



**ZONING BOARD OF ADJUSTMENT MEETING MINUTES  
2ND FLOOR – CITY COUNCIL CHAMBER  
SEPTEMBER 24, 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  
Mr. Jose Melendez  
Ms. Anna Gill  
Mr. Servando Hernandez  
Mr. David Marquez

The following City staff members were present:

Ms. Mirian Spencer, Development Services Department, Planning Division, Planner  
Mr. Robert Peña, Secretary, Zoning Board of Adjustment  
Ms. Linda Castle, Development Services Department, Planning Division, Senior Planner  
Ms. Elaine Hengen, City Attorney's Office, Senior Assistant City Attorney  
Mr. Ernie Rodriguez, City Attorney's Office, Assistant City Attorney  
Mr. Tony De La Cruz, Building Permits & Inspections, Building Plans Examiner

**CHANGES TO THE AGENDA:**

Staff requested the following changes to the agenda:

1. Delete - Item 7, ZBA07-00151, 1113 Loma Verde Drive;
2. Postpone Two (2) Weeks – Item 8, ZBA07-00152, 5324 DeBeers Drive; and
3. Postpone Two (2) Weeks – Item 9, ZBA07-00153, 445 Pinewood Street

Motion made by Mr. Veliz, seconded by Mr. Melendez, and unanimously carried to **ACCEPT THE CHANGES TO THE AGENDA, AS RECOMMENDED BY STAFF.**

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

**NAYS:** N/A

The Motion passed. (9-0)

**ITEM 1:**

ZBA07-00155                      Americas Avenue and North Loop Drive                      Ponzio Properties  
Applicant is filing an Appeal of an Administrative Official's Decision under Section 2.16.040, Appeals, of the El Paso City Code.

Section 20.66.230 E. of the El Paso City Code prohibits the placement of off-premise signs within 1,000 feet from either right-of-way line of an arterial within a designated scenic corridor. Please refer to enclosed Location Map.

The Zoning Board of Adjustment is empowered under Section 2.16.040, Appeals, to:

“Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of Title 20.”

The following City Staff commented:

1. Ms. Linda Castle presented the case and noted per Section 20.66.230 E of the El Paso City Code the placement of off-premise signs within 1,000 feet from either right-of-way line of an arterial within a designated scenic corridor is prohibited. She explained the application was denied due to the applicant's request to place an off-premise billboard within a designated scenic corridor; additionally, she explained in 1986 the designated scenic corridor was from Santa Fe along the Border Highway to Socorro Road. She noted the scenic corridor was extended from Socorro Road to I-10 in 2002. She reiterated the billboard sign, as proposed by Clear Channel, would not be legal as the Code clearly states that an off-premise billboard can not be placed in the scenic corridor. Ms. Castle stated Staff explained to the Applicant he could come before the Board and request a Variance; however, the Code must still be upheld. Additionally, she stated Staff had informed the Applicant that the Zoning Board could not approve their appeal.
2. Mr. Ernie Rodriguez noted Staff had advised the Board, with regard to the provisions in the Code, expressly prohibiting that signage type within the scenic corridor.
3. Ms. Elaine Hengen gave legal advice regarding non-issuance of the permit. She explained any individual has a right to appeal to the Zoning Board of Adjustment.

The following individuals spoke on behalf of Ponzio Properties and/or Clear Channel Outdoor:

1. Mr. V. J. Smith, representing Clear Channel Outdoor, gave a PowerPoint presentation (on file) and stated the City had issued a permit for the billboard; however, the City later stated the permit would be repealed. He noted Mr. Ponzio had purchased the property after 2002. He expounded on the many restrictions written within the sign ordinance language and noted a new sign could not be erected unless one other sign was taken down.
2. Mr. Bruce Ponzio, Ponzio Properties, Inc., gave a chronological history regarding the City's issuance and subsequent revocation of the permit. He clarified that he was present today to appeal the decision whereby the City issued the permit and later repealed same permit.

3. Mr. Joe Vargas, Jr., Clear Channel Outdoor, explained the process by which he filed the Zoning Board of Adjustment application.

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. Marquez moved, Mr. Hernandez seconded, and carried to **DENY THE APPLICATION, BASED ON THE 2002 AMENDED ORDINANCE TO INCLUDE THE SCENIC CORRIDOR FROM SOCORRO ROAD TO THE POINT OF REFERENCE.**

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

**NAY:** Mr. Veliz

The Motion to Deny passed. (8-1)

**ITEM 2:**

ZBA07-00145                      5000 and 5016 Love Road                      Robert H. and Cynthia C. Humphries  
Applicants have filed an Appeal of an Administrative Official's Decision under Section 2.16.040, Appeals, in an R-1 zone.

At the September 10, 2007, meeting, after presentations by the applicant, Robert Humphries; Michael McLean, representing St. Mark's Methodist Church; and, City staff, ZBA Chair Larry Nance asked Mr. Humphries if he wanted to go forward with a hearing on standing or if he wanted to request postponement of his request to the September 24, 2007, meeting. Mr. Humphries asked for a postponement to the September 24<sup>th</sup> meeting.

The Zoning Board of Adjustment is empowered under Section 2.16.040, Appeals, to:

“Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of Title 20.”

Motion made by Mr. Veliz, seconded by Mr. Hernandez and unanimously carried to **DELETE ZON07-00145, 5000 AND 5016 LOVE ROAD, ROBERT H. AND CYNTHIA C. HUMPHRIES.**

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

**NAY:** N/A

The Motion passed. (9-0)

**ITEM 3:**  
**AMENDED APPEAL**

ZBA07-00145            5000 and 5016 Love Road            Robert H. and Cynthia C. Humphries;  
Jim and Rosalind Ferguson; Eduardo and Gloria Hermosilla; Wayne and Deborah Barker;  
and, Manny and Rose Rubio. Applicants have filed an Appeal of an Administrative Official's  
Decision under Section 2.16.040, Appeals, in an R-1 zone.

On September 11, 2007, an "Amended and Restated Appeal to the Zoning Board of  
Adjustment" was submitted listing the following Appellants:

Robert H. and Cynthia Humphries	5028 Jordan Lane
Jim and Rosalind Ferguson	212 Country Club Road
Eduardo and Gloria Hermosilla	5020 Love Road
Wayne and Deborah Barker	5018 Love Road
Manny and Rose Rubio	5025 Love Road.

The Zoning Board of Adjustment is empowered under Section 2.16.040, Appeals, to:

"Hear and decide appeals where it is alleged there is error in any order,  
requirement, decision or determination made by an administrative official in the  
enforcement of Title 20."

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

Motion made by Mr. Cordova, seconded by Mr. Hernandez and carried to consider standing  
and move on with the case.

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

**NAYS:** Mr. Marquez

The Motion passed. (8-1)

Mr. Veliz questioned whether the Board could make a decision on the matter.

Ms. Castle responded the City requests the Board uphold the ordinance. Additionally, the  
Appellants believe the site plan was not approved appropriately and the subsequent issuance  
of the building permit was not appropriate.

Mr. Nance clarified the issue was whether or not the City issued a permit correctly for the off-  
site parking.

Messrs. Nance and Bowling read into the record language from case study material,  
Galveston Historical Society vs. City of Galveston Zoning Board of Adjustment, provided to  
Board Members by Mr. Humphries at the September 10, 2007 meeting.

The following City staff commented:

1. Ms. Linda Castle presented the case and responded to questions and/or comments of the  
Board Members;

2. Mr. Ernie Rodriguez gave legal advice regarding standing and aggrieved parties;
3. Ms. Elaine Hengen gave legal advice with regard to case studies read into the record by Messrs. Nance and Bowling, clarified decisions the Board must render and provided legal advice throughout the discussion;
4. Ms. Kelly Carpenter, Deputy Director, Planning, discussed off-site parking and referred to sections of the City Code;
5. Mr. Tony de la Cruz, Building Plans Examiner, commented on permitted uses in residential zones;
6. Mr. Larry Nichols, Deputy Director, Building Permits & Inspections, discussed the City's plan review process;
7. Ms. Mirian Spencer commented on off-street parking requirements.

The following members of the public commented:

1. Mr. Bob Humphries, Appellant, neighbor and resident, gave a PowerPoint presentation. (copy on file) and responded to questions and/or comments from the Board Members and City Staff. Mr. Humphries requested St. Mark's apply for a Special Use Permit for off-site parking.
2. Mr. Michael McLean, Attorney representing St. Mark's United Methodist Church, gave a PowerPoint presentation (copy on file) and responded to questions and/or comments from the Board Members and City Staff.

Following Mr. McLean's presentation the Board recessed for five (5) minutes.

**2<sup>ND</sup> MOTION:**

Motion made by Mr. Cordova, seconded by Mr. Marquez and unanimously carried to **RECESS THE ZONING BOARD OF ADJUSTMENT MEETING FOR FIVE (5) MINUTES.**

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

**NAYS:** N/A

The Motion passed. (9-0)

**3<sup>RD</sup> MOTION:**

Motion made by Mr. Perez, seconded by Mr. Veliz and unanimously carried to **RECONVENE THE ZONING BOARD OF ADJUSTMENT MEETING.**

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

**NAYS:** N/A

The Motion passed. (9-0)

**4<sup>TH</sup> MOTION:**

Motion made by Mr. Perez, seconded by Mr. Marquez and carried to **DENY THE APPEAL.**

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

**NAYS:** Mr. Nance





ZBA07-00151

1113 Loma Verde Drive

Noe Samuel Castillo

Staff recommended deleting the application per the request of the Applicant.

Motion made by Mr. Veliz, seconded by Mr. Melendez and unanimously carried to **DELETE ZBA07-00151.**

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

**NAY:** N/A

The Motion passed. (9-0)

**ITEM 8:**

ZBA07-00152

5324 DeBeers Drive

Miguel and Maria Elena Rojas

Staff recommended postponing the request to allow the applicant to submit a revised site plan.

Mr. Veliz moved, Mr. Melendez seconded, and unanimously carried to **POSTPONE ZBA07-00152, 5324 DEBEERS DRIVE, TO THE OCTOBER 8, 2007, ZBA MEETING.**

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

**NAY:** N/A

The Motion passed. (9-0)

**ITEM 9:**

ZBA07-00153

445 Pinewood Street

Victor A. and Juana Flores

Staff recommended postponing the application, per the request of the Applicant.

Mr. Veliz moved, Mr. Melendez seconded, and unanimously carried to **POSTPONE ZBA07-00153, 445 PINEWOOD STREET, TO THE OCTOBER 8, 2007, ZBA MEETING.**

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

**NAY:** N/A

The Motion passed. (9-0)

**ITEM 10**

ZBA07-00154

10001 Jamaica Street

William J. Morgan

Applicant requests a Special Exception under Section 2.16.050 Q (Carport over a Driveway) in an R-3 zone. This would permit the construction of a 22.5' by 20' carport proposed to be located to within 5' of the front property line. A 25' front yard setback is required in an R-3 zone.



**ITEM 12:**

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 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 notified that staff would not recommend approval of the additional 20 square feet. He wants to continue with his request for a 200 square foot patio.

The applicant was not present.

Mr. Veliz moved, Mr. Perez seconded, and unanimously carried to **POSTPONE ZBA07-00157, 5100 JERRY DRIVE, FOR TWO (2) WEEKS.**

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

**NAY:** N/A

The Motion passed. (9-0)

**ITEM 13:**

ZBA07-00158

5601 Creston Avenue

Alfredo V. Cruz

Applicant requests a Special Exception under Section 2.16.050 K (Side Street Yard Setback) in an R-4 zone. This would permit the construction of a 5'11" by 22' addition which is proposed to be located to within 5' of the side street property line. A 10' side street yard setback is required in an R-4 zone.

The applicant submitted a site plan for building permit and received a permit. He began construction and called for a foundation inspection. The inspector failed the foundation for encroachment in the side street yard setback. The applicant is requesting the Special Exception to encroach 5' into the required 10' side street setback. The Engineering Department-Traffic review is pending.

Ms. Mirian Spencer presented and noted Staff recommended approval of the Special Exception K.

Mr. Robert Peña added the house was a corner lot.

Mr. Mike De La Riva, representing the Applicant, 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, Mr. Hernandez seconded, and unanimously carried to **APPROVE THE APPLICATION.**

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

**NAY:** N/A

The Motion passed. (9-0)

**OTHER BUSINESS:**

14. Approval of Minutes – September 10, 2007.

**NO ACTION WAS TAKEN.**

**DEVELOPMENT SERVICES REPORT:**

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

**NO ACTION WAS TAKEN.**

**ADJOURNMENT:**

Motion made by Mr. Veliz, seconded by Mr. Perez, and unanimously carried to **ADJOURN THE MEETING AT 5:00 P.M.**

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

**NAY:** N/A

The Motion passed. (9-0)

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Robert Peña, Secretary  
Zoning Board of Adjustment