

ZONING BOARD OF ADJUSTMENT
MINUTES
February 28, 2005

The Zoning Board of Adjustment held a public hearing in the City Council Chambers, 2nd Floor of the City Hall Building, on Monday, February 28, 2005, at 1:30 p.m., with the following board members present:

Board Members

Vicente Ordoñez Chair
James Major
Anna Gill
Roger Rappe
Bradley Roe
Larry Nance
Robert Veliz
Jose Melendez

Staff Members

Robert Peña, Zoning Board Secretary
Kimberly Forsyth, Zoning Administrator
Javier de la Cruz, Plan Examiner
Linda Castle, Planner
Margie Barajas, Secretary

Robert Peña, Zoning Board of Adjustment Secretary, opened the meeting and read the Statement of Authority and Limitations on the Laws and Ordinance governing the Board. Vicente Ordoñez introduced himself and other board members to the audience. He swore in all who wished to testify.

Item 1 02-026-05 6010 Tampa Bertha Wheeler

Applicant requests a Variance from Section 20.14.080 (Lot Size Standards) and Section 20.14.090 (Yard Standards, Front & Rear Yard Setbacks) R-5 Zone of the City of El Paso Zoning Ordinance. Deal Addition, Block D, Lot 8. This would permit the construction of a 49.45' by 30' structure located to within 10' of the front property line and 14' of the rear property line. The existing house is a registered legal non-conforming structure (built prior to 1955) on a legal non-conforming lot and the owner is replacing the house with a structure of similar size. A 20' front yard setback and a 25' rear yard setback are required in an R-5 zone. The R-5 zone also requires a minimum lot size of 4,500 square feet, with 45 ft. average width and 90 ft. minimum depth.

Robert Peña read the case into the record and made a slide presentation of the property. Mr. Peña noted that staff received three calls in favor of the variance. The Department is recommending approval as a Variance. Bradley Roe read aloud the four items to be considered in order to grant a Variance. Kimberly Forsyth noted that the item regarding special conditions and unnecessary hardship would apply to this case. Ms. Forsyth explained that regarding the special conditions, it is an existing structure that currently does not conform to the code, either on the side or the rear setback requirements of the R-5 district. The applicant wants to replace that structure with a similar sized house that will more nearly meet the code requirements with side setbacks of 5 feet and 14 foot rear setback. The hardship would apply because in order to comply with the code, the applicant would have to reduce the size of the house and will not have the same living space that they have at the present time.

Vicente Ordoñez asked if there was anyone in the audience who wished to speak in favor or against this request. The representative for Bertha Wheeler was in attendance to represent this case. Raul Contreras, representative for Bertha Wheeler, was in attendance to represent this case. Mr. Contreras noted that the proposed square footage is 1,318 square feet and the existing house is 1,800 square feet.

James Major made a motion to **APPROVE** the variance request on the basis that the application meets the requirements due to special conditions and unnecessary hardship. Jose Melendez seconded the motion. Board was polled and motion passed unanimously (8-0).

Item 2 02-027-05 317 Mariana Circle Samuel & Maria Escorza

Applicant requests a Special Exception under Section 2.16.050 G (Rear Yard Setback) R-3 Zone of the City of El Paso Zoning Ordinance. Thomas Manor, Block 31, Lot 5.

This would permit the construction of a 16' by 18' addition located to within 18' of the rear property line. A 25' rear yard setback is required in an R-3 zone.

Robert Peña read the case into the record and made a slide presentation of the property. The Department is recommending approval as a special exception. Staff did not receive any calls or letters in favor or against this request. Vicente Ordoñez asked if there was anyone in the audience who wished to speak in favor or against this request. Samuel Escorza, Owner, was in attendance to represent this case.

Anna Gill made a motion to **APPROVE** this request pending the notification to the property owners that the accessory building would have to be reduced to 120 square feet to meet the city requirements. Bradley Roe seconded the motion. Board was polled and motion passed unanimously (8-0).

Item 3 02-028-05 3208 Drumond Wayne & Lilia Crow

Applicants request a Special Exception under Section 2.16.050 G (Rear Yard Setback) R-3 Zone of the City of El Paso Zoning Ordinance. Scotsdale Unit 3, Block 40, Lot 5.

This would permit the construction of a 16' by 13' addition located to within 15' of the rear property line. A 25' rear yard setback is required in an R-3 zone. Kimberly Forsyth noted that the language in the staff report should be amended to state, "... located to within 15' (instead of 13')."

Robert Peña read the case into the record and made a slide presentation of the property. The Department is recommending approval as a special exception. Staff did not receive any calls or letters in favor or against this request. Vicente Ordoñez asked if there was anyone in the audience who wished to speak in favor or against this request. Darrell DeVantier, Representative, was present to represent this case.

James Major made a motion to **APPROVE** this request on the basis that the application meets all the requirements for the special exception. Larry Nance seconded the motion. Board was polled and motion passed unanimously (8-0).

Item 4 02-029-05 1055 Diesel Juana Orozco

Applicant requests a Variance from Section 20.60.090 (Yard Standards, Front Yard Landscaping) P-I Zone of the City of El Paso Zoning Ordinance, Continental Industrial Park, Block 4, Lot 3 and a Portion of Lot 2. This would permit a waiver of the requirement in Section 20.60.090.B which states, "There shall be a front yard of at least 25 feet, which shall consist of maintained landscaped area except for necessary walks and drives."

Robert Peña read the case into the record and made a slide presentation of the property. The Department is recommending approval as a special exception and denial as a variance. Staff did not receive any calls or letters in favor or against this request. Ms. Forsyth noted that under the P-I zone, 25 feet of the frontage is required to be maintained and landscaped except for driveways and walkways. She said that the application states that the owner paved the entire property, including the areas

designated for landscaping, without permits and without applying for a site plan review. Staff recommended to the applicant that she apply for re-zoning the property to zoning that does not have landscaping requirements.

Vicente Ordoñez asked if there was anyone in the audience who wished to speak in favor or against this request. Ray Mancera, Representative for Juana Orozco, property owner, was present to represent this case. Mr. Mancera noted that they are requesting a waiver of the requirement to landscape because of financial difficulties that prohibit the owner from complying with the ordinance. Mr. Mancera mentioned that the previous owners paved the property and the current property owners just recently discovered that it was done so without a permit. Mr. Mancera noted other reasons for the waiver including the small area of the property, a 25 foot setback would give less maneuvering for the trucking business, other properties around the area do not have any landscaping, and cutting 25 feet of paving would cause a tremendous financial burden.

The Board expressed concern that this request was not to make an adjustment but to change the ordinance and recommended to Mr. Mancera that he present a request to the City Plan Commission to re-zone. Mr. Mancera replied that he felt it should go through the ZBA as a variance to adjust the setback from 25 feet to zero.

Jose Melendez made a motion to **DENY** the Variance request on the basis that the application does not meet all the requirements. Roger Rappe seconded the motion. Board was polled and motion passed (6-2). James Major and Larry Nance opposed the motion to deny the Variance.

Item 5 02-030-05 2525 Anise Manuela Acosta

Applicant requests a Special Exception under Section 2.16.050 G (Rear Yard Setback) R-3 Zone of the City of El Paso Zoning Ordinance. East Glen, Block 42, Lot 10. This would permit the construction of a 26.8' by 12' addition located to within 13' of the rear property line. A 25' rear yard setback is required in an R-3 zone.

Robert Peña read the case into the record and made a slide presentation of the property. The Department is recommending approval as a special exception. Staff did not receive any calls or letters in favor or against this request. Vicente Ordoñez asked if there was anyone in the audience who wished to speak in favor or against this request. Darrell DeVantier, Representative, was present to represent this case.

Anna Gill made a motion to **APPROVE** this request on the basis that the application meets all the requirements for the special exception. Bradley Roe seconded the motion. Board was polled and motion passed unanimously (8-0).

Item 6 02-031-05 1725 Challenger Louie Villalobos

Applicant requests a Special Exception under Section 2.16.050 G (Rear Yard Setback) R-3A Zone of the City of El Paso Zoning Ordinance. East Gate Unit 1, Block 17, Lot 23. This would permit the construction of a 17' by 23' addition located to within 15' of the rear property line. A 25' rear yard setback is required in an R-3A zone.

Robert Peña read the case into the record and made a slide presentation of the property. The Department is recommending approval as a special exception. Staff did not receive any calls or letters in favor or against this request. Vicente Ordoñez asked if there was anyone in the audience who wished to speak in favor or against this request. Louie Villalobos, Representative, was present to represent this case.

Larry Nance made a motion to **APPROVE** this request on the basis that the application meets all the requirements for the special exception. Jose Melendez seconded the motion. Board was polled and motion passed unanimously (8-0).

Item 7 02-032-05 8404 Saratoga Arturo Raul Montes

Applicant requests a Variance from Section 20.12.090 (Yard Standards, Rear Yard Setback) R-3 Zone of the City of El Paso Zoning Ordinance. Regal Crest Unit 6, Block 15, Lot 28 and a Portion of Lot 29. This would permit the construction of a 30' by 35' pool enclosure located to within 5' of the rear property line. A 25' rear yard setback is required in an R-3 zone.

Robert Peña read the case into the record and made a slide presentation of the property. The Department is recommending to deny as a Variance because it does not meet all the requirements. Staff did not receive any calls or letters in favor or against this request. Kimberly Forsyth noted that the applicant is requesting to enclose the pool to within 5' of the rear property line, but could request an exception to enclose the pool to within 10 feet of the rear property line as long as it is not more than one-third of the average width.

Vicente Ordoñez asked if there was anyone in the audience who wished to speak in favor or against this request. Arturo Raul Montes, Owner, and Arturo Montes, Jr. were present to represent this case. Arturo Montes, Jr. noted that not granting the variance would create an unnecessary hardship. Mr. Montes, Jr. explained that the pool enclosure would allow safer access to escape a fire hazard and would help keep the children next door from sneaking into the pool and drowning.

Bradley Roe read aloud the four conditions to consider for granting a Variance.

James Major made a motion to grant Variance due to hardship of exceptional physical condition of a parcel of land because the applicant bought a piece of property with a swimming pool that was already there. The motion was not seconded.

Larry Nance made a motion to **DENY** the Variance on the basis that it does not meet the requirements. Bradley Roe seconded the motion. Board was polled and motion passed (7-1). James Major opposed the motion to deny.

Item 8 06-099-04 11136 Skipper Alfredo Moreno

Applicant requests a Special Exception under Section 2.16.050 G (Rear Yard Setback) R-4 Zone of the City of El Paso Zoning Ordinance. East Glen, Block 21, Lot 11. This would permit the construction of a 23.8' by 8' addition located to within 14' of the rear property line. A 25' rear yard setback is required in an R-4 zone.

Kimberly Forsyth noted that this item had previously been presented to the Board and was deleted from the agenda without action. The applicant was unable to purchase five additional feet from his neighbor on the side of his yard, and is now requesting a special exception for the addition as stated above.

Robert Peña read the case into the record and made a slide presentation of the property. The Department is recommending approval as a special exception. Staff did not receive any calls or letters in favor or against this request. Vicente Ordoñez asked if there was anyone in the audience who wished to speak in favor or against this request. Alfredo Moreno, Owner, was present to represent this case.

Javier de la Cruz, Plan Examiner, noted that regarding the carport, an open carport is allowed to encroach into the side setback to within two feet of the property line, if the house was built prior to 1979.

Larry Nance made a motion to **APPROVE** this request on the basis that the application meets all the requirements for the special exception. Bradley Roe seconded the motion. Board was polled and motion passed unanimously (8-0).

APPROVAL OF MINUTES

Minutes for January 24, 2005 were not available for approval.

It was announced that the next meeting is set for March 14, 2005 at 1:30 p.m.

Adjournment: approximately 3:25 p.m.

Robert Peña,
Zoning Board Secretary