



MAYOR
Oscar Leeser

**MEETING MINUTES ZONING BOARD OF ADJUSTMENT
MONDAY, FEBRUARY 19, 2024, 1:30 P.M.
SECOND FLOOR, MAIN CONFERENCE ROOM
CITY 1 BUILDING, 300 N. CAMPBELL STREET**

CITY COUNCIL

District 1
Brian Kennedy

THE LOCAL HEALTH AUTHORITY STRONGLY RECOMMENDS THE USE OF MASKS IN ALL CITY FACILITIES AND INDOOR SPACES

District 2
Alexandra Anello

Members of the public are encouraged to attend virtually by calling 915-213-4096 (or toll free at 1-833-664-9267). At the prompt, please enter Conference ID: 801 295 55#

District 3
Cassandra Hernandez

If you wish to sign up to speak, please contact Donna Martinez at 915-212-1583 or martinezdm@elpasotexas.gov before 12:00 p.m., January 22, 2024

District 4
Joe Molinar

The Zoning Board of Adjustments of the City of El Paso will be conducted on the above date, time, and place. Members of the public may physically attend, attend virtually by following the call-in instructions above, or view the meeting via the following means:

District 5
Isabel Salcido

Via the City's website: <http://www.elpasotexas.gov/videos>
YouTube: <https://www.youtube.com/user/cityofelpasotx/videos>

District 6
Art Fierro

District 7
Henry Rivera

A quorum of the Zoning Board of Adjustment must participate in the meeting.

District 8
Chris Canales

ZBA Board Members present: 7
*Chairwoman Troncoso Vice-Chairwoman Martha Isabel Aguayo Heidi Avedician
Ray Adauto Janet Fortune Louis Edwards Jorge Leon*

**INTERIM
CITY MANAGER**
Cary Westin

ZBA Board Members absent: 3
Alexis Alvarez Justin Bass Fabian Uribe

Vacancies:
*Regular Board Member vacancies: Mayor and District 7
Alternate Board Member vacancies: Mayor, District 1, District 2, District 3, District 5,
District 6 and District 7*

Philip F. Etiwe, Director
Planning and Inspections Department | 801 Texas Ave. | El Paso, TX 79901
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The meeting can be viewed on YouTube at <https://www.youtube.com/watch?v=Lw2Kpwa8Q5w>

CITY COUNCIL

CALL TO ORDER

Chairwoman Troncoso called the meeting of the Zoning Board of Adjustment to order at 1:32 p.m.

District 1
Brian Kennedy

PLEASE TURN OFF YOUR CELL PHONES

Chairwoman Troncoso asked everyone to turn off their cell phones while the meeting is in session.

District 2
Alexandra Anello

District 3
Cassandra Hernandez

OPENING STATEMENT

Luis Zamora read the opening statement into the record.

District 4
Joe Molinar

BOARD MEMBER INTRODUCTIONS/QUORUM MET

Heidi Avedician
Martha Isabel Aguayo, Vice-Chairwoman
Linda Troncoso, Chairwoman

District 5
Isabel Salcido

District 6
Art Fierro

Ray Adauto
Janet Fortune
Louis Edwards

District 7
Henry Rivera

Jorge Leon

District 8
Chris Canales

PLANNING AND INSPECTIONS/CITY ATTORNEY/CITY CLERK'S OFFICE INTRODUCTIONS

Joel Muñiz, Senior Building Plans Examiner, Plan/Building Permit Review, Planning and Inspections
Luis Zamora, Chief Planner, ZBA Secretary, Planning and Inspections
Jesus Quintanilla, Assistant City Attorney 1, City Attorney's Office
Andrew Salloum, Senior Planner, Planning and Inspections
Martha Macias, Sign Language Interpreter
Donna Martinez, Planning and Inspections

INTERIM CITY MANAGER
Cary Westin

GIVING TESTIMONY – IN PERSON/ONLINE

Chairwoman Troncoso asked everyone giving testimony today or online, please stand and raise your right hand *“Do you swear to tell the truth and nothing but the truth.”*

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CHANGES TO THE AGENDA

There were no changes to the agenda

CITY COUNCIL

District 1

Brian Kennedy

PUBLIC HEARING

REGULAR AGENDA:

ITEM 1

PZBA24-00001

9016 Lawson Street

**Miguel Angel Perez Frias
and Leticia Perez**

District 2

Alexsandra Anello

District 3

Cassandra Hernandez

SUMMARY OF REQUEST:

Applicant requests a Variance under Section 2.16.030 to reduce the front yard setback as required per El Paso City Code Section 20.13.020, Table of density and dimension standards. The applicant proposed construction of a carport for a single-family home in an A-2 (Apartment) zone district.

District 4

Joe Molinar

District 5

Isabel Salcido

SUMMARY OF STAFF’S RECOMMENDATION

Staff recommends **APPROVAL WITH CONDITIONS** of the Variance request. The conditions are as follows:

District 6

Art Fierro

District 7

Henry Rivera

District 8

Chris Canales

1. *The carport shall be connected to and resemble the main residential structure in scale and character and shall be open on three sides.*
2. *The area of the carport shall not exceed one-fifth of the first-floor area under roof of the dwells, with the first-floor area of the dwelling defined as the sum of the gross horizontal area, exclusive of garages, atriiums, stairwells, and open porches, measured from the exterior faces of the exterior walls; and, shall be measured as the area covered by the carport roof, to include overhangs.*
3. *All remaining areas of the required front yard shall be permanent open space.*

**INTERIM
CITY MANAGER**

Cary Westin

DESCRIPTION OF REQUEST:

The applicant is requesting a Variance under Section 2.16.030 to reduce the front yard setback as required per El Paso City Code Section 20.12.020, Table of density and dimensional standards. The applicant proposed to construct a carport of approximately 500 square feet within the required twenty-foot (20’) front yard setback and within thirty-four inches (34”) of the front property line in an A-2 (Apartment) zone district.

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CITY COUNCIL

District 1

Brian Kennedy

District 2

Alexsandra Anello

District 3

Cassandra Hernandez

District 4

Joe Molinar

District 5

Isabel Salcido

District 6

Art Fierro

District 7

Henry Rivera

District 8

Chris Canales

INTERIM CITY MANAGER

Cary Westin

BACKGROUND:

The required front yard setback for the subject property is twenty feet (20') and required rear yard setback is twenty-five feet (25') to meet the required cumulative front and rear setback of forty-five (45') in an A-2 (Apartment) zone district.

The applicant is requesting a Variance to reduce the front yard setback as residential zoned (R) properties are allowed to request Special Exception J to the Zoning Board of Adjustment for the same use of single-family home and to which the same setback requirements apply to similar residential (R) zoning districts.

SETBACKS	REQUIRED SETBACK	REQUESTED SETBACK
Front	20 feet	1 foot 10 inches
Rear	25 feet	No change
Cumulative Front & Rear	45 feet	26 feet 10 inches
Side (Left)	5 feet	No change
Side (Right)	5 feet	No change
Cumulative Side	N/A	N/A

ANALYSIS: Staff recommends approval with conditions of the Variance request. While there are no special physical conditions inherent to the subject property, there are remedies available to single-family homes in similar intensity zoning district and similar setback requirements that would entitle the applicant to request a Variance. Staff recommendation is that the subject property is offered the same remedy available to other residential zoned (R) properties through the request of Special Exception J – Carport over a driveway (El Paso City Code Section 2.165.030J). While the Special Exception cannot be requested for this property, conditions are being recommended for this Variance approval to have the property subject to the same criteria.

COMPLIANCE WITH EL PASO CITY CODE SECTION 2.16.030

The Zoning Board of Adjustment is empowered under Section 2.16.030 to:

Authorize in specific cases a variance from the terms of a zoning ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done.

The following questions should be carefully considered in order to grant a variance:

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CITY COUNCIL

District 1

Brian Kennedy

District 2

Alexsandra Annello

District 3

Cassandra Hernandez

District 4

Joe Molinar

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Isabel Salcido

District 6

Art Fierro

District 7

Henry Rivera

District 8

Chris Canales

Questions	Does the Request Comply:
1. Is the need for the variance due to special conditions	Yes. While no special physical conditions are inherent to the property, it does suffer from unfairness of available remedies available to single-family homes in similar intensity zoning districts.
2. Would a literal enforcement of the ordinance create an unnecessary hardship?	No. It does not create an unnecessary hardship, but the enforcement creates unfairness by not allowing a remedy available to similar properties due to the zoning district.
3. Is the variance consistent with public interest?	Yes. The Variance request allows the applicant to go through a similar public hearing process to ensure the public can provide any comments on whether this can be granted or not.
4. Would the spirit of the ordinance be observed and substantial justice done if the variance is approved:	Yes. The Variance will be reviewed by the Zoning Board of Adjustment and the public can provide comments on the request. Special Exception J (Section 2.16.030 J) allows the Zoning Board of Adjustment to review and grant an exception to similar single-family properties in similar intensity residential (R) zoning districts.

INTERIM CITY MANAGER

Cary Westin

PUBLIC COMMENT: Public notice was sent on January 25, 2024 to all property owners within 300 feet of subject property. The Planning Division has not received any communications in support or opposition to the special exception request.

ZONING BOARD OF ADJUSTMENT OPTIONS: The purpose of the Zoning Ordinance is to promote the health, safety, morals and general welfare of the City. The Zoning Board of Adjustment (ZBA) may authorize in specific cases a variance from the terms of the zoning ordinance (Title 20) or as specified in Title 21) SmartCode if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result

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in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done. In evaluating the request, the ZBA may take any of the following actions:

CITY COUNCIL

District 1
Brian Kennedy

1. **Approval** of the variance request, finding that the request is in harmony with the spirit and purposes of Titles 2 and 20, including the preservation of the essential character of the district in which the property is located, that the public convenience and welfare will be substantially served, and that the use of neighboring property will not be substantially injured.

District 2
Alexandra Annello

2. **Approval with Modifications** of the variance request to bring the request into conformance as provided in El Paso City Code Titles 2 and 20 as the board deems appropriate. **(Staff Recommendation)**

District 3
Cassandra Hernandez

3. **Denial** of the variance request, finding that the request does not conform to the review criteria as provided in El Paso City Code Titles 2 and 20.

District 4
Joe Molinar

Staff would provide Spanish interpretation for property owner Miguel Angel Perez Frias.

District 5
Isabel Salcido

Luis Zamora gave a presentation. Discussion amongst Board Member Edwards, Luis Zamora, Vice-Chairwoman Aguayo and Board Member Adatao.

District 6
Art Fierro

Chairwoman Troncoso called for the applicant or the representative.

District 7
Henry Rivera

From the audience, Miguel Angel Perez, property owner, was present. Staff would provide Spanish/English translation. Mr. Perez Frias responded to comments and questions from Board Member Adatao, Mr. Perez, Luis Zamora provided Spanish/English translation, Vice-Chairwoman Aguayo, Jesus Quintanilla, Board Member Leon, Board Member Edwards, Chairwoman Troncoso and Board Member Fortune.

District 8
Chris Canales

INTERIM CITY MANAGER
Cary Westin

FIRST MOTION:

Motion made by Board Member Fortune, seconded by Vice-Chairman Aguayo AND CARRIED TO APPROVE WITH CONDITIONS SET FORTH BY STAFF.

(Voice vote) (Motion passed 7-1)

NAY: *Board Member Adatao*

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After the vote, Mr. Quintanilla explained per Section 2.16.020 B, there would need to be a concurring vote of the seven Board Members.

CITY COUNCIL

District 1

Brian Kennedy

Discussion amongst Board Member Adatao, Mr. Quintanilla, Board Member Fortune, Vice-Chairwoman Aguayo and Chairwoman Troncoso.

At this time, Board Members took a revote on the motion.

District 2

Alexsandra Anello

SECOND MOTION:

Motion made by Board Member Fortune, seconded by Vice-Chairwoman Aguayo AND UNANIMOUSLY CARRIED TO APPROVE WITH CONDITIONS SET FORTH BY STAFF. (Voice vote, all Ayes) (Motion passed 7-0)

District 3

Cassandra Hernandez

District 4

Joe Molinar

ITEM 2. Discussion on Procedure Changes

Staff Member: Luis Zamora (915) 212-1552, zamoralf@elpasotexas.gov

District 5

Isabel Salcido

Mr. Zamora gave a presentation. Discussion amongst Vice-Chairwoman Aguayo, Mr. Zamora, Chairwoman Troncoso, Board Member Edwards, Mr. Quintanilla, Board Member Avedician, Board Member Adatao and Board Member Fortune.

District 6

Art Fierro

District 7

Henry Rivera

Chairwoman Troncoso thanked Mr. Zamora for the presentation.

District 8

Chris Canales

Mr. Zamora would email the Board Members the Bylaws.

INTERIM CITY MANAGER

Cary Westin

ITEM 3. Approval of Minutes: January 22, 2024

MOTION:

Motion made by Board Member Adatao, seconded by Board Member Edwards AND CARRIED TO APPROVE. (Voice vote) (Motion passed 7-0-1)

ABSTAIN: *Jorge Leon*

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ITEM 4. Adjournment

CITY COUNCIL

District 1

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District 2

Alexsandra Anello

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Cassandra Hernandez

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Isabel Salcido

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INTERIM

CITY MANAGER

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MOTION:

Motion made by Board Member Aduato, seconded by Vice-Chairwoman Aguayo AND UNANIMOUSLY CARRIED TO ADJOURN AT 2:49 P.M.

(Voice vote, all Ayes) (Motion passed 7-0)

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