

ZONING BOARD OF ADJUSTMENT
MINUTES
September 12, 2005

The Zoning Board of Adjustment held a public hearing in the City Council Chambers, 2nd Floor of the City Hall Building, on Monday, September 12, 2005, at 1:30 p.m., with the following board members present:

Board Members

Larry Nance
James A. Major
Oscar V. Perez
Robert Veliz
David Marquez
Servando Hernandez
John Taylor
Jose Melendez
Roger Rappe

Staff Members

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

Robert Peña, ZBA Secretary, Zoning Board Secretary, Development Services Department, Planning Division, opened the meeting and read the Statement of Authority and Limitations on the Laws and Ordinance governing the Board. Larry Nance, Vice Chair, swore in all who wished to testify.

Item 1 (Reconsideration Item) 07-115-05 10840 Aquamarine Fernando & Celia Ramos

Applicants request a Special Exception under Section 2.16.050 Q (Carport Over a Driveway) R-3 Zone of the City of El Paso Zoning Ordinance. Shearman Unit 1, Block 3, Lot 46. This would permit the construction of a 26' by 17.88' carport located within 7' of the front property line. (The ZBA on July 25, 2005 approved Special Exception Q for construction of a 30' by 15'5' carport located to within 9.5' of the front property line.) A 25' front yard setback is required in an R-3 zone.

James Major made a motion to **POSTPONE** to meeting of September 26, 2005. Roger Rappe seconded the motion. Board was polled and motion passed unanimously (9-0).

Item 2 08-122-05 3522 Breckenridge Arturo Ye

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. Pebble Hills Unit 9, Block 82, Lot 13. This would permit the construction of a 22' by 5' portion of a structure located to within 20' of the rear property line. A 25' rear yard setback is required in an R-4 zone.

James Major made a motion to **POSTPONE** to meeting of September 26, 2005. Roger Rappe seconded the motion. Board was polled and motion passed unanimously (9-0).

Item 3 08-131-05 9117 Norwich Antonia Calderon

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. Lancaster Unit 1, Block 3, Lot 5. This would permit the construction of a 20' by 22' carport located to within 3' of the front property line. A 25' front yard setback is required in an R-3 zone.

Robert Peña, ZBA Secretary, Planning Division, read the case into the record and made a slide presentation of the property. Planning is recommending approval as a special exception with
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requirement of a solid masonry fence, and modification of the existing structure on the side of the house. Robert Peña noted that before the applicant would be able to obtain a permit, the existing items need to be corrected. Mr. Peña also noted that this item was postponed from meeting of 8/22/05. Larry Nance asked if there was anyone in the audience who wished to speak in favor or against this request. Carlos Calderon was in attendance to represent this case. No opposition was presented.

Roger Rappe made a motion to **APPROVE** with requirement that the roof overhang in side setback is reduced by 2' and a 5' high masonry screening wall is erected along the lot line. James Major seconded the motion. Board was polled and motion passed unanimously (9-0).

Item 4 **09-13-05** **7410 Remcon Circle** **Kadosh Investments, Inc.**

Applicant requests a Special Exception under Section 2.16.050 O (Parking Reduction) C-3 Zone of the City of El Paso Zoning Ordinance. West Ten, Block 3, Portions of Lots 1 & 2. This would permit a 10% reduction in the parking requirements (from the required 583 spaces to 525 spaces) for a commercial development complex containing retail and restaurants with shared parking and access. The reduction is requested to permit construction of a new 7,800 sq. ft. retail building and a new 2,223 sq. ft. restaurant building on the site.

Robert Peña, ZBA Secretary, Planning, read the case into the record and made a slide presentation of the property. Planning is recommending approval of the special exception. It was noted that the Traffic Division has reviewed this application, and approval was received from the Traffic Engineer. Larry Nance asked if there was anyone in the audience who wished to speak in favor or against this request. No opposition was presented. Robert Filarski, PSRBB Architects, was in attendance to represent the case.

Oscar Perez made a motion to **APPROVE** this request on the basis that the applicant meets the requirements for a special exception. Roger Rappe seconded the motion. Board was polled and motion passed unanimously (9-0).

Item 5 **09-137-05** **923 Bellacumbre** **Duke Rodriguez**

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. Chaparral Park Unit 34, Block 140, Lot 32. This would permit the construction of a 19'4" by 5' portion of a structure located to within 20' of the rear property line. A 25' rear yard setback is required in an R-3 zone.

Robert Peña, ZBA Secretary, Planning, read the case into the record and made a slide presentation of the property. Planning is recommending approval of the special exception. Kimberly Forsyth, Zoning Administrator, referred to the survey in the packet, noting that the rock wall will actually be built within the applicant's property. Larry Nance asked if there was anyone in the audience who wished to speak in favor or against this request. Leo Ramos was present to represent this case. No opposition was presented.

James Major made a motion to **APPROVE** this request on the basis that the applicant meets the requirements for a special exception. Roger Rappe seconded the motion. Board was polled and motion passed unanimously (9-0).

Item 6 **09-138-05** **11655 William Payne** **Petronilo Beltran**

Applicant requests a Variance from Section 20.12.080 (Side Street Setback) R-3A/sp Zone of the City of El Paso Zoning Ordinance. Stanton Heights Unit 1, Block 2, Lot 10. This would permit the existence of a 36' by 10' addition located to within 3.9' of the side street property line. A 10' side yard setback abutting a street is required in an R-3A/sp zone.

Robert Peña, ZBA Secretary, Planning, read the case into the record and made a slide presentation of the property. Robert Peña noted that this request does not meet the requirements for a variance but Planning is recommending approval of a special exception. Kimberly Forsyth noted that the structure was built without a permit. Ms. Forsyth explained that the Special Exception K would allow 5' from the property line. She then noted that staff investigated for uniqueness within the lot; however, staff found the lot to be a typical lot and found nothing in the lot that was different from any other lot on the block.

Larry Nance asked if there was anyone in the audience who wished to speak in favor or against this request. Petronilo Beltran was present to represent this case. No opposition was presented.

Roger Rappe made a motion to deny the variance. Servando Hernandez seconded the motion. Board was polled and motion passed (8-1). James Major voted against the motion.

Roger Rappe made a motion to **APPROVE** as a Special Exception K. Servando Hernandez seconded the motion. Board was polled and motion passed unanimously (9-0).

Item 7 09-139-05 3105 Gateway West Isidro Villalobos

Applicant requests a Special Exception under Section 2.16.050 C (Rear and Side Yard Setbacks) R-5 Zone of the City of El Paso Zoning Ordinance. East El Paso, Block 62, Portions of Lots 14 & 15. This would permit the construction of a 28' by 14' addition located to within 2'6" of the side property line and 2' of the rear property line. (A replacement house was previously constructed on this site by the Community Development Department on the footprint of a previous house.) A rear yard setback of 25' and side yard setbacks of 5' are required in an R-5 zone.

Robert Peña, ZBA Secretary, Planning, read the case into the record and made a slide presentation of the property. Planning is recommending approval of the special exception. BP&I noted that a permit is pending on the addition previously built and that applicant needs to apply for the permit. Kimberly Forsyth noted that there are more than two properties in the block that are right up to the property line. She further noted that this is an older area of town and a lot of these buildings were put up before the zoning ordinance came into being. Larry Nance asked if there was anyone in the audience who wished to speak in favor or against this request. Isidro and Sandra Villalobos were present to represent this case. No opposition was presented.

James Major made a motion to **APPROVE** this request on the basis that the applicant meets the requirements for a special exception. Oscar Perez seconded the motion. Board was polled and motion passed unanimously (9-0).

Item 8 09-140-05 8145 Valley View Elvira Avila

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. La Paloma Park, Block 1, Lot 21. This would permit the construction of a 24' by 22' carport located within 3' of the front property line. A 25' front yard setback is required in an R-3 zone.

Robert Peña, ZBA Secretary, Planning, read the case into the record and made a slide presentation of the property. BP&I noted that before the applicant can apply for permits on this property, any existing violations would have to be cleared by the building permits section. Larry

Nance asked if there was anyone in the audience who wished to speak in favor or against this request. Victor Martinez was present to represent this case. No opposition was presented.

James Major made a motion to **POSTPONE** to September 26, 2005 to allow staff to make an inspection of the property. Roger Rappe seconded the motion. Board was polled and motion passed unanimously (9-0).

Item 9 09-141-05 401 Crane Harry Kelleher

Applicant requests a Special Exception under Section 2.16.050 G (Rear Yard Setback) R-2A Zone of the City of El Paso Zoning Ordinance. Marwood Replat, Lot 41. This would permit the construction of a 33'6" by 14' addition located to within 25' of the rear property line. A 30' rear yard setback is required in an R-2A zone.

Robert Peña, ZBA Secretary, Planning, read the case into the record and made a slide presentation of the property. Planning is recommending approval of a special exception. Larry Nance asked if there was anyone in the audience who wished to speak in favor or against this request. Ray Juarez was present to represent this case. No opposition was presented.

Roger Rappe made a motion to approve on basis that the application meets all the requirements for the special exception. Servando Hernandez seconded the motion. Board was polled and motion passed unanimously (9-0).

Item 10 09-142-05 8612 Grover James Stuckey

Applicant requests a Special Exception under Section 2.16.050 Q (Carport Over a Driveway) R-4 Zone of the City of El Paso Zoning Ordinance. Cielo Vista Park Unit W, Block 124, Lot 4. This would permit the construction of a 20' by 22.91' portion of a carport located within 0' of the front property line. A 20' front yard setback is required in an R-4 zone.

Robert Peña, ZBA Secretary, Planning, read the case into the record and made a slide presentation of the property. Planning is recommending approval as a special exception. James Stuckey 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. Opposition was presented by Daniel Langston, property owner, who expressed concern that granting special exceptions that allow construction into the setback areas would destroy the character of the neighborhood, lead to deterioration of the neighborhood and cause property values to go down with no tax base. Mr. Joe Rosales also presented opposition by expressing concern that these special exceptions would disrupt good enforcement of zoning.

In response to comments about enforcement of zoning, Kimberly Forsyth explained to the Board that the City Council has legislated certain exceptions that the Zoning Board of Adjustments can approve, subject to the applicants meeting the requirements. Ms. Forsyth also explained that the ZBA routinely examines carports to verify whether they do meet those requirements and that these are some of the more common types of special exceptions that the Council has decided to give the board the authority to review and approve. Ms. Forsyth then noted that approving this request would not be violating the zoning enforcement, but would just be following the authority that has been delegated by the City Council. Board member, Roger Rappe noted Item #9: *"The exceptions will be in harmony with the spirit and purposed of Titles 2 and 20, including the preservation of the essential character of the district in which is located the property for which the exception is sought, and..."*

Robert Veliz made a motion to **APPROVE** on the basis that that the application meets all the requirements for the special exception. John Taylor seconded the motion. Board was polled and motion failed (4-5). Robert Veliz, John Taylor, James Major and Jose Melendez voted to approve the motion. Oscar Perez, Servando Hernandez, Larry Nance, Roger Rappe, and David Marquez voted against the motion.

Item 11 09-143-05 1333 Calle Lago R. C. Baeza & Assoc., Inc.

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. Park Hills Unit 6, Block 13, Lot 9. This would permit the construction of a 26'6" by 6'1" portion of a structure located to within 19' of the rear property line. A 25' rear yard setback is required in an R-3A zone.

Robert Peña, ZBA Secretary, Planning, read the case into the record and made a slide presentation of the property. Larry Nance asked if there was anyone in the audience who wished to speak in favor or against this request. Robert Baeza was present to represent this case. No opposition was presented.

Servando Hernandez made a motion to **APPROVE** on the basis that that the application meets all the requirements for the special exception. Robert Veliz seconded the motion. Board was polled and motion passed unanimously (9-0).

Approval of Minutes - Motion made, seconded and passed to approve the minutes of August 22, 2005, as presented.

It was announced that the next meeting is set for September 26, 2005 at 1:30 p.m.

Adjournment: The meeting adjourned at approximately 3:15 p.m.



Robert Peña,
Zoning Board Secretary