

ZONING BOARD OF ADJUSTMENT
MINUTES
April 25, 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 25, 2005, at 1:30 p.m., with the following board members present:

Board Members

Larry Nance - Acting Chair
James Major
Oscar V. Perez
Robert Veliz
Servando Hernandez
Bradley Roe
Jose Melendez
David Marquez (arrived late)

Staff Members

Kimberly Forsyth, Zoning Administrator
Robert Peña, Zoning Board Secretary
Linda Castle, Planner I
Javier de la Cruz, Plan Examiner
Margie Barajas, 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. Bradley Roe made a motion to appoint Larry Nance as Acting Chair for ZBA hearing of April 25, 2005, as the Chair, Vicente Ordonez, has submitted his resignation and the Vice Chair, Anna Gill, was not present. James Major seconded. Motion passed unanimously 7-0. Larry Nance swore in all who wished to testify. Item 7 was moved to the end of the agenda to allow a ZBA member who was detained to arrive for a quorum on that item.

Item 1 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 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 as it does not meet the requirements for a variance. Mr. Peña noted that accessory structures are not 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.

Kimberly Forsyth gave the following overview of this case, which was first heard at the meeting of April 11, 2005: Staff is recommending denial of the structure as it currently stands but staff does concur that the applicant had submitted a building permit application and was given a building permit in error. The permit application terminology showed a batting cage and a fence. At the time the ZBA application was submitted, it was explained to the applicant that the maximum height for a fence would be 10 feet.

At the meeting of April 11, 2005, staff advised the Zoning Board of Adjustment (ZBA) that this would not be considered a fence under the definition in the code but an accessory structure; and as an accessory structure it could not be located where it was located which was too close to the front property line, and too close to the side property line. The ZBA postponed the case to the meeting of April 25 to allow staff and the applicant to review the calculations for a maximum permitted accessory structure, and to determine if it could be relocated in the rear yard. A diagram was presented by staff showing it could be relocated with minor reduction in

size. The ZBA also asked the applicant if he considered the option of reducing the height to 10 feet. The opinion of the staff is that it does not meet the requirements for a variance.

Larry Nance 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. Mr. Montes gave explanations as to why he could not reduce the fence to ten feet or relocate to the back as an accessory structure. Bradley Roe read aloud the four conditions required to grant a variance.

Bradley Roe made a motion to **DENY** the request on the basis that it does not meet the requirements for a variance. Servando Hernandez seconded the motion. Board was polled and motion passed unanimously (7-0).

Item 2 04-055-05 1454 Gene Torres Richard Wessling

Applicant requests a Special Exception under Section 2.16.050 G (Rear Yard Setback) R-3A/sc Zone of the City of El Paso Zoning Ordinance. Vista Del Sol Unit 106, Block 359A, Lot 37. This would permit the construction of a 16'4" by 27.42' addition located to within 14' of the rear property line. A 25' rear yard setback is required in this R-3A/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. Larry Nance asked if there was anyone in the audience who wished to speak in favor or against this request. Art Smith was present to represent this case.

Bradley Roe 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 (7-0).

Item 3 04-056-05 12712 Tierra Jezrel Monterrey 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 30, Block 126, Lot 23. This would permit the construction of a 15'3" by 6.5' 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. Larry Nance asked if there was anyone in the audience who wished to speak in favor or against this request. Danny Salazar was present to represent this case.

Bradley Roe 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 (7-0).

Item 4 04-057-05 12716 Tierra Jezrel Monterrey 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 30, Block 126, Lot 24. This would permit the construction of a 10' by 20'10" portion of a structure located to within 15' 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. Larry Nance asked if there was anyone in the audience who wished to speak in favor or against this request. Danny Salazar was present to represent this case.

Bradley Roe 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 (7-0).

Item 5 04-058-05 3957 Maya Lizabeth Monterrey 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 23, Block 105, Lot 16. This would permit the construction of a 17'4" by 5'2" portion of a structure located to within 19' 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. Larry Nance asked if there was anyone in the audience who wished to speak in favor or against this request. Danny Salazar was present to represent this case.

Servando Hernandez 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 (7-0).

Item 6 04-059-05 3652 Rachel Crystal Monterrey 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 23, Block 106, Lot 13. This would permit the construction of a 16.9" by 6'4" 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. Larry Nance asked if there was anyone in the audience who wished to speak in favor or against this request. Danny Salazar 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. Bradley Roe seconded the motion. Board was polled and motion passed unanimously (7-0).

Item 7 04-060-05 76 Kingery Alfred & Rocio Fernandez

Applicant requests Special Exceptions under Section 2.16.050 G (Rear Yard Setback) and Section 2.16.050 Q (Carport Over a Driveway) PR-1/sc Zone of the City of El Paso Zoning Ordinance. Los Compadres Unit 1, Block 1, Lots 2 & 3. This would permit the construction of a 15'6" by 4'8" portion of a structure located to within 15' of the rear property line and a 26'6" by 12' portion of a structure located to within 10' of the rear property line; and a 16'8" by 18'2" carport located to within 2' of the front property line. A 20' rear yard setback and a 20' front yard setback are required in this PR-1/sc zone.

Robert Peña read the case into the record and made a slide presentation of the property. The Department is recommending approval of both special exceptions. Kimberly Forsyth noted: The property has a special contract that limits the density to no more than four units per acre. The combination of the two lots for construction of one house comes out to a density of three units per acre so they are within the contract conditions that are on the property. This property could have come in as a variance due to unusual topographic conditions and a very small buildable area but the application does meet the criteria for the two special exceptions. Alfred Fernandez was present to represent this case.

Larry Nance asked if there was anyone in the audience who wished to speak in favor or against this request. Rose Gaily and Marsha Carter Trip, neighboring property owners, attended in opposition of the request. Both expressed concern that the view from the back yard would be

affected by the additional structure, and that there are covenants on the property. Kimberly Forsyth noted that the ZBA and the City do not have the authority to enforce covenants that are imposed on properties.

Bradley Roe made a motion to **APPROVE** this request on the basis that the application meets all the requirements for the special exception. Servando Hernandez seconded the motion. Board was polled and motion passed (7-0-1), Jose Melendez abstained.

Item 8 04-061-05 1921 Pointe East Bruce & Martha Alaimo

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 Unit 3, Block 33, Lot 10. This would permit the construction of a 32' by 15' portion of a structure located to within 10' 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. Larry Nance asked if there was anyone in the audience who wished to speak in favor or against this request.

James Major 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 (7-0).

Item 9 04-062-05 901 S. Campbell El Paso Independent School District

Applicant requests a Special Exception under Section 2.16.050 "O" (Parking Reduction) C-1, C-1/c, C-2 & C-2/c Zones of the City of El Paso Zoning Ordinance. Campbell Addition, Blocks 31, 49 & 56. This would permit a 10% reduction (11 spaces) in the parking requirements for a proposed elementary school site. The parking requirement is 110 spaces, and 99 spaces will be provided on the site.

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. It was noted that this application has been reviewed by the Traffic Division, and approval has been received from the Traffic Engineer. Kimberly Forsyth noted that the ZBA is empowered to grant up to 15% reduction and anything larger than that would need City Council approval; the applicant is only asking for 10% reduction. Ms. Forsyth also noted that the department received opposition from one neighboring property owner and the opposition message was distributed to the zoning board. Larry Nance asked if there was anyone in the audience who wished to speak in favor or against this request. Bob Filarski, PSRBB Architecture, was present to represent this case.

Jose Melendez made a motion to **APPROVE** this request on the basis that the application meets all the requirements for the special exception. Oscar Perez seconded the motion. Board was polled and motion passed unanimously (7-0).

Item 10 04-063-05 11964 Waterside Maria Villalva

Applicant requests a Special Exception under Section 2.16.050 V (Front Yard Setback) R-5/c Zone of the City of El Paso Zoning Ordinance. Vista Real Unit 4, Block 44, Lot 18. This would permit the construction of a 15' by 10' carport located to within 10' of the front property line. A 20' front yard setback is required in an R-5/c 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. Robert Peña noted that the applicant would need to reduce the size of the structure and was given two options - reduce the structure to 15' by 10' which would meet the criteria for a Special Exception V or present to ZBA with a special exception under Section 2.16.050 Q, which would require plans from an architect or engineer.

Larry Nance asked if there was anyone in the audience who wished to speak in favor or against this request. Maria Villalva, owner, was present to represent this case. Ms. Villalva informed that she would resubmit to ZBA under "Q".

Oscar Perez made a motion to **POSTPONE** for 4 weeks (05/23/05) to allow applicant to resubmit drawings to the ZBA. James Major seconded the motion. Board was polled and motion passed unanimously (7-0).

Item 11 04-064-05 3203 Cornwall Carlos Hernandez
Applicant requests a Special Exception under Section 2.16.050 Q (Carport over a Driveway) R-3 Zone of the City of El Paso Zoning Ordinance. Scottsdale Unit 3, Block 38, Lot 22. This would permit the construction of a 24' by 20' carport located to within 5' of the front property line. A 20' front yard setback is required in an R-3 zone.

Bradley Roe made a motion to **POSTPONE** for 2 weeks (05/09/05) to the next meeting for lack of representation. James Major seconded the motion. Board was polled and motion passed unanimously (7-0).

Other Business:

Election of Chair and Vice Chair

Motion made by Bradley Roe to elect Anna Gill as Chair and Larry Nance as Vice Chair. James Major seconded. Board was polled and motion passed unanimously (8-0).

It was announced that the next meeting is set for, May 9, 2005, 2005 at 1:30 p.m.

Adjournment: approximately 3:07 p.m.

Kimberly Forsyth, Zoning Administrator