

ZONING BOARD OF ADJUSTMENT

MINUTES

November 14, 2005

The Zoning Board of Adjustment held a public hearing in the City Council Chambers, 2nd Floor of the City Hall Building, on Monday, November 14, 2005, at 1:30 p.m., with the following board members present:

Board Members

Anna Gill (Chair)
Oscar Perez
Esteban Sansores
Robert Veliz
Bradley Roe
Servando Hernandez
James Major
Larry Nance
David Marquez

Staff Members

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

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.

Motion was made by Mr. Nance to **MOVE** Item #12 to the front of the agenda. Mr. Sansores seconded the motion. Board was polled and motion passed unanimously. (9-0)

It was acknowledged that Mr. Charles Hooten, former County Commissioner, was in the audience.

11-187-05

5717 Oak Cliff

Daniel Maldonado

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. This would permit the construction of a 23.6' by 22' carport located to within 3' of the front property line. A front yard setback of 25' is required in an R-3 zone.

Mr. Peña read the case into the record and made a slide presentation of the property. He stated that this wood construction will match the rest of the house. Staff has received several letters of opposition including some that arrived on the same day of this meeting. Mr. Peña noted that the applicant was not aware of his neighbors' opposition and staff was not aware of the number of people who were going to show up at the meeting.

Esteban Morales, representing the owner, was present to represent the case and stated that Mr. Javier de la Cruz is the contractor.

John Feighery, who resides at 5724 Bonneville, spoke in opposition of this request stating that it is inconsistent with the rest of the neighborhood.

Lawrence Nickey, who resides at 5725 Oak Cliff, spoke in opposition of this request. He stated that it will depreciate the value of the surrounding properties.

Jeanne Cline, who resides at 5708 Oak Cliff, also spoke against this request, stating that it will be a safety hazard. She distributed some letters with approximately 49 signatures from the neighborhood of people who are also against this special exception. She said they feel it is not fitting for the character of the neighborhood.

Robert Mijares, next door neighbor to Mr. Maldonado, also spoke in opposition of this request stating that if granted, it will set a precedent and will depreciate the value of the properties.

Motion was made by Mr. Nance to **DENY** this request on the basis that the application is not compatible with the rest of the neighborhood. Mr. Sansores seconded the motion. Board was polled and motion passed unanimously (9-0).

11-176-05 **7708 Cielo Vista** **Reymundo Estrada**

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. This would permit the construction of a 32' by 5' structure located to within 20' 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 stated that this is an existing structure that will be enclosed.

Martha Estrada, property owner, was present to represent the case.

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. Roe seconded the motion. Board was polled and motion passed unanimously (9-0).

11-177-05 **7413 Parkland** **Rene Ramirez**

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. This would permit the construction of a 20' 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-4 zone.

Mr. Peña read the case into the record and made a slide presentation of the property. He stated that this is an odd shaped lot. Staff did not receive any calls or letters for or against this request.

Rene Ramirez, property owner, was present to represent the case.

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

11-178-05

10529 Fernridge Court

Juan Contreras

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. This would permit the construction of a 29' by 18' carport located within 7' of the front property line. A 25' front 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. Staff did not receive any calls or letters for or against this request. Traffic Department does not have any opposition to this request.

Jesus Jaime, representing the owner, was present to represent the case.

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

11-179-05

3056 Tierra Limon

Danny Mata

Applicant requests a Special Exception under Section 2.16.050 L (Error in Construction) R-5 Zone of the City of El Paso Zoning Ordinance. This would permit the construction of a 20' by 15' addition located to within 4' of the side property line. A 5' side yard setback is required in an R-5 zone.

Mr. Peña read the case into the record and made a slide presentation of the property. Staff did not receive any calls or letters for or against this request.

Danny Mata, property owner, was present to represent the case.

Mr. Mata hired a contractor to make this addition but the contractor never pulled out a permit. Mr. Mata is now trying to correct the issue of the permit but when the inspector went out to do the inspection he noticed that the addition is built too close to the side.

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

11-180-05

5512 Woodfield

Enrique Franco, Jr.

Applicant requests Special Exceptions under Sections 2.16.050 G (Rear Yard Setback) and V (Front Yard Setback) R-1 Zone of the City of El Paso Zoning Ordinance. This would permit the construction of a 30' by 10' portion of a structure located within 40' of the front property line and construction of a 37.5' by 18' portion of a structure located within 32' of the rear property line. Front and rear yard setbacks of 50' are required in an R-1 zone.

Mr. Peña read the case into the record and made a slide presentation of the property. This is a vacant lot.

Enrique Franco, Jr., property owner, was present to represent the case.

Motion was made by Mr. Nance to **APPROVE** these requests on the basis that the applications meet all the requirements for these special exceptions. Mr. Roe seconded the motion. Board was polled and motion passed unanimously (9-0).

11-181-05 **5976 Cartagena Circle** **Casablanca Home Builders**

Applicant requests Special Exceptions under Section 2.16.050 G (Rear Yard Setback), Section 2.16.050 K (Side Street Setback), and Section 2.16.050 V (Front Yard Setback) R-2 Zone of the City of El Paso Zoning Ordinance. This would permit the construction of an 18'8" by 5' portion of a structure located to within 25' of the rear property line; a 20' by 5' portion of a structure located within 10' of the side street property line; and, a 32'1" by 10' portion of a structure located within 20' of the front property line. Front and rear yard setbacks of 30' and a side street yard setback of 15' are required in an R-2 zone.

Mr. Peña read the case into the record and made a slide presentation of the property. He stated that the applicant had requested a Special Exception "K", side street setback, but the side setback reduction would not be permitted because the other two exceptions state that side yard requirements must be maintained. The applicants have already submitted a new site plan showing the elimination of the side setback request. Mr. Pena asked that the Special Exception "K" be deleted and stated that staff is only requesting approval for the front and rear setbacks.

Lisa Colquitt-Muñoz, property owner, was present to represent the case. She stated that they are only asking for the front and rear setbacks. They own four of the surrounding lots but this is the only lot they would be asking for an exception.

Motion was made by Mr. Sansores to **APPROVE** these requests on the basis that the application meet all the requirements for these special exceptions. Mr. Roe seconded the motion. Board was polled and motion passed unanimously (9-0).

11-182-05 **5536 Plainview** **Demonte Brooks**

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. This would permit the construction of an 18' by 9' addition located within 15' 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. He stated that there are no accessory structures in the back.

Alberto Arrellano, representative, was present to represent the case.

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

11-183-05 **701 Thorn** **John De Luna**

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. This would permit the construction of a 28' by

18' carport located to within 14' of the front property line. A 25' front 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.

John de Luna, property owner, was present to represent the case. Dennis Preston, representative from Century One Builders, was present to represent the owner, stating that the color will match the existing structure.

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

11-184-05 **7800 Big Bend** **James Wallace Sheid**

Applicant requests a Special Exception under Section 2.16.050 V (Front Yard Setback) R-2 Zone of the City of El Paso Zoning Ordinance. This would permit the construction of a 22' by 20' addition located to within 20' of the front property line. A front yard setback of 30' is required in an R-2 zone.

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

Wallace Sheid, property owner, was present to represent the case.

Kimberly Forsyth stated that this could have been posted as either a Special Exception "V" or "Q". It meets the criteria for either special exception "V" or "Q".

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

11-185-05 **10433 Persephone** **Thomas Wylie**

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. This would permit the construction of a 20' by 15' portion of a carport located to within 10' of the front property line. A 25' front 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.

Antonio Peña, representing the owner, was present to represent the case. He stated that this is an awning that is not identical to the house but it will complement it and the color will match the house.

Motion was made by Mr. Sansores to **APPROVE** this request on the basis that the application meets all the requirements for the special exception. Mr. Roe seconded the motion. Board was polled and motion passed with an 8 to 1 vote, with Mr. Nance voting against the motion.

11-186-05

604 Satellite

Don Studdard

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. This would permit the construction of a 40.5' by 7' portion of a structure located to within 18' 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.

Don Studdard, property owner, was present to represent the case. He stated that Fred Dalbin is the architect. Charles Hooten, neighbor to Mr. Studdard, spoke in favor of this request.

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

11-188-05

8229 Yermoland

Trinidad Gray

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. This would permit the construction of a 25' 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.

Mr. Peña read the case into the record and made a slide presentation of the property. He stated that there is an accessory structure in the back that is less than 120 square feet.

Trinidad Gray, property owner, was present to represent the case.

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

11-189-05

10163 Bon Aire

Cruz & Eusebia Arciniaga

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. This would permit the construction of a 17' by 15' addition located to within 10' 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.

Andy Lopez, representing the owner, was present to represent the case. Yvonne Newhouse, who resides at 10172 Lakeview, spoke in favor of this request.

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

ELECTION OF ZBA OFFICERS

Kimberly Forsyth noted that this item is usually presented to the board in November of each year. She stated that both Ms. Gill and Mr. Nance have indicated that they are willing to serve an additional year if the board so chooses. She said the board can accept nominations from the floor today or take an additional month for consideration and bring it back to the board.

Motion was made by Mr. Major to **ELECT** Ms. Gill as Chair and Mr. Nance as Vice-Chair for the coming year. Mr. Sansores seconded the motion. Motion carried unanimously.

APPROVAL OF MINUTES

Motion was unanimously carried to **APPROVE** the minutes of October 24, 2005 with amendments.

OTHER BUSINESS:

Discussion and action regarding proposed changes to ZBA bylaws.

Proposed changes to the bylaws and Title 2.16:

Kimberly Forsyth stated that the only change to the bylaws is the department name, that anywhere the bylaws previously referenced Planning, Research & Development Department now reads Development Services. She stated that since the bylaws have not been distributed for 14 days, the board cannot vote on them until the next meeting.

Ms. Forsyth reported the following suggested changes to Title 2.16:

Section "C": To modify the requirements to include properties within the same block **or across the street.**

Section "G": The total of all extensions granted shall not project into the required rear yard for a depth in excess of three-fifths of the required yard, **except that a minimum 10 foot rear yard setback shall be required.** Currently, the requirements state that they can go 3/5 of the required yard. Three-fifths was arrived at because the typical back yard setback is 25' so that would still leave 10'. There are some districts now that have 20' setbacks and there are also special permits on properties that allow a 15' rear yard setback.

Section "H": The total of all extensions granted shall not project into the required rear yard for a depth in excess of three-fifths of the required yard, **except that a minimum 10 foot rear yard setback shall be required.** (Same as "G")

In both "G" and "H" there is a requirement for the accessory buildings to not exceed 120 square feet. "The total floor area of all detached accessory structure(s) existing or later constructed on the site shall not exceed **one hundred and twenty square feet...**"

An R-1 or R-2 zone can have either a 30', 40' or 50' setback and typically will have a large back yard. Ms. Forsyth mentioned it does not make sense to limit the accessory structures to 120 square feet. The board may want to look at exempting this 120 square foot requirement in R-1 and/or R-2 districts.

Section "K": Staff is deleting the reference to **residential** to allow the side street yard setback to be reduced by 50 percent in commercial districts as well as residential.

Section "Q": "The canopy shall be structurally sound, connected to and in harmony with the dwelling, **and shall be constructed in accordance with drawings and specifications bearing the seal of a registered professional engineer or architect...**" Ms. Forsyth said comments received from the public indicate this provision limits a great many people from taking advantage of this special exception. Tony de la Cruz, BP & I representative, said his division would not be in favor of removing this requirement.

Several Board members expressed the feeling that if the engineering or architect seal is not required for this special exception, then the quality of the plans will be less than acceptable.

Section "T": **For purposes of this provision, a parkway shall be defined as the area of a street that lies between the right-of-way and the face of the curb line...** Staff would recommend not to redefine **parkway** in this special exception because it has already been defined elsewhere in the zoning code and it should be consistent throughout the code with the definitions.

Kimberly Forsyth noted that if the board votes on these changes at the next meeting they still need to go before the Development Coordinating Committee, City Planning Commission and (BZAC) the Building and Zoning Advisory Committee. It will take several months to go through these different committees, prior to presentation to City Council.

ADJOURNMENT:

Motion was unanimously made to adjourn the meeting at 2:45 p.m.



Robert Peña, Zoning Board Secretary