



**ZONING BOARD OF ADJUSTMENT MEETING MINUTES  
2ND FLOOR – CITY COUNCIL CHAMBER  
OCTOBER 8, 2007  
1:30 P.M.**

The Zoning Board of Adjustment meeting was called to order at 1:30 p.m. by Chairman Larry Nance.

The following Board Members answered roll call:

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

The following City Staff 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, Assistant City Attorney

**CHANGES TO THE AGENDA:**

Motion made by Mr. Veliz, seconded by Mr. Perez, and unanimously carried to **POSTPONE UNTIL THE OCTOBER 22, 2007, ZBA MEETING:**

- 1. ITEM 7, ZBA07-00152, 5324 DEBEERS DRIVE; AND**
- 2. ITEM 8, ZBA07-00153, 445 PINWOOD STREET**

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

**NAYS:** N/A

The Motion passed. (9-0)

**ITEM 1:**

ZBA07-00161

4529 Capricorn Drive

Juan and Yvette Vela

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 a 25.6' by 10' portion of a patio proposed to be located to within 10' of the rear property line. A rear yard setback of 25' is required in an R-3 zone. The applicants are enclosing their existing patio and are requesting to add a 25.6' by 17' (435.20 square feet) patio that is larger than the 180 square feet of permitted patio.

Mr. Robert Peña presented the case and noted Staff recommended approval as the request met the requirements of the Special Exception G.

Mr. Fernando Hernandez, representing the Applicants, explained the request for the Special Exception.

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

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

**NAYS:** N/A

The Motion passed. (9-0)

**ITEM 2:**

ZBA07-00163

11623 James Grant Drive

Ray and Patsy Gutierrez

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 a 21.5' by 12' portion of an addition proposed to be located to within 13' of the rear property line. A rear yard setback of 25' is required in an R-3 zone. The applicants are proposing the addition of a 21.5' by 23' game room, of which a 21.5' by 12' portion will encroach in the rear yard setback.

Mr. Robert Peña presented the case and noted Staff recommended approval of the request as it met the requirements of the Special Exception G.

Mr. Juan Rodriguez, representing the Applicants, explained the request for the Special Exception.

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, Ms. Jorgensen seconded, and unanimously carried to **APPROVE THE APPLICATION.**

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

**NAYS:** N/A

The Motion passed. (9-0)

**ITEM 3:**

ZBA07-00164

801 Villa Flores Drive

Fred and Laura Price

Applicants request Special Exceptions under Section 2.16.050 G (Rear Yard Setback) and under Section 2.16.050 L (Builder Error, Side Yard Setback) in an R-3 zone. This would permit the enclosure of a 20' by 8' patio located to within 17' of the rear property line. It would also permit the existence of the house located to within 4.8' of the easterly side property line. A rear yard setback of 25' and a side yard setback of 5' are required in an R-3 zone. The applicants enclosed a patio, without building permit, that encroaches in the rear setback and requesting the Special Exception G to legalize the enclosure. In addition, the survey supplied by the applicants shows a side setback of 4.8' on the east side; the encroachment in the side setback can be legalized through the Builder Error as the encroachment is less than 1 foot.

Mr. Robert Peña presented the case and noted Staff recommended approval as the request met the requirements of Special Exceptions G and L. He noted any structure over two feet in height was considered an accessory structure; however, property owners are allowed only 120 square feet for accessory structures. He explained that although the gazebos were not covered, the Applicant would be required to remove them as they were over the height and square feet allowed.

Ms. Linda Castle noted in 1993 the Applicants were approved for the side yard setback encroachment and requested that the Special Exception L be removed from the request. She added Staff would remove the address from the "Log for Builder's Errors". She noted swimming pools are not considered accessory structures.

Mr. Fred Price, Applicant, explained the addition was built over 10 years ago.

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. Marquez seconded, and unanimously carried to **APPROVE THE APPLICATION, PER STAFF RECOMMENDATIONS, THAT ACCESSORY STRUCTURES OVER 120 SQUARE FEET BE REMOVED.**

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

**NAYS:** N/A

The Motion passed. (9-0)

**ITEM 4:**

ZBA07-00165

5333 Viceroy Drive

Jesus V. and Soledad F. Meza

Applicants request a Special Exception under Section 2.16.050 Q (Carport over a Driveway) in an R-3 zone. This would permit the installation of a 23' by 16' carport located to within 3' of the front property line. A 25' front yard setback is required in an R-3 zone. The applicants began construction of a carport without building permit and are proposing to add a metal, pre-fabricated carport that encroaches in the front setback. The Building Permits & Inspection Division has reviewed the structural drawings for the carport and has found the design to be acceptable, with the comment that plans must show how the carport is anchored. The Engineering-Traffic Division's review notes no traffic concerns with proposed carport.

Mr. Robert Peña presented the case and noted Staff recommended denial of the request for the Special Exception Q as the carport design was not in harmony with the house. He noted there were no other carports of similar design in the immediate neighborhood and added the carport must be anchored to the ground, not the house. He explained the Applicant repositioned the proposed carport three feet from the house, as the original drawing showed the proposed carport set on the front property line, and he explained any structure five feet and closer is considered attached to the home.

Mrs. Soledad F. Meza, Applicant, stated the carport would be separate from the home and not enclosed. She noted many of her neighbors were in favor of the proposed construction.

Mr. Juan Estala noted the carport currently under construction was not the same as the engineer sealed drawing provided by the Applicant and questioned which one was correct.

After much discussion, Ms. Linda Castle suggested Board Members postpone the item to allow Staff the opportunity to discuss options with the Applicant.

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. Marquez seconded, and unanimously carried to **POSTPONE ZBA07-00165, 5333 VICEROY DRIVE, UNTIL THE OCTOBER 22, 2007, ZBA MEETING.**

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

**NAYS:** N/A

The Motion passed. (9-0)

**ITEM 5:**

ZBA07-00166

5840 Swallow Lane

Maria Gonzalez

Applicant requests a Special Exception under Section 2.16.050 U (Rear Yard Setback) in an R-4 zone. This would permit the existence of a 25.6' by 10' portion of an addition located to within 5' of the rear property line. A 25' rear yard setback is required in an R-3 zone. The applicant came in to request a building permit for an accessory building; however, during the plan review process, it was discovered that her house has an addition that is larger than one-third the average width of the lot and is built closer than permitted to the rear property line. The applicant purchased the house in 2000 with the existing addition, and the 1986 aerial shows the structure existing 21 years ago.

Mr. Robert Peña presented the case and noted Staff recommended approval of the Special Exception U for the existing addition, *with the following conditions:*

- *all existing accessory buildings are removed; and*
- *no accessory buildings shall be permitted.*

He explained the existing accessory structure, built in 1959 without a permit, must be removed, as well as the two-story structure currently under construction.

Mrs. Maria Gonzalez and Mr. Jose Gonzalez, Applicants, commented on the two accessory structures, existing and under construction. Mrs. Gonzalez questioned whether or not a second story could be constructed on top of the existing accessory structure.

Mr. Peña responded dependent upon all requirements being met.

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. Perez seconded, and unanimously carried to **APPROVE THE EXISTING ADDITIONS AND BASED ON STAFF RECOMMENDATIONS, ALL EXISTING ACCESSORY STRUCTURES BE REMOVED.**

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

**NAYS:** N/A

The Motion passed. (9-0)

**ITEM 6:**

ZBA07-00168

11604 Jennifer Drive

Albert Miner

Applicant requests a Special Exception under Section 2.16.050 V (Front Yard Setback) in an R-3 zone. This would permit the construction of a 20' by 10' addition that is proposed to be located to within 15' of the front property line. A 25' front yard setback is required in an R-3 zone. The applicant is proposing to add an office that encroaches in the front setback. The site plan indicates a circular driveway for parking vehicles. The applicant will be required to remove an existing storage building from the side yard.

Mr. Robert Peña presented the case and noted Staff recommended approval of the request as it met the requirements of the Special Exception V, *with the condition that the storage building in the side yard setback be moved to the rear yard.*

Mr. Albert Miner, Applicant, was present.

Chairman Nance asked if members of the audience were present to speak in favor of or in opposition to the application. There being none, Ms. Gill moved, Mr. Perez seconded, and unanimously carried to **APPROVE THE APPLICATION, BASED ON STAFF RECOMMENDATIONS, THE ACCESSORY STRUCTURE BE MOVED TO THE REAR YARD.**

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

**NAYS:** N/A

The Motion passed. (9-0)

**ITEM 7:**

ZBA07-00152

5324 DeBeers Drive

Miguel and Maria Elena Rojas

Mr. Veliz moved, Mr. Perez seconded, and unanimously carried to **POSTPONE ZBA07-00152, 5324 DEBEERS DRIVE, UNTIL THE OCTOBER 22, 2007, ZBA MEETING.**

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

**NAYS:** N/A

The Motion passed. (9-0)

**ITEM 8:**

ZBA07-00153

445 Pinewood Street

Victor A. and Juana Flores

Mr. Veliz moved, Mr. Perez seconded, and unanimously carried to **POSTPONE ZBA07-00152, 5324 DEBEERS DRIVE, UNTIL THE OCTOBER 22, 2007, ZBA MEETING.**

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

**NAYS:** N/A

The Motion passed. (9-0)

**ITEM 9:**

ZBA07-00157

5100 Jerry Drive

Lewis D. Richardson

Applicant requests a Special Exception under Section 2.16.050 G (Rear Yard Setback) in an R-4 zone. This would permit a 4' by 5' portion of a patio proposed to be located to within 20' of the rear property line. A 25' rear yard setback is required in an R-4 zone. The item was postponed at the September 24, 2007, meeting for two weeks to the meeting of October 8, 2007. The applicant is requesting to add a 40' by 13.5' patio, of which a 4' by 5' portion (20 sq. ft.) is encroaching in the rear yard more than the 180 square feet of permitted open porch. The applicant was informed that the staff would recommend denial of the request, but could recommend approval of a 21.5' wide encroachment of the patio in the rear yard setback. The applicant indicated he would submit a revised site plan prior to the October 8<sup>th</sup> meeting.

Mr. Robert Peña presented the case and noted *prior to the meeting, the Representative had faxed a revised Site Plan and based on that revised Site Plan Staff recommended approval of the application. Copies of the revised Site Plan were distributed to Board Members prior to the meeting.*

Mr. Stephen Jackson, Representative, commented on the proposed construction and noted the Applicant had settled for the revised Site Plan.

Ms. Linda Castle clarified Staff recommends approval of a 21.5 foot wide patio to within 19 feet of the rear property line, based on the revised Site Plan faxed by Mr. Jackson prior to the meeting. She noted Staff had discussed various options with the Applicant/Representative and based on the requirements a revised Site Plan was submitted. She clarified as long as 25 feet was clear and construction was within the buildable area, the patio could be built across the width of the home.

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. Hernandez moved, Mr. Bowling seconded, and unanimously carried to **APPROVE THE APPLICATION BASED ON THE REVISED SITE PLAN SUBMITTED PRIOR TO THE MEETING.**

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

**NAYS:** N/A

The Motion passed. (9-0)

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**PRESENTATION**

Ms. Anna Gill for eight years of dedicated service as a Zoning Board of Adjustment Board Member. Ms. Gill was appointed Alternate Board Member for two consecutive, two year terms and Regular Board Member for two consecutive, two year terms. Additionally, Ms. Gill had served as Vice-Chair and Chair.

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**OTHER BUSINESS:**

- 10. Approval of Minutes – September 10 and September 24, 2007.

Motion made by Mr. Veliz, seconded by Mr. Bowling and unanimously carried to **APPROVE THE ZBA MEETING MINUTES FOR SEPTEMBER 10, 2007.**

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

**NAYS:** N/A

The Motion passed. (9-0)

**NO ACTION WAS TAKEN REGARDING THE APPROVAL OF MINUTES – SEPTEMBER 24, 2007.**

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

a. Internet access for Board Members during ZBA meetings.

Ms. Jorgensen suggested Board Members utilize the computer on the dais during ZBA meetings to access the City Code and internet.

**1<sup>ST</sup> MOTION:**

Motion made by Ms. Jorgensen to allow the Board access to the internet for the purpose of accessing the City of El Paso website and the ordinances.

**NO VOTE WAS TAKEN.**

**AMENDED MOTION:**

Motion made by Ms. Jorgensen, seconded by Mr. Nance, and unanimously carried **TO ALLOW THE BOARD ACCESS TO THE INTERNET DURING THE ZBA MEETING.**

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

**NAYS:** N/A

The Motion passed. (9-0)

b. ZBA meetings schedule for 2008.

Ms. Castle commented on the ZBA meeting schedule for 2008 and noted ZBA meetings for April and May would be held on the 1<sup>st</sup> and 3<sup>rd</sup> Mondays of the month, rather than the normally scheduled 2<sup>nd</sup> and 4<sup>th</sup> Mondays.

**ADJOURNMENT:**

Motion made by Mr. Veliz, seconded by Mr. Bowling, and unanimously carried to **ADJOURN THE ZBA MEETING AT 2:38 P.M.**

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

**NAYS:** N/A

The Motion passed. (9-0)

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Robert Peña, Secretary  
Zoning Board of Adjustment