

ZONING BOARD OF ADJUSTMENT
MINUTES
April 11, 2005

The Zoning Board of Adjustment held a public hearing in the City Council Chambers, 2nd Floor of the City Hall Building, on Monday, April 11, 2005, at 1:30 p.m., with the following board members present:

Board Members

Anna Gill, Vice-Chair
James Major
Larry Nance
Oscar V. Perez
Robert Veliz
David Marquez
Betsy Braver
Roger Rappe

Staff Members

Kimberly Forsyth, Zoning Administrator
Robert Peña, Zoning Board Secretary
Linda Castle, Planner
Javier de la Cruz, Plan Examiner
Sandra Hernandez, Recording Secretary

Robert Peña, Zoning Board Secretary, Planning Department, opened the meeting and read the Statement of Authority and Limitations on the Laws and Ordinance governing the Board. Anna Gill introduced herself and other board members to the audience. She swore in all who wished to testify.

Item 1 03-039-05 12716 Tierra Monje Southwestern Classic Homes

Applicant requests a Variance from Section 20.14.090 (Yard Standards) R-5 Zone of the City of El Paso Zoning Ordinance. Tierra Del Este Unit 27, Block 112, Lot 29. This would permit the construction of a 38' by 59' structure located to within 23' of the rear property line. A 25' rear yard setback is required in an R-5 zone.

Larry Nance made a motion to **DELETE** this request for a variance as requested by the owner. Betsy Braver seconded the motion. Board was polled and motion passed unanimously (8-0).

Item 2 04-046-05 3600 Alameda Francisco Gonzalez

Applicant requests a Special Exception under Section 2.16.050 "O" (Parking Reduction) C-4 Zone of the City of El Paso Zoning Ordinance. Lots 23-26, Block 9, East El Paso Addition. This would permit a 14% reduction in the parking requirements for a proposed retail commercial building. The parking requirement is 29 spaces, and 25 spaces will be provided off-site (pending approval of a special permit by City Council.) The Traffic Division has reviewed this application, and the Traffic Engineer has approved it, subject to the Council approval of the special permit for off-site parking. It was noted that this application must be presented to City Council prior to action by the Zoning Board of Adjustment. It is scheduled for Council hearing on April 26, therefore staff asks for a postponement.

Larry Nance made a motion to **POSTPONE** this request for a Special Exception to meeting of May 9, 2005. Betsy Braver seconded the motion. Board was polled and motion passed unanimously (8-0).

Item 3 04-047-05 1755 Glen Campbell Jesus Estrada Rey

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. Vista Hills, Block 11, Lot 14. This would permit the construction of a 21' by 26' addition located to within 17' 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. Anna Gill asked if there was anyone in the audience who wished to speak in favor or against this request. Ernesto Hernandez 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 04-048-05 12661 Tierra Fresca Sanderson Custom Homes, LLC

Applicant requests a Special Exception under Section 2.16.050 G (Rear Yard Setback) R-5 Zone of the City of El Paso Zoning Ordinance. Tierra Del Este Unit 13, Block 64, Lot 28. This would permit the construction of a 10' by 2' portion of a structure located to within 23' of the rear property line. A 25' rear yard setback is required in an R-5 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. Anna Gill asked if there was anyone in the audience who wished to speak in favor or against this request. Brian Sanderson 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. James Major seconded the motion. Board was polled and motion passed unanimously (8-0).

Item 5 04-049-05 12660 Tierra Alzada Sanderson Custom Homes, LLC

Applicant requests a Special Exception under Section 2.16.050 G (Rear Yard Setback) R-5 Zone of the City of El Paso Zoning Ordinance. Tierra Del Este Unit 13, Block 64, Lot 34. This would permit the construction of a 7' by 22' portion of a structure located to within 18' of the rear property line. A 25' rear yard setback is required in an R-5 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. Anna Gill asked if there was anyone in the audience who wished to speak in favor or against this request. Bryan Sanderson 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. James Major seconded the motion. Board was polled and motion passed unanimously (8-0).

Item 6 04-050-05 260 McClintock Crossroads Valley Apartments, LLC

Applicant requests a Special Exception under Section 2.16.050 L (Error in Construction) C-2/sc Zone of the City of El Paso Zoning Ordinance. Boykin Commercial District Unit 4, Block 2, Lot 3. This would permit an encroachment into the front yard setback of four buildings in the same apartment complex to within 18' of the front property line. A 20' front yard setback is required in a C-2/sc 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. Anna Gill asked if there was anyone in the audience who wished to speak in favor or against this request. David Etzold was present to represent this case. Mr. Etzold presented six letters of support from neighboring property owners across the street and adjacent to the complex. Robert Peña informed the Board that he received four emails from property owners in favor of the request. David Etzold demonstrated through testimony that the error causing the encroachment was inadvertent and not intentional.

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

Item 7 04-051-05 549 Willow Glen Stancey Stribling

Applicant requests a Special Exception under Section 2.16.050 K (Side Street Setback) R-3 Zone of the City of El Paso Zoning Ordinance. Willows Unit 1, Block 1, Lot 1. This would permit the construction of a 12' by 6' portion of a structure located to within 10' of the side street property line. A 15' side yard setback abutting a side street is required in an R-2 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. Anna Gill asked if there was anyone in the audience who wished to speak in favor or against this request. Stancey Stribling, owner, 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. James Major seconded the motion. Board was polled and motion passed unanimously (8-0).

Item 8 4-052-05 3637 Tierra Roma Fortune Custom Homes, Inc.

Applicant requests a Special Exception under Section 2.16.050 G (Rear Yard Setback) R-5 Zone of the City of El Paso Zoning Ordinance. Tierra Del Este Unit 29, Block 120, Lot 20. This would permit the construction of a 35' by 17.55' structure located to within 10' of the rear property line. A 25' rear yard setback is required in an R-5 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. Anna Gill asked if there was anyone in the audience who wished to speak in favor or against this request. Elvia Avila, Representative, was present to represent this case. Kimberly Forsyth noted that the 35' x 17' structure is the garage and storage area but only a portion of it is encroaching into the setback.

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

Item 9 04-053-05 8404 Saratoga Arturo Raul Montes

Applicant requests a Variance from Section 20.08.230 (Accessory Buildings & Structures) and Section 20.08.320 (Permitted Walls) and Section 20.12.090 (Yard Standards) 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 existence of a 15' by 60' structure (batting cage) with a height of 12' located to within 3' of the side property line.

Robert Peña read the case into the record and made a slide presentation of the property. The Department is recommending denial of the variance. It was noted that accessory structures are only permitted in a rear yard, walls are limited to 10 feet in height (provided that the portion above 6 feet is 75% open), and a 5 foot side yard setback is required in an R-3 Zone. Anna Gill asked if there was anyone in the audience who wished to speak in favor or against this request. Arturo Montes, owner, was present to represent this case.

Kimberly Forsyth noted that the applicant did obtain a building permit from Building, Permits & Inspections department but the permit application indicated a fence rather than a structure. This caused confusion as to exactly what was being built. A fence would be limited to a maximum height of 10 feet, but the staff considers this an accessory structure.

Robert Peña further explained that accessory structures are supposed to be in the rear yard and this structure is not in the back; and it encroaches on the side setback.

Larry Nance read aloud the qualifications to be considered in order to grant a variance and asked staff the reason for recommending denial. Kimberly Forsyth responded that it does not meet the criteria and gave examples from the list of findings for a variance (no unique or special topographical condition of the property, condition is self-imposed, no unnecessary hardship, etc.)

Roger Rappe made a motion to **POSTPONE** this request to allow staff and the applicant to review the calculations for a maximum permitted accessory structure, to determine if it could be relocated in the rear yard. Larry Nance seconded the motion. Board was polled and motion passed unanimously (8-0).

Item 10 04-054-05 1020 Granite Trail John Bodlien & Irene Cadena

Applicant requests a Special Exception under Section 2.16.050 K (Side Street Setback) R-3A Zone of the City of El Paso Zoning Ordinance. Chaparral Park Unit 39, Block 172, Lot 11. This would permit the construction of a 5' by 16' portion of a structure located to within 5' of the side street property line. A 10' side yard setback abutting a side street 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. Anna Gill asked if there was anyone in the audience who wished to speak in favor or against this request. David Rodriguez, 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. Betsy Braver seconded the motion. Board was polled and motion passed unanimously (8-0).

Other Business:

Approval of minutes: Motion made and passed to approve the minutes of March 14, 2005 and March 28, 2005.

Planning Report – Kimberly Forsyth reminded the board that at the meeting of March 28, 2005 Vicente Ordoñez, Chairman, gave verbal notice of his resignation from the board. She added that election of a new Chairperson would take place after written notice is given from Mr. Ordoñez. Ms. Forsyth noted that Anna Gill informed of her willingness to accept the Chair position if the board chooses, and that Larry Nance is interested serving as vice chair. She asked other board members who are interested in running as chair or vice-chair, to inform staff. Ms. Forsyth noted that if the chair and vice-chair are absent, the board would elect any one of the regular board members to serve as chair for that particular meeting.

The next meeting is set for April 25, 2005 at 1:30 p.m.

Adjournment: approximately 2:22 p.m.

Kimberly Forsyth, Zoning Administrator