in the R-3 (Residential) zone district. The applicants are requesting the addition of a porte cochere that is proposed to be located to within 8' of the front property line. There are no utility easements at the front property line. The applicant's plans indicate that the materials used for the carport will match and complement the existing house. The roofline of the existing house is noted as 13'8", and the roof height of the proposed porte cochere will be 12'6". The plans show that the porte cochere will be attached to the house with an open arbor. *The Building Permits & Inspection Division has reviewed the structural plans and notes no objections.* **STAFF RECOMMENDS APPROVAL OF THE REQUEST AS IT MEETS THE REQUIREMENTS OF THE SPECIAL EXCEPTION.**

Ms. Castle gave a PowerPoint presentation.

Mr. Robert Chiu, applicant, explained the proposed construction.

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. Cordova, seconded by Mr. Melendez and unanimously carried **TO APPROVE.**

AYES: Ms. Jorgensen and Messrs. Gezelius, Aguilar, Cordova, Barela, Bowling, Hernandez, Mendez and Melendez
NAYS: N/A

The Motion passed. (9-0)

ITEM 6:
ZBA09-00039 1188 Yarbrough Drive Wechter Family, L.P.
Applicant requests a Special Exception under Section 2.16.050 F (Side Street Yard Setback) in a C-3 (Commercial) zone. This would permit the placement of a water vending machine to be located to within 5 feet of the side street property line. The required side street yard setback is 10 feet in the C-3 (Commercial) Districts. This request was postponed from the meeting of October 12, 2009, to the meeting of November 9, 2009, so that the applicant could submit a revised site plan. The applicant has submitted a revised site plan and is requesting a reduction in the side street yard setback in order to place a water vending machine in a parking lot to within 5 feet of the side street property line. *The Engineering Department-Traffic Division has visited the site and recommends approval based on the removal of curbing at the parking median and two parking spaces in the parking lot in order to provide an adequate driveway aisle.* **STAFF RECOMMENDS APPROVAL OF THE REQUEST AS IT MEETS THE REQUIREMENTS OF THE SPECIAL EXCEPTION.**

Ms. Castle gave a PowerPoint presentation.

Mr. Alejandro Restrepo, applicant, explained vehicle and pedestrian access to the proposed water vending machine.

Ms. Kim Forsyth, Engineering Department – Traffic Division, Senior Planner, explained that removing the palm tree and a portion of the curb equals 36' of driveway aisle through the parking lot; additionally, the width of the parking spaces is 10' because that was the required parking space width under the previous Code.

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. Mendez, seconded by Mr. Hernandez and unanimously carried **TO APPROVE.**

AYES: Ms. Jorgensen and Messrs. Gezelius, Aguilar, Cordova, Barela, Bowling, Hernandez, Mendez and Melendez
NAYS: N/A

The Motion passed. (9-0)

Other Business:

7. Approval of Minutes: October 12, 2009

Chair Bowling asked if Board Members had corrections for the October 12 minutes.

MOTION:
Motion made by Ms. Jorgensen, seconded by Mr. Cordova and unanimously carried **TO APPROVE THE OCTOBER 12, 2009 MINUTES**

AYES: Ms. Jorgensen and Messrs. Aguilar, Cordova, Barela, Bowling, Hernandez, Mendez and Melendez
NAYS: N/A
ABSTAIN: Mr. Gezelius

The Motion passed. (8-0)

Development Services Report:

8. Election of Officers.

Ms. Castle explained Officers would begin December 2009.

Chair Bowling accepted nominations for Chair and Vice-Chair.

CHAIR

Mr. Hernandez nominated Mr. Cordova for Chair.

Mr. Cordova accepted the nomination.

MOTION:
Motion made by Mr. Hernandez, seconded by Mr. Cordova and unanimously carried **TO APPROVE MR. RICK CORDOVA, CHAIR, ZONING BOARD OF ADJUSTMENT.**

AYES: Ms. Jorgensen and Messrs. Gezelius, Aguilar, Cordova, Barela, Bowling, Hernandez, Mendez and Melendez
NAYS: N/A

The Motion passed. (9-0)

Deleted: Chair Bowling asked if members of the audience were present to speak in favor of or in opposition to the application. There being none.¶
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VICE-CHAIR

Chair Bowling nominated Ms. Jorgensen for Vice-Chair.

Ms. Jorgensen accepted the nomination.

MOTION:
Motion made by Mr. Bowling, seconded by Ms. Jorgensen and unanimously carried **TO APPOINT MS. ALISA JORGENSEN, VICE-CHAIR, ZONING BOARD OF ADJUSTMENT.**

AYES: Ms. Jorgensen and Messrs. Gezelius, Aguilar, Cordova, Barela, Bowling, Hernandez, Mendez and Melendez
NAYS: N/A

Motion passed. (9-0)

9. Discussion and action regarding the 2010 Zoning Board of Adjustment meeting calendar

Ms. Castle explained the Zoning Board of Adjustment will meet once a month on the second Monday of the month. In the event there are cases or issues that require the Board's approval, a second ZBA meeting has been scheduled on the fourth Monday of the month.

MOTION:
Motion made by Mr. Gezelius, seconded by Mr. Barela and unanimously carried **TO APPROVE THE 2010 ZONING BOARD OF ADJUSTMENT MEETING CALENDAR.**

AYES: Ms. Jorgensen and Messrs. Gezelius, Aguilar, Cordova, Barela, Bowling, Hernandez, Mendez and Melendez
NAYS: N/A

The Motion passed. (9-0)

10. Discussion and action on adding a request for a parking study to ZBA Ordinance, Section 2.16.050 I, Special Exception for up to 15% parking reduction.

SECTION 2.16.050 I
REDUCTION OF OFF-STREET PARKING REQUIREMENTS

CURRENT LANGUAGE
"Authorize the reduction of the off-street parking requirements; provided, however, that:

1. The owner shall demonstrate through testimony or documentation that the required number of off-street parking spaces cannot be reasonably accommodated on the property involved; and,
2. The zoning board of adjustment has received the written approval, based on traffic safety considerations, or the traffic engineer; and,
3. The reduction authorized shall not modify the number of required off-street parking spaces by more than fifteen percent."

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PROPOSED LANGUAGE
Authorize the reduction of off-street parking requirements; provided, however, that:

1. The owner shall demonstrate through testimony or documentation that the required number of off-street parking spaces cannot be reasonably accommodated on the property involved;
2. The zoning board of adjustment has received the written approval~~, based on traffic safety considerations,~~ of the city traffic engineer who shall review the request to determine the impact on the surrounding properties. The city traffic engineer may request a parking study in order to determine the impact on the surrounding properties; and
3. The reduction authorized shall not modify the number of required off-street parking spaces by more than fifteen percent.

Ms. Castle explained that the City Plan Commission has approved 10% parking reduction requests be approved administratively. As part of the administrative approval process, the Traffic Engineer may require a parking study in order to determine the impact on the surrounding properties. This change to the Special Exception I is recommended so that a parking study can required if need be by the Traffic Division. Additionally, shared parking arrangements can be done through the Planning Division. Shared parking arrangements consist of two or more property owners sharing parking; however, there are several conditions that must be met.

Ms. Forsyth explained this has been required as part of Zoning Board of Adjustment approvals, not in all cases but on a case by case basis; Staff is simply codifying the practice. She explained a parking study encompasses 300 feet of the subject property to determine the amount of available on-street parking during a typical work hour for the business. Staff determines if there is available on-street parking that could be used to offset the reduction request. Parking studies are relatively simple which the applicants can do themselves, takes less than 12 hours and the only cost incurred is the applicant's time. If they desire, applicant's can hire an engineer. Furthermore, the traffic study provides the Traffic Engineer and the Board Members hard evidence to determine whether or not to approve.

Ms. Osborn explained Board Members have already approved revised sections of the ordinance language.

MOTION:
Motion made by Mr. Hernandez, seconded by Mr. Mendez and unanimously carried **TO APPROVE SPECIAL EXCEPTION I, NUMBER 2, THAT THE ZONING BOARD OF ADJUSTMENT HAS RECEIVED THE WRITTEN APPROVAL OF THE CITY TRAFFIC ENGINEER WHO SHALL REVIEW THE REQUEST TO DETERMINE THE IMPACT ON THE SURROUNDING PROPERTIES. THE CITY TRAFFIC ENGINEER MAY REQUREST A PARKING STUDY IN ORDER TO DETERMINE THE IMPACT ON THE SURROUND PROPERTIES.**

AYES: Ms. Jorgensen and Messrs. Gezelius, Aguilar, Cordova, Barela, Bowling, Hernandez, Mendez and Melendez
NAYS: N/A

The Motion passed. (9-0)

11. Discussion regarding Zoning Board of Adjustment issues.

There was no discussion.

Chair Bowling asked if there was any further discussion. There being none.

MOTION:
Motion made by Mr. Gezelius, seconded by Mr. Barela and unanimously carried to **ADJOURN THE ZBA MEETING AT 2:33 PM.**

AYES: Ms. Jorgensen and Messrs. Gezelius, Aguilar, Cordova, Barela, Bowling, Hernandez, Mendez and Melendez
NAYS: N/A

The Motion passed. (9-0)

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Linda Castle, Senior Planner