



**ZONING BOARD OF ADJUSTMENT MEETING MINUTES
2ND FLOOR - CITY COUNCIL CHAMBERS
SEPTEMBER 14, 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. Larry Nance
Mr. Sam Barela
Mr. Servando Hernandez
Mr. Jose Melendez
Mr. Ricardo Aguilar
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

CHANGES TO THE AGENDA

ITEM 1, ZBA09-00031, the applicant's Representative requested Special Exception I (Reduction in Off-Street Parking) be withdrawn.

MOTION:

Motion made by Mr. Nance, seconded by Mr. Cordova to **REMOVE THE REQUEST FOR SPECIAL EXCEPTION I (REDUCTION IN OFF-STREET PARKING)**.

AYES: Ms. Jorgensen and Messrs. Perez, Cordova, Nance, Barela, Bowling, Hernandez, Melendez and Aguilar

NAYS: N/A

The Motion passed. (9-0)

ITEM 1:

ZBA09-00031

1501 Lomaland Drive

Piñon Quail Run, Ltd.

Applicant requests a Special Exception under Section 2.16.050 L (Rear Yard Setback) in an A-2 zone. This would permit the existence of 5 buildings that encroach 15 feet into the required rear yard setback and are located to within 10 feet of the rear property line. The required rear yard setback for apartments in the A-2 (Apartment/Medium Density) zone is 25 feet. The applicant is requesting the Special Exception for this apartment complex, built in 1973, in order to legalize buildings that were constructed encroaching into the required rear yard setback. The request for the encroachment into the required rear setback is based on property history information submitted by the applicant's attorney, which states that the applicant purchased the property in 1977 and affirms that the applicant is not responsible for the construction of the encroachment. The applicant's statement is corroborated by Central Appraisal District information. In addition, the 15 year requirement is met because the 1986 aerial shows the encroaching buildings existing in 1986 as they exist today.

INQUIRY	FINDINGS
<p>Is the request for a variance owing to special condition inherent in the property itself?</p> <p>If yes, CONTINUE If no, STOP</p>	<p>The property is/has ... (e.g., odd-shaped, unusual topography, etc.)</p> <p><i>Board Members unanimously voted yes.</i></p>
<p>Is the condition one unique to the property requesting the variance?</p> <p>If yes, CONTINUE If no, STOP</p>	<p>The condition is unique to this property.</p> <p><i>Board Members unanimously voted yes.</i></p>
<p>Is the condition self-imposed or self-created?</p> <p>If yes, STOP If no, PROCEED</p>	<p>The condition necessitating the request was not created by the property owner.</p> <p><i>Board Members unanimously voted yes.</i></p>
<p>Will the literal enforcement of the zoning ordinance result in an unnecessary hardship?</p> <p>If yes, CONTINUE If no, STOP</p>	<p>Strict enforcement of the zoning ordinance would impose a hardship above that suffered by the general public.</p> <p><i>Board Members unanimously voted yes.</i></p>
<p>Will the hardship prevent any reasonable use whatsoever?</p> <p>If yes, CONTINUE If no, STOP</p>	<p>Without the grant of the requested variance, the property owner would be deprived of the right to use his property. Financial considerations alone cannot satisfy this requirement.</p> <p><i>Board Members unanimously voted yes.</i></p>
<p>Would the grant of the variance be contrary to public interest?</p> <p>If yes, STOP If no, PROCEED</p>	<p><i>Board Members unanimously voted no.</i></p>
<p>Is the request within the spirit of the ordinance and does it further substantial justice?</p> <p>If yes, CONTINUE If no, STOP</p>	<p><i>Board Members unanimously voted yes.</i></p>

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. Melendez, seconded by Mr. Hernandez and unanimously carried **TO APPROVE THE VARIANCE REQUEST AS RECOMMENDED BY STAFF WITH THE CONDITIONS THE ISLAND STRIPING BE DONE AT THE FRONT DRIVEWAY ALONG TROWBRIDGE, NO PARKING SIGNAGE BE PLACED AT THE DRIVEWAY AND THAT THE DRIVEWAY BE USED FOR FUNERAL HEARSE ONLY.**

AYES: Ms. Jorgensen and Messrs. Perez, Cordova, Nance, Barela, Bowling, Hernandez, Melendez and Aguilar

NAYS: N/A

The Motion passed. (9-0)

Other Business:

3. Approval of Minutes: August 10, 2009

Chair Bowling asked Board Members if there were any corrections to the minutes for August 10, 2009. There were none.

MOTION:

Motion made by Mr. Melendez, seconded by Mr. Hernandez and unanimously carried **TO APPROVE THE AUGUST 10, 2009 MEETING MINUTES.**

AYES: Messrs. Cordova, Barela, Bowling, Hernandez, Melendez and Aguilar

NAYS: N/A

ABSTAIN: Ms. Jorgensen and Messrs. Perez and Nance

The Motion passed. (6-0)

Development Services Report:

4. Discussion and action regarding Zoning Board of Adjustment issues:
Draft of revision to Section 2.16 C Special Exception, Rear Yard Setback

Ms. Castle explained the revised language and responded to questions and/or comments from Board Members.

Ms. Osborn requested the item be postponed to allow Staff time to review the revised ordinance language.

MOTION:

Motion made by Mr. Nance, seconded by Mr. Barela and unanimously carried to **POSTPONE TO THE NEXT ZBA MEETING.**

AYES: Ms. Jorgensen and Messrs. Perez, Cordova, Nance, Barela, Bowling, Hernandez, Melendez and Aguilar

NAYS: N/A

The Motion passed. (9-0)

ADJOURNMENT:

MOTION:

Motion made by Mr. Nance, seconded by Mr. Barela and unanimously carried to **ADJOURN THE ZBA MEETING AT 2:33 P.M.**

AYES: Ms. Jorgensen and Messrs. Perez, Cordova, Nance, Barela, Bowling, Hernandez, Melendez and Aguilar

NAYS: N/A

The Motion passed. (9-0)

Linda Castle, Senior Planner