

**ZONING BOARD OF ADJUSTMENT**  
**MINUTES**  
**October 10, 2005**

The Zoning Board of Adjustment held a public hearing in the City Council Chambers, 2<sup>nd</sup> Floor of the City Hall Building, on Monday, October 10, 2005, at 1:30 p.m., with the following board members present:

**Board Members**

Anna Gill (Chair)  
Larry Nance  
Oscar Perez  
Robert Veliz  
David Marquez  
Servando Hernandez  
Betsy Braver  
Esteban Sansores  
Jose Melendez

**Staff Members**

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

Robert Peña opened the meeting and read the Statement of Authority and Limitations on the Laws and Ordinance governing the Board. Board members were introduced to the public. Ms. Anna Gill, Chair, swore in all who wished to testify.

Mr. Peña noted that staff is requesting that the following items be **POSTPONED** until the October 24, 2005 meeting.

Item #3, **09-153-05, 4030 Montana**, Mr. Malooly; the applicant is out of town.

Item #5, **10-156-05, 11152 Skipper Drive**; staff needs to re-advertise. One of the requests was inadvertently omitted.

Item #9, **10-160-05, 6033 Redstone**; staff just received the drawings and the engineer has not had a chance to review.

Motion was made by Mr. Perez to **POSTPONE** these 3 items until the October 24, 2005 meeting. Mr. Sansores seconded the motion. Board was polled and motion carried unanimously (9-0).

**Item #1            09-147-05                            1356 Sabrina Lyn                            Robert Kaufman**

Applicant requests a Special Exception under Section 2.16.050 C (Side Yard Setbacks) PR-2 Zone of the City of El Paso Zoning Ordinance. Vista Granada Unit 2, Replat A, Block 18, Lot 6. This would permit the existence of a 27' by 9' structure located to within 0' of the south side property line and a 30' by 10.33' addition located to within 0' of the north side property line. A side yard setback of 5' is required in the PR-2 zone.

Mr. Peña read the case into the record and made a slide presentation of the property. He stated the contractor did obtain a permit for the patios, but there was a misunderstanding on the drawings and they should not have been permitted to build all the way up to the property line.

Marcus S. Rivera, attorney, was present to represent the applicant. He distributed some handouts to the board. He noted that the contractor made some changes without the applicant's knowledge. After the initial application was granted there was some sort of a problem, tab #5 in the handout was changed from

porch addition to porch repair. The amended application was granted. He had a schedule of activities which showed that this structure passed final inspection by one of the city's inspectors on August 27, 2003 after initially failing on August 25<sup>th</sup>, 2003.

Robert Kaufman, applicant, addressed the board stating that when they contracted Mr. Garcia, they told him exactly what they wanted done on their property. There was correction notice about setback inquiries and Mr. Kaufman questioned Mr. Garcia about it. Mr. Garcia said that it was probably a misunderstanding from the city but he would take care of it. The next day he told Mr. Kaufman that it was all taken care of and he started working on the project and finished it. He showed the owners a signed permit when the final inspection was done. He stated that Mr. Garcia deceived them and the city by lying to both of them.

Sergio Melendez, City Inspector, placed a stop order on the permit on August 25, 2003, pending the side setback requirements.

Kimberly Forsyth, Zoning Administrator, noted that there appears to be additional information that would be good for the board to consider in reviewing this application and asked if the board wanted to obtain this information this request could be postponed for 2 weeks.

Mr. Rivera stated that this is some sort of internal review issue between what was asked for, what was presented to the issuers of the permit and the inspectors, and it is clear that this board has the authority to grant exceptions separate and apart from whatever internal problems may exist.

Ms. Forsyth noted that this is not an internal problem but is consistent in the documents being presented. They applied for a 5' by 30' porch and that is what the Building Permits & Inspections Department approved and signed off on. What the contractor built was not a 5' by 30' porch but 2 porches, one of which is 10' by 30' and one of which is 27' by 9'. She said there may have been fraudulent behavior on behalf of the contractor, but unfortunately the property owner is ultimately responsible for everything that is built on their property. There is not anything that would grant the board the authority to give this particular special exception. According to staff's investigation, it does not meet the criteria for a Special Exception "C", which is two or more properties with the same type of condition on the block. Staff's recommendation is for denial--it does not meet the criteria for the special exception being sought.

Mr. Kaufman noted that he has had other jobs done and has always complied with the city's requirements and gone through the proper channels. He stated that there are several homes on his neighborhood that are built close to the property line. He would like for the board to come to a decision at this meeting.

Motion was made by Mr. Hernandez to **DENY** this request on the basis that the application does not meet the requirements for this special exception. Mr. Sansores seconded the motion. Board was polled and motion carried unanimously (9-0).

**Item #2            09-152-05            3207 Dublin            Marcia Merrell**  
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. Scottsdale Unit 2, Block 14, Lot 21. This would permit the construction of a 22' by 14.5' structure located within 10.5' of the rear property line. A 25' rear yard setback is required in an R-3 zone.

Mr. Peña read the case into the record and made a slide presentation of the property. There are no accessory structures on the property.

Robert Rodela from NLR Builders was present to represent the applicant.





**Item #10      10-161-05      3554 Breckenridge      Adria Dunn**

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 29. This would permit the construction of a 17.8' by 12' addition located to within 19' of the rear property line. A 25' rear yard setback is required in an R-4 zone.

Mr. Peña read the case into the record and made a slide presentation of the property. He noted that it meets all the requirements for this request.

Blas Lucero was present to represent the applicant.

Motion was made by Mr. Nance to **APPROVE** this request on the basis that the application meets all the requirements for this special exception. Mr. Hernandez seconded the motion. Board was polled and motion carried with an 8-0 vote. (Mr. Sansores stepped out and was not present during the vote.)

**Item #11      10-162-05      703 Rinconada      Pamela Torbet**

Applicant requests a Special Exception under Section 2.16.050 C (Side Yard Setback) R-1 Zone of the City of El Paso Zoning Ordinance. Rinconada, Lot 1. This would permit the construction of a 46' by 11' portion of a structure located to within 9' of the side property line. A 20' side yard setback is required in an R-1 zone.

Mr. Peña read the case into the record and made a slide presentation of the property.

Mardi Crupper with Four Seasons Construction was present to represent the applicant. She noted that they are extending the garage to the side and the back portion of the addition will be an exercise bedroom area. Mr. Peña showed other properties with the same condition.

Motion was made by Mr. Nance to **APPROVE** this request on the basis that the application meets all the requirements for this special exception. Mr. Sansores seconded the motion. Board was polled and motion carried unanimously (9-0).

**Item #12      10-163-05      4626 Maxwell      CG Properties, LLC**

Applicant requests a Special Exception under Section 2.16.050 C (Front Yard Setback) A-2 Zone of the City of El Paso Zoning Ordinance. Del Norte Acres, Block 11, Lot 19 & Portion of Lot 20. This would permit the existence of a 42.8' by 32.1' structure located to within 18.9' of the front property line. A 20' front yard setback is required for a multi-family dwelling in an A-2 zone.

Mr. Peña read the case into the record and made a slide presentation of the property. He noted that right now it is a duplex but will be converted into a quadraplex.

Patrick Tuttle, contractor from CG Properties, LLC, was present to represent the case.

Kimberly Forsyth stated that they are applying for a permit to do the additional duplex, but in order to obtain the permit they need that special exception to allow the existing non-conforming front yard set back of 18.9'. Tony de la Cruz, Plan Examiner, made the contractor aware that once they apply for a permit they are required a minimum of 8 parking spaces for a quadraplex. He is also required to maintain landscaping.

Motion was made by Mr. Nance to **APPROVE** this request on the basis that the application meets all the requirements for this special exception. Mr. Sansores seconded the motion. Board was polled and motion carried unanimously (9-0).

**Item #13      10-164-05      6001 Gateway West      C.E. Bassett I, L.P.**

Applicant requests a Special Exception under Section 2.16.050 O (Parking Reduction) C-3 Zone of the City of El Paso Zoning Ordinance. Bassett Center, Portions of Blocks 1 & 2. This would permit an 8.5% reduction in the parking requirements (from the required 3,603 spaces to 3,325 spaces) for an existing shopping center to permit the addition of a new 18-screen movie theater complex on the site with shared parking and access.

A parking study conducted on Saturday, September 24, 2005, showed that the peak time was 3:00 p.m., and there were 1,929 vacant parking spaces out of 3,325. The parking requirement for the proposed theater is 875 spaces.

Mr. Peña read the case into the record and made a slide presentation of the property. He noted that this application is currently under review by the Traffic Department.

Kimberly Forsyth noted that the Traffic Department has prepared an authorization and approval of this request and it has been distributed to the board.

Ken Watters, General Manager for Bassett Place, was present to represent the case.

There was nobody to speak in favor or against this request.

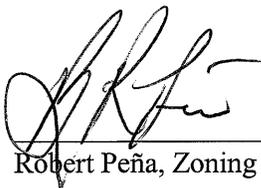
Motion was made by Mr. Sansores to **APPROVE** this request on the basis that the application meets all the requirements for this special exception. Mr. Nance seconded the motion. Board was polled and motion carried unanimously (9-0).

**APPROVAL OF MINUTES**

Motion was unanimously carried to **APPROVE** the minutes of September 12 and September 26, 2005 as presented.

**ADJOURNMENT:**

Motion was unanimously made to adjourn the meeting at 3:20 p.m.



Robert Peña, Zoning Board Secretary