



City of Elephant Butte
Planning & Zoning Commission
City Hall, 101 West Street, Elephant Butte, NM

Meeting Minutes
Tuesday, October 4, 2016 Regular Meeting

- I. **Call to Order** – Chairman Looney called the meeting to order at 9:00 a.m.
- II. **Roll Call** – Land Use Administrator Gabriel Boyle took roll with Chairman Charles Looney, Commissioner Rick Harrison Commissioner, Vice-Chair Cathy Vickers, Commissioner Sheridan Fuss, and Bill Kirikos, were present and Alternate Commissioner Nathan LaFont was not present.
- III. **Minutes** – Approval of the Regular Meeting minutes for August, 2016.

Motion: *To approve the August 2, 2016 minutes as submitted.*

Made: Commissioner Harrison **Second:** Fuss **Vote:** 4-0

Public Hearing Action Items –

- A. **Case #V-16-01** – 2 1/2 Camelback Place – R-1-B zoning; Legal description: “a .0566 acre Tract in Replat #51, Replat of Carousel Park”. Variance application pursuant to §155.006(I). The applicant Kathleen Mullady seeks five variances from sections §155.027(C)(3) (4) (g) (a) (b) (c) of the Zoning Code:

A variance of 415 ft² from the minimum heated area of 800 ft² for a dwelling.

A variance of 11 feet from the minimum 14 feet dwelling width.

A variance to create a 4 foot side setback from the minimum 5 feet side setback

A variance to create 3 feet rear setback from the minimum 5 feet rear setback.

A variance to create a 10 foot front setback from the minimum 20 foot front setback.

The applicant Kathleen Mullady, staff Gabriel Boyle, and one member of the public Dan Pike planning to testify were sworn in. A presentation of the staff report on the variances requested, was read by Gabriel Boyle. The staff report stated the following staff findings and recommendation as follows:

- 1. The subject property exhibits unique physical circumstances not found elsewhere within the zoning district (more specifically Carousel Park). The lot is approximately half the size of adjoining lots do to the nature of its creation. This unique size clearly demonstrates this lot has unique physical circumstances one of the basis for granting a variance.
- 2. That strict or literal interpretation and enforcement of the regulations within §155.027(C) would result in unnecessary physical hardship inconsistent with the purposes of this code.
- 3. In addition to the unique lot size staff has observed that several other properties within Carousel Park may not comply with all zoning requirements for the R-1-B zoning district. For example adjacent neighbors also violate various R-1-B setback requirements (both front and side setbacks).
 - a. Adjacent lot 3 on the east side of said property has an existing garage. The corner of this garage is in approximately 3’ within the 5’ side setback for lot 3.

- b. The other adjacent property lot 2 to the west the existing mobile home appears to violate the 20' front setback by approximately 10'.

Therefore, even within Camelback Place, the requested variance relief would appear to have minimal practical impact on the neighborhood as the proposed.

4. The lot may be accessed from the north side and south end off of 195.
5. The corner of the garage on lot 3 is a concern with fire separation. Under the variance request there would only be 7' separation between structures, with 10' being minimal fire code requirement 2009 UBC 1613.6.7. At full compliance with the 5' setback minimum side setback adhered to, it will only be 8 feet of separation.
6. In reviewing the dimensions of the lot, there appears to be exceptional narrowness at the street frontage at approximately 15'6" and widens to approximately 22' at the minimum front yard setback line (20' from street). The narrowness of the lot would make strict compliance incredibly difficult without requiring a side setback variance.
7. Staff finds that all public notice requirements have been met in advance of the public hearing and that there was no written public comment received relative to this case as of the date of the case report.
8. Staff would note that the existing zoning designation of R-1-B for this neighborhood may not completely address the uniqueness of the average lot dimensions and history. While the Commission must review the requests based only on the existing zoning district regulations, it should be noted that the overwhelming majority of existing lots within Carousel Park are substantially smaller than lots elsewhere within the R-1-B zoning district in Elephant Butte Estates. In fact, the City acknowledged this situation previously and formally solicited property owners regarding their interest in potentially rezoning the neighborhood this should be reconsidered during the amending of Chapter 155 of the municipal code.
9. Granting the variances in this case would be consistent with the intent of §155.006(I)(2)(c) or §155.006(C)(2)(a) & (c) regarding safety, fire hazards and adequate supply of light and air to adjacent properties.
10. Granting of this variance would not be considered granting special treatment or privilege as the variance requested would only allow development of the primary permitted use.

Staff Recommendation(s)

Based upon the staff findings, staff recommends **approval** of the following variance(s):

1. **A variance of 415 ft² from the minimum heated area of 800 ft² for a dwelling.**
2. **A variance of 11' from the minimum 14' dwelling width.**
3. **A variance to create a 10' front setback from the minimum 20'.**
4. **A variance to the rear setback variance from the minimum 5'.**

Staff recommends that the side setback variance request be **denied** and that the 5' setback be maintained. Gabriel Boyle state the concern for the garage next door less than 3 feet from the property line and was the reason for recommending the denial of the 4 foot side setback request. The applicant Kathleen Mullady presented the request for setbacks and square footage variances to allow for the proposed home she had purchased. Dan Pike a neighbor stated he supported the applicant and was there for support. Gabriel Boyle stated that each variance needed a separate motion as they are each a variance request. Cathy Vickers abstained from the voting and any of the variances.

Motion: Based on the findings of fact to approve a variance of 415 ft² from the minimum heated area of 800 ft² for a dwelling.

Made: Fuss **Second:** Kirikos **Vote:** 4-0

Motion: Based on the findings of fact to approve a variance of 11' from the minimum 14' dwelling width.

Made: Fuss **Second:** Harrison **Vote:** 4-0

Motion: Based on the findings of fact to approve a variance to create a 10' front setback from the minimum 20'.

Made: Harrison **Second:** Kirikos **Vote:** 4-0

Motion: Based on the findings of fact to approve a variance to the rear setback variance from the minimum 5' to 2' from the rear property line.

Made: Fuss **Second:** Harrison **Vote:** 4-0

Motion: Based on the findings of fact to deny variance to the 5 foot side setback.

Made: Fuss **Second:** Harrison **Vote:** 4-0

V. **New Business** – Overview of potential amendments Chapter 155 and Comprehensive Plan. The Land Use Administrator presented a memo regarding the different sections and types of amendments the Chapter 155 Zoning needed to improve the clarity and the functionality of the ordinance. There was discussion of potential rezoning, home occupations, accessory dwelling and other sections. The goal was to return with a few sections at a time in monthly work secession in order to not overload the work secession.

IV. **Old Business** - None

V. **Action Items** - None

VI. **Zoning Administrator's Report**

A. Toby Boone New Code Enforcement/Fire Chief was introduced and thanked for all the hard work he had already contributed.

VII. **Staff Report** – None

VIII. **Public Comment** –None.

IX. **Adjournment** –

Motion: To adjourn the official meeting at 10:10 a.m.

Made: Commissioner Fuss **Second:** Commissioner Harrison **Vote:** 5-0

Work Shop Minutes

I. Chairman Looney called the workshop to order at 10:15 a.m. Commissioner Kirikos excused himself for an appointment prior to the workshop commencing.

II. The Commission reviewed and discussed both goals and strategies for three elements of Draft Comprehensive Plan (Land Use, Infrastructure, and Transportation). Some of the discussion involved: the need for new commercial development to interface with the street and build the public place, there is a balance between protecting views and utilizing them to improve value of the community, and some of what was written has been accomplished such as the trail and golf carts and OHVs rules. The workshop was adjourned at 11:00 a.m. by Chairman Looney, with the agreement the commission would keep their set of goals and would finish reviewing the goals for the final elements at the next meeting.

Minutes Approved:



Gabriel Boyle

Land Use Administrator