



APPROVED P&Z MEETING MINUTES

Tuesday, January 24, 2017 - 6:00 PM

Roswell Planning & Zoning Commission
Bassett Auditorium, Roswell Museum and Art Center
100 West 11th Street

Chair: Ralph Brown, Vice Chair: Riley Armstrong
Members: Shirley Childress, Toby Gross, David Storey,
Kent Taylor, Jessie McDaniel

Planning Staff: Merideth Hildreth, AICP
Miguel Martinez
William Morris, AICP, CZO
Louis Najjar, PE

Notice of this meeting was given to the public in compliance with Sections 10-15-1 through 10-15-4, NMSA 1978 and City of Roswell, NM Resolution 16-69.

A. CALL TO ORDER AND WELCOME – Chair Ralph Brown

A regular meeting of the Planning & Zoning Commission was called to order at approximately 6:00 p.m. by Chair Brown with the following members present:

B. ROLL-CALL

Ralph Brown (Chair)	PRESENT
Riley Armstrong (Vice Chair)	PRESENT
Toby Gross	PRESENT
Shirley Childress	PRESENT
David Storey	PRESENT
Kent Taylor	PRESENT
Jesse McDaniel	PRESENT

Staff Members Present: Merideth Hildreth, AICP, Current Planning Administrator; Miguel Martinez, Planning & Zoning Technician; William Morris, AICP, CZO, Planning Manager.

Audience Members Present:

Jerry Metcalf, Lenore Metcalf, Robert Gonzales, Denise Gonzales, Alicia Berroteran, Mettie P. Cummins, Lisa Dunlap, Omar Osmani, Sana Osmani, Larry Connelly, Fred Boggs.

C. SWEARING IN: Chair Brown swore in staff and members of the audience.

D. APPROVAL OF THE AGENDA

**MOTION to Approve the Agenda as Presented by Commissioner Childress.
Second by Commissioner Gross.**

The motion passed by a voice vote of seven to zero.

E. MINUTES: Consider approval of the December 20, 2016 minutes.

**MOTION to Approve the December 20, 2016 Minutes as Written by
Commissioner Gross.**

Second by Commissioner Childress.

The motion passed by a voice vote of seven to zero.

Chair Brown: As a Reminder to the audience, anything that we vote on today can be appealed to City Council. Appeals must be submitted by this Thursday by noon in writing.

F. ACTION ITEMS:

- 1. CASE 17-001 VAR: A Request for Zoning Variance to build in the side yard and front yard setbacks in R-1 Zone, Legal Description: Subd: KEITHS SOUTHSIDE Block: 4 Lot: 30 E 62.2' BK: 417 PG: 247 QCD known as 331 E Ballard Street (Honorio Contreras/Owner).** Attached: (A) Application; (B) Staff Summary; (C) Letter Notifying Surrounding Property Owners; (D) Chaves County Assessor's Map Identifying Properties with the Notification Area; (E) List of Property Owners Notified (F) Site Plan (G) Elevation Rendering

Motion to Waive the Reading of the Finding of Facts with Respect to Case 17-001 by Commissioner Armstrong.

Second by Commissioner Childress

The motion passed by a voice vote of seven to zero.

Chair Brown: Is there anyone wishing to speak in favor of 17-001?

Denise Gonzales residing at 1407 Sunset Place: Requested a Variance for 331 East Ballard to extend (to be built) five feet from the east and (an additional) three feet on the south from the porch for a remodel.

Chair Brown: Is there anyone wishing to speak in opposition to make comments regarding 17-001?

There were none.

Chair Brown: Staff, do you have any comments?

Ms. Hildreth: This case is a zoning variance to allow a first floor addition to be five feet from the east property line and a second story addition over (the first floor) to be ten feet from the east property line. The right-of-way next to the property is approximately 190 feet for HWY 285 with a wide alley easement. There will be no problems with the (clear site triangle) being able to see around it. This is in R-1 Zone. The other part of the variance is in the front yard. In your packet is a picture showing an existing addition. They want to enclose this porch that is part of the existing footprint and is approximately eighteen feet (18') from the front property line now. They want to extend a front porch three feet beyond that over the doorway which will be part of the architecture of the house. The small porch area will be about fifteen feet (15') from the front property line. Staff recommends approval for both variances.

MOTION – 17-001 VAR

Commissioner Armstrong made a motion to approve Case 17-001 based on the finding of facts and the testimony provided this evening.

Second by Commissioner Gross.

The motion passed by a voice vote of seven to zero.

2. **CASE 17-002 VAR: A Request for Zoning Variance to build accessory structure within the side yard setback and taller than primary residential structure in R-1 Zone, Legal Description: Subd: LINCOLN PLACE ANNEX Block: 3 Lot: 1 E 67.20' Quarter: SW S: 31 T: 10S R: 24E BK: 275 PG: 442 REC known as 1800 W Third Street (Lenore Metcalf & Jerry Metcalf/Owners).** Attached: (A) Application – 2 Pages; (B) Staff Summary; (C) Letter Notifying Surrounding Property Owners; (D) Chaves County Assessor's Map Identifying Properties with the Notification Area; (E) List of Property Owners Notified (F) Site Plan

Motion to Waive the Reading of the Finding of Facts with Respect to Case 17-002 by Commissioner Armstrong.

Second by Commissioner Childress.

The motion passed by a voice vote of seven to zero.

Chair Brown: Is there anyone wishing to speak in favor of 17-002?

Jerry Metcalf - 1800 West Third Street:

People opposed may not understand what we are doing. He asked permission to approach the dais to present photos. Photos were presented. This is not a big warehouse, it is a 24'3" square building. The reason he is building the storage is to clear out the rickety structure and multiple storage sheds. This is an improvement to the property to be professionally built by a contractor. It's not shedding water to any of the neighbors.

Commissioner Gross: It appears you are under construction currently.

Mr. Metcalf: According to our contractor, we thought we were good. The contractor wasn't aware of the amendment on the side that anything over twelve (feet in height) had to be an additional foot (setback for every foot over twelve feet in height). I had dug the footings and set the forms.

Commissioner Gross: Did the City issue a permit to dig the footings?

Mr. Metcalf: We have not had a permit. Only the footings are in. No concrete has been poured, no steel is in place. I intend once the permit (is issued) to have full inspections.

Commissioner Gross: Did you have locates done on the property.

Mr. Metcalf: I had no locates done on the property.

Commissioner Armstrong: I have a question for staff. Is the issue with this the height?

Ms. Hildreth: Yes, the building could be placed in the exact location five feet from the property line if it were only twelve feet (12') high at its peak. Because (the building) is going to be fourteen feet six inches (14'6"), it would need to be scooted over three feet more. It has to be eight feet (8') instead of five feet (5') from the property line. There are some site conditions, slope and trees on his property. It would be a better project for him if he could put (the building) five feet (5') from the property line. If he lowered the roof to twelve feet (12'), he wouldn't be here tonight; he would already have his building permit.

Commissioner Armstrong: My question to Mr. Metcalf is why do you need the additional two foot six inches (2'6") (height)?

Mr. Metcalf: The walls are twelve foot (12'). I'm clearing out other storage sheds and want to have an upper area (in the new structure) for storage.

Commissioner McDaniel: The fourteen foot (14') is at the pitch?

Mr. Metcalf: Fourteen foot (14') at the pitch with twelve foot (12') walls.

Chair Brown: Is there anyone wishing to speak in opposition to make comments regarding 17-002?

Alicia Berroteran – 1805 West Third Street: The reason I'm opposed to this is not because it's a huge building, but because he's running a commercial business in a residential area. With the new building he will bring more business and more vehicles. He blocks the street on Third Street. He blocks the street on Nevada. We cannot see.

Fred Boggs – 1813 West Third Street: I'd like to hear the staff summary.

Chair Brown: We will get there.

Lenore Metcalf – 1800 West Third Street: As far as the vehicles are concerned, a lot are personal vehicles. We have some we park on the side of the road at times with our work machines. We have jobs that take two or three weeks, so we like to have our machinery with us. When we have another job, we take it so the street is clear again. We have Jerry's work truck. The other vehicle is a van that is pulled into the driveway all the time when not using it. Our employee's vehicle is parked in the front. We don't intend on getting any more employees or any more vehicles.

Ms. Berroteran: They have heavy equipment that have stayed a month or month and a half. He has three trucks, with attached trailers, and four vehicles in the driveway. All the neighbors have to exit that block at that corner.

Commissioner Taylor: Are the construction vehicles parked on Third Street right in front of the house or around the corner?

Ms. Berroteran: They are parked on both Third Street and Nevada. He blocks the whole corner.

Commissioner Taylor: Mr. Metcalf, is it my understanding that you are running this construction company out of your residence?

Mr. Metcalf: This is a plumbing business that I run. I have my plumbing van in the driveway on Third and my employee parks on Third. On the side, I have my main work truck with a cargo trailer. If I feel like I need it enough, I bring in my flat bed that has a mini-excavator and a bobcat on it. When I'm not using it at all, I store it out of town. I am running my business out of my house legally. I do not sell to people. Customers do not come to my house. I don't have an inventory.

Chair Brown: There are two issues, the case before us and the neighbors' issue with the amount of vehicles at the house. Chair Brown stopped the discussion of the vehicles.

Commissioner Gross: Asked if Mr. Metcalf intends to put a garage door in the building, and if there would be alley access.

Mr. Metcalf: There will be a garage door and the only alley access is through a walk-through gate. Access to the back yard is through a gate from Third (it's actually Nevada).

Mr. Morris: We will have discussions about the vehicles and use of the site to sort it out. That's one issue. This variance is about an individual with a taller shed than normal trying to locate it in a certain place on the site, there are some other (site) conditions and we understand that. When I arrived (in Roswell) there was an (amendment to the) ordinance (stipulating) that for every foot over a certain height (buildings) would have to be shifted over from the side (property line). I believe this was for a certain two-story type of storage shed that could be bought at Home Depot with upper story windows and glazing that could look over a neighbor's property. In the short term, we would like to look at this. Is it the height that's an issue, because you can have a two-story house, or is it about privacy that you might expect as a home owner in your backyard and someone builds something tall with the ability of looking over. In this case, there is a garage that happens to be a couple of feet taller. Staff doesn't have an issue with respect to that. It's not imposing anything larger than most people would notice. Is this (clause) in the code really what we want? We've had several of these (setback variance cases) already.

Commissioner Armstrong: Give a timeline on this other issue and how it will be dealt with.

Mr. Morris: We will talk with the Metcalfs in understanding what the rules are starting tomorrow. A resolution will be up to what all the facts are and determining what all is happening. I don't know the status of the business license. Next month we will bring a report back to you and its final resolution.

Commissioner Armstrong: We've had one protest and some letters about the other (vehicle) issue. I wonder if these issues need to be resolved before we vote on Case 17-002.

Mr. Morris: With respect to the code, there are criteria. There is a variance request and a process in the code, and a building permit (application) that goes with this. The other issue is the type of use for this property in (another part of the code.) From my perspective, these are two separate issues. We will always have these types of complaints because they are movable vehicles that will be there one day and won't be there another day, which makes this difficult for code compliance. These people have a process to request (a variance), and if they built a building two feet shorter, they wouldn't even be here.

Chair Brown: I agree with you. I also agree there are a lot of vehicles there. We will look into it. I'm sure Mr. Metcalf will work with staff.

Mr. Morris: Potential uses of the property not stated in the zoning code is not simple as it involves several departments and several parts of the code.

Chair Brown: Because of the protest letters, do we have to have a super majority or does this automatically go to City Council?

Ms. Hildreth: There were four (protest letters) for the case.

Chair: Any decisions can be appealed to City Council appeals due in writing by noon on Thursday.

MOTION – 17-002 VAR

Commissioner Storey made a motion to approve Zoning Case 17-002, an Application for a Zoning Variance at 1800 West Third Street with the information provided in the packet and the information we received tonight. Second by Commissioner Childress.

Ms. Hildreth: We are requesting a Roll Call Vote.

Commissioner Armstrong	OPPOSE
Commissioner Gross	OPPOSE
Commissioner Childress	APPROVE
Commissioner Storey	APPROVE
Commissioner Taylor	OPPOSE
Commissioner McDaniel	APPROVE
Chair Brown	APPROVE

Ms. Hildreth: Four approved and three opposed.

Commissioner Storey: Wanted to be sure about the letters. Some look like they are from outside the one hundred foot radius.

Mr. Morris: Requested a ten minute recesses to determine if twenty percent of the protest letters were within the one-hundred foot notification area.

Mr. Morris: We recalculated the protest letters we have (received). There is only one (protest letter) that fits within the notification distance of one-hundred as stated in Section 4: Procedures of Voting:
In that case, all that is required is a favorable vote to proceed onwards.

Chair Brown: The motion was approved. Appeals are due to City Staff by noon time (on Thursday). City Staff has told me they will provide a report about the outcome of negotiations with Mr. Metcalf regarding the parking of vehicles.

3. **CASE 17-003 ZOC: A Request for Change in Zoning from R-3 and RMS to CO-1 (Commercial Office), Legal Description: Subd: OSMANI-HAMMOND SUMMARY REPLAT Tract: 1 Quarter: NW S: 28 T: 10S R: 24E BK: 701 PG: 005 WDJT known as 402 E Country Club Road (Omar Osmani & Sana Osmani/Owners; Lee Chester, L3 Healthcare/Agent).** Attached: (A) Application; (B) Staff Summary; (C) Letter Notifying Surrounding Property Owners; (D) Chaves County Assessor's Map Identifying Properties with the Notification Area; (E) List of Property Owners Notified

Motion to Waive the Reading of the Finding of Facts with Respect to Case 17-003 by Commissioner Armstrong.

Second by Commissioner Gross.

The motion passed by a voice vote of seven to zero.

Chair Brown: Is there anyone wishing to speak in favor of 17-003?

Omar Osmani – 1 Berrendo Meadows Circle: 17-003 is about building orthopedically-related medical offices that will serve the community. We want to take good care of our neighbors. The building will be recessed, landscaping will improve the property, and the parking and entrance will be on the side. Dr. Osmani requested approval of the project in order to provide the services to the community.

Larry Connelly- Residing at 2815 Encanto Drive: This is a great project.

Sana Osmani - 1 Berrendo Meadows Circle: Our goal is to build a medical facility to have orthopedic services for the area. Regarding protest letters from the neighbors, their concerns are our concerns, too. We know the traffic is a problem for them. Nationwide, you can see medical offices in residential areas. Landscaping will be on the Country Club Road side. (The project) will increase the value of homes in the area. Part of the land is zoned for RV's (Manufactured Homes), and I don't think this (use) increases the value of the neighborhood. When we build a really nice building, it will be a positive addition to the neighborhood. One neighbor is concerned about parking. Most parking will be on the south side with some on the east side. Mrs. Osmani suggested a stop sign.

Alicia Berroteran – Residing at 1805 West Third Street: Thanks to Dr. Osmani, I walk. We need that facility in Roswell.

Chair Brown: Is there anyone wishing to speak in opposition to make comments regarding 17-003?

Mettie Cummins – Residing at 411 East Country Club Road – across the road from the property. Spoke against the project because it is a residential area, and not meant to be a commercial area. This neighborhood was a quiet residential neighborhood. Goddard High School has increased traffic. My neighbor to the right doesn't want it and the neighbors next to it don't want it. There are a lot of places that would be good for doctor's offices. I hope you understand my concerns.

Dr. Osmani: I want to clarify a few things. The landscaping will beautify what Ms. Cummins is looking at. Right now it's a dirt lot with mesquite bush and nothing there. Goddard was built in 1969. The students are driving fast. My eighty-year old patients will be driving slow. Our architect lined up Mimosa with our entrance in order to create a corner there, and perhaps a stop sign would help. A deceleration lane is incorporated. The building will be built to look like a house that fits in a residential area. It's not a commercial business, there won't be a gas station. Medical offices are quiet and commonly placed in residential areas. Aesthetically, it will look better than the trailer park to the south. Hopefully this facility will attract physicians to take care of the people in Roswell.

Commissioner Taylor: Asked about Phase I and Phase II. R-3 allows up to 10,000 square feet for professional office.

Dr. Osmani: We may never reach full capacity to develop Phase II.

Mr. Morris: (The rezoning) is in anticipation of the future development of this four-acre site which has more potential than the 10,000 square feet (allowed in R-3). We talked about creating a district to mimic residential development with parking in the back, smaller lighting standards, and pitched roofs. We're looking at the site in its totality. Professional and Commercial Office is not a residential use, but is typically an 8 to 5 use when most people are away from home. Impacts to residential folks is minimized. The Osmani's purchased land from the (neighboring) bed and breakfast and went through a summary replat to increase the size of the lot to allow for potential future expansion. Latest DOT traffic counts show 7000 trips a day in both directions. Traffic past the high school drops about 1000 trips. The high school is generating about 1000 trips a day. Stop signs increase interlink speeds (that drivers) make up the time they have to stop at a stop sign.

Commissioner Storey: There are guidelines that traffic engineers and city's must follow regarding stop signs. A traffic study could be done. This is not a typical four-way stop intersection with a business as a fourth leg. Country Club Road is designated as a Minor Arterial and is not built to the width of arterial standard. It may be something the city will look at.

Mr. Morris: There's already an easement on the (preliminary) site plan in front of you for an east-bound deceleration lane. This will allow for cleaner turning movements.

Commissioner Storey: The C0-1 is a new type of zoning, and allows spot zoning in the middle of R-1 or R-3 zoning.

Mr. Morris: This is the only zone in the zoning code that utilizes design criteria to minimize and limit impacts. In standard Euclidian Zoning, uses are separated. In my experience, Commercial Office can be fit into other areas through the use of site design criteria. It's an office building, but doesn't have to look like an office building. Staff recommends approval.

MOTION

Commissioner Storey made a motion to approve Case 17-003, a request for a zone change from R-3 and RMS to CO-1 at 402 East Country Club Road along with the information received we tonight that has been presented to us and with the caveat that the site plan be incorporated as much as possible to what was presented to us showing the right turn lane off of Country Club into the property and the six foot tall privacy fence on the east side stucco to be painted to match this house just as near as possible with all the site plans.

Second by Commissioner Gross.

The motion passed by a voice vote of seven to zero.

Commissioner Gross thanked Dr. Osmani for investing the last thirteen years in Roswell and your future in Roswell.

4. Election of Planning & Zoning Commission Officers.

MOTION – ELECTION OF OFFICERS

Commissioner Childress nominated Ralph Brown as Chairman of the Planning & Zoning Commission for another year.

Second by Commissioner Storey.

The motion passed by a voice vote of six to one.

Commissioner Childress nominated Riley Armstrong to continue as Vice Chair of the Planning & Zoning (Commission) for the next year.

Second by Commissioner Gross.

The motion passed by a voice vote of seven to zero.

Commissioner Storey nominated Shirley Childress to Secretary of the Planning & Zoning.

Second by Chair Brown.

The motion passed by a voice vote of seven to zero.

MOTION – APPROVAL OF P&Z CALENDAR OF REGULARLY SCHEDULED MEETINGS IN CALENDAR YEAR 2017

5. Approve Planning & Zoning Commission Meeting Dates for the 2017 Calendar Year.

Commissioner Armstrong made a motion that we approve the Planning & Zoning Commission Meeting Schedule as proposed.

Second by Commissioner Childress.

The motion passed by a voice vote of seven to zero.

G. OTHER BUSINESS

1. Discussion of 1901 West Second Street.

Mr. Morris: There is a parcel on the north side of West Second Street, pictures in the hand out, is zoned C-4, similar to C-2. (Game & Fish) leases this site to store trailers. The question has been asked in the past whether this was legal without a special use permit. Our interpretation is that the primary use on site is the structure that is there intended to be there as a retail use. Storage is an allowed use on site. If storage were the primary use on site, a special use permit would be (required.)

Commissioner Gross: It should be condemned and it is not in use. (The building) is not a safe facility. It was used as a carwash spray booth, and was rusted.

Chair Brown: Comments were made about state and federal governments being exempt from local zoning ordinances. Would it fall under this umbrella?

Mr. Morris: I don't think they are. I didn't know about any problem with the structure. If it goes away, or if the building is not usable as a primary use it cannot be considered a primary use (it would need a special use permit to be used as a parking lot.) Game and Fish doesn't get a business license (from the City.)

Commissioner Gross and Commissioner Armstrong: Does the individual have a business license (to lease it)?

Mr. Morris: I don't know if the owner has to get a business license to lease it to another entity.

Commissioner Armstrong: Typically, the business leasing the property and running the business is required to have the business license, not the owner.

Mr. Morris: I will relook at that. I had not heard about the condition of the building.

Commissioner Gross: This issue is they are circumventing everything, no city taxes are being paid, no business license. The city has a junkyard, it's a little nicer than that. It's the state stuff that is dilapidated. What would prevent me from opening a junk yard down the street in C-4?

Mr. Morris: If you are the operator, you would need a business license. The state is exempt. If you are a property owner and not using your site, you don't have to have a business license. You have a boarded up building, and as long as not using it, no business license is required.

Chair Brown: Bill, you will look into this.

H. PUBLIC COMMENTS

None

I. ADJOURN

The meeting adjourned at 7:32 p.m.