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MINUTES
VILLAGE OF LOS RANCHOS
Planning and Zoning Commission
6718 Rio Grande Blvd. NW
Warren J. Gray Hall
May 14, 2013
7:00 P.M.

Present:

STAFF

Administrator: Kelly Ward

Attorney: Bill Chappell

Planning Staff: Linda Seebach, Director

1. **CALL TO ORDER – Chairman Hannah** called the meeting to order at 7:02 p.m.

A. ROLL CALL - Commissioner Allen, Commissioner Seligman, Commissioner Craig, Commissioner Hannah, Commissioner Gollis, Commissioner Albert, and Commissioner Tourville were present.

Chairman Hannah stated there was a quorum present for the meeting.

B. APPROVAL OF THE AGENDA

Chairman Hannah asked if there were any changes to the agenda.

Planner Seebach stated there were none.

Chairman Hannah asked if there was a motion.

MOTION: Commissioner Seligman moved approval of the Agenda.

SECOND: Commissioner Gollis seconded.

VOTE: The motion carried unanimously (7-0).

2. **PUBLIC COMMENT PERIOD - None**

3. **CONSENT AGENDA**

A. APPROVAL OF CONSENT AGENDA

Chairman Hannah asked if there were any changes to the Agenda or the Minutes of the March 12, 2013 meeting. Seeing none he then asked for a motion

MOTION: Commissioner Seligman moved approval of the Consent Agenda.

1
2 **SECOND: Commissioner Allen** seconded the motion.
3

4 **VOTE:** The motion carried unanimously (7-0).
5

6 **4. PUBLIC HEARINGS AND APPLICATIONS**
7

8 **Attorney Chappell** swore in those present who would be speaking before
9 the Commission.

10
11 **A. V-13-01** A request by Robert and Carrie Jung for a Variance from
12 Ordinance 183 as amended, Section 6 (E) Area regulations (2) Side setback
13 shall be fifteen (15) feet to allow for a seven (7) foot side setback on the west
14 side by the right-of-way in the A-1 Zone of the Guadalupe Trail Character
15 Area. The property is located at 839 El Pueblo and is legally known as Tract
16 132C1B2A, M.R.G.C.D. Map No. 24 Lands of Brehm within Section 16,
17 T11N, R3E, N.M.P.M., Village of Los Ranchos de Albuquerque, Bernalillo
18 County, New Mexico, March 1993. The property contains .7662 acres more
19 or less.
20

21 **B. V-13-02** A request by Robert and Carrie Jung for a Variance from
22 Ordinance 183 as amended, Section 6 (E) Area regulations (5) For very
23 narrow tripa, unusually small, and/or unusual shaped lots, any building over
24 fourteen (14) feet in height must be setback ten feet plus one foot for every
25 foot in height over fourteen feet, to allow for a seven (7) foot side setback on
26 the east side in the A-1 Zone of the Guadalupe Trail Character Area. The
27 property is located at 839 El Pueblo and is legally known as Tract 132C1B2A,
28 M.R.G.C.D. Map No. 24 Lands of Brehm within Section 16, T11N, R3E,
29 N.M.P.M., Village of Los Ranchos de Albuquerque, Bernalillo County, New
30 Mexico, March 1993. The property contains .7662 acres more or less.
31

32 **Chairman Hannah** stated that several years ago before he retired and in the
33 interest of full disclosure, he was professionally acquainted with both
34 applicants. On separate occasions he worked with them on projects for
35 Sandia Labs. He did not feel this professional relationship would have any
36 effect in impartially reviewing their applications and felt there was no need to
37 recuse himself. He asked if any of the Commissioners had any objections,
38 continued with the applications, noting that to expedite matters, both
39 variances were for setbacks on the same properties and they would discuss
40 and comment on both variances. He pointed out to the Commissioners that
41 each one would require separate motions and votes. He asked for the
42 Planning Report from Planner Seebach.
43

44 **Planner Seebach** gave the Planning Report with recommendations of
45 approval for both variances.
46

47 **Chairman Hannah** asked if there were any questions for Planner Seebach
48 and recognized Commissioner Seligman.
49

1 **Commissioner Seligman** asked for clarification in the planning report V-13-
2 02 to allow for a seven (7) foot setback and looking at the drawing it shows a
3 six (6) foot on the drawing is that correct?
4

5 **Commissioner Allen** explained that the six (6) foot is the fence.
6

7 **Commissioner Seligman** thanked Commissioner Allen and stated that was
8 all she needed to know.
9

10 **Chairman Hannah** asked if there were any more questions from the
11 Commission. He asked for clarification on what the existing building setbacks
12 were. He sees there seems to be a difference between what's on the
13 drawings and the documentation Planner Seebach gave on the maps for the
14 current building east side setback from the property line One would indicate
15 eight (8) feet, the other would indicate 9.41 feet and was wondering, which is
16 the more accurate more or less.
17

18 **Planner Seebach** stated that she was not exactly sure.
19

20 **Chairman Hannah** stated he was looking at page 1 of 2 where she is
21 describing the variety of setback narrow points. What he is seeing is the red
22 arrow distance of that one of two showing up in the left hand corner. The 9.41
23 feet as the side setback of the existing property line to the east.
24

25 **Commissioner Gollis** suggest to everyone and asked that Attorney Chappell
26 help with this. He would not trust the drawn line from the computer. He thinks
27 they need to go with the eight (8) foot on the drawing. They are not going to
28 get an exact measurement from the computer as with a drawing which was
29 actually measured.
30

31 **Chairman Hannah** stated that they would depend on the plans as provided
32 by the applicant and deferred to Attorney Chappell.
33

34 **Attorney Chappell** stated that he thought they would have to rely on an
35 accurate set of plans to know what they are. He didn't get a copy of the set of
36 plans, so he doesn't see what the discrepancy is. But they need to identify
37 which accurate information they are approving, and however they refer to that
38 is up to them.
39

40 **Chairman Hannah** stated they could defer that until they talk to the applicant.
41 For a point of clarification, they are having two different variances. One,
42 which specifies only talking about dealing with the west side setback, and
43 two, is dealing with the east side setback, is that correct?
44

45 **Planner Seebach** stated that was correct.
46

47 **Chairman Hannah** stated that they need the variance on one for the west
48 side only because of the encroachment of the right of way and that doesn't
49 give enough distance to the lot line, If they have to count the right of way.
50

1 **Planner Seebach** stated that on a side setback it is measured from the right
2 of way so that twelve (12) feet is lost.

3
4 **Chairman Hannah** stated they don't need to talk about it in Variance #2,
5 because the height distance would be measured to the lot line. Would that be
6 correct?

7
8 **Planner Seebach** stated that is correct.

9
10 **Chairman Hannah** stated there is sufficient room for the height at the west
11 side to count to the lot line, so that is not included in that variance.

12
13 **Planner Seebach** stated that is correct.

14
15 **Chairman Hannah** stated that they aren't including it on the east side in the
16 first variance because the zoning requirements for the side setback on the
17 east side - what distance did Planner Seebach say was half of fifteen (15)
18 feet?

19
20 **Planner Seebach** stated that the required distance is fifteen (15) feet, but
21 there is a caveat for a very narrow or an unusually shaped lot, which this
22 certainly is. That allows for the side setback to be reduced by half so that
23 would be seven and a half (7 1/2) feet.

24
25 **Chairman Hannah** stated the current side setback fulfills that, so they don't
26 have to deal with that on that side.

27
28 **Planner Seebach** stated they would have to deal with the height issue.

29
30 **Chairman Hannah** stated that he thought that clarifies the need for the two
31 different variances and why each variance only deals with one side of the
32 property. He then asked if there were any more questions. He asked the
33 applicant to come forward and to state their name and address for the record
34 and make their comments.

35
36 **Robert Jung** 839 El Pueblo Rd. thanked the Commissioners for coming
37 down today for just them. They have a small house and hope to start a family.
38 Living in the valley the last four (4) years they have become very attached to
39 where they live and their neighbors. They have become very attached to the
40 agricultural lifestyle and now it has come time to add to their house, but they
41 have this problem with this really awkward shaped lot. They'd like to bring the
42 house back, but the problem is the setbacks. They feel like they have two
43 back yards, one is their lawn and the other is their farm. The lawn is just a big
44 waste of water. They would like to expand the house and take advantage of
45 that space and they feel like it would fit into the rest of the neighborhood. The
46 pictures of the lot speak for themselves.

47
48 **Chairman Hannah** asked if there were any questions for the applicant.

49
50 **Chairman Hannah** recognized Commissioner Tourville.

1 **Commissioner Tourville** asked if they had access to the ditch.

2
3 **Robert Jung** stated that they do; they coordinate with their neighbors and
4 they all water together.

5
6 **Commissioner Tourville** asked if they utilized those ditch rights.

7
8 **Robert Jung** stated that they do.

9
10 **Commissioner Craig** stated that he thinks this is outside of what they are
11 looking at here, with the telephone pole in the middle of the access road, is
12 that an issue with the neighbors. It is an odd place.

13
14 **Robert Jung** stated that it is sort of odd. He didn't think there was an issue
15 with the neighbors and there is a wire coming from that pole to the front of the
16 house. That is not where any construction would happen. One of the things
17 he wanted to clarify is the eight (8) foot issue. They did have a survey done a
18 few days ago and it was eight feet.

19
20 **Chairman Hannah** stated that the plats they were provided with have been
21 verified.

22
23 **Robert Jung** stated that was correct.

24
25 **Planner Seebach** stated that one of the confusing issues is that there can be
26 no overhang in the set backs and the reason she asked for a seven (7) foot
27 setback is because they have a one (1) foot overhang on the house. And that
28 is why the variance is for seven (7) feet and not eight (8) feet and she doesn't
29 know where the nine (9) feet came in.

30
31 **Chairman Hannah** stated they'll go with that understanding with the distance
32 to the building is eight (8) feet with a one (1) foot overhang giving you a
33 seven (7) foot clearance and they have documentation of that eight (8) feet
34 that is understood and asked Attorney Chappell if that was adequate.

35
36 **Attorney Chappell** stated he thought so.

37
38 **Chairman Hannah** thanked Attorney Chappell and asked if there were any
39 more questions. He asked if there was anyone else present who wanted to
40 speak in favor of the application or wanted to speak in opposition to the
41 application. Then asked Planner Seebach if there was any communication
42 from the neighbors, especially from the east.

43
44 **Planner Seebach** stated she has talked to several of the neighbors and they
45 have been in favor of it.

46
47 **Chairman Hannah** asked if that included neighbors to the east to your
48 knowledge.

49
50 **Planner Seebach** stated yes to her knowledge.

51

1 **Chairman Hannah** closed the public comment and asked if there was a
2 motion.

3
4 **MOTION: Commissioner Gollis** moved to approve Variance request V-13-
5 01 from Ordinance 183 as amended, Section 6(E) Area regulations (2) Side
6 setback shall be 15 feet to allow for a seven (7) foot side setback on the west
7 side by the right-of-way in the A-1 Zone of the Guadalupe Trail Character
8 Area.

9
10 **Chairman Hannah** interrupted Commissioner Gollis stating that he thought at
11 this point they could stop and discuss these findings once they have a motion
12 and asked Attorney Chappell if this was correct.

13
14 **Attorney Chappell** stated that he believed if they wanted to make those
15 findings a part of the motion they need to be made at this time so they can be
16 discussed.

17
18 **Commissioner Gollis** stated that to the extent he is making the motion and
19 asked the Chairman if he would be able to continue.

20
21 **Chairman Hannah** concurred.

22
23 **Commissioner Gollis** stating with the following Findings in support of his
24 motion:

25
26 The Variance request meets the hardship requirements of Section 24(E)(3)(a)
27 and (b).

28
29 (a) The Variance is in conformance with the goals and policies of the Village
30 Master Plan.

31
32 The 2020 Master Plan is the guiding document that governs all land use in
33 the Village. The Master Plan's language concerning agricultural land is "a
34 primary goal", "the highest and best use of those existing agricultural lands"
35 and "the most important factors that maintain Village character and
36 atmosphere".

37
38 (1) It is not contrary to the public interest; and
39 (2) Owing to special conditions, in this case, the shape of the lot, a literal
40 enforcement of this Ordinance will result in unnecessary hardship E(3)(b).

41
42 (1) When compared with other land in the vicinity subject to the same
43 provisions, the parcel is exceptional by reason of physical characteristics of
44 the land that existed when the provisions were adopted or which were
45 created by natural forces or by government action for which no compensation
46 was paid;

47
48 The front portion of the lot, where the house is located is very narrow with a
49 very small buildable area behind.
50

1 (2) When compared to other land in the vicinity subject to the same
2 provisions, the parcel is exceptional by reason of the condition or use of the
3 parcel or of other land in the vicinity which condition or use existed when the
4 provisions of the Ordinance were adopted;

5
6 The variance is requested in order to preserve the agricultural use of the land
7 on the rear portion of the property.
8

9 (3) The parcel is irregular or unusually narrow in shape, and the condition
10 existed when provisions were adopted or was created by natural force or
11 government action for which no compensation was paid; in this case, the
12 front portion of the property is too narrow to accommodate the required
13 setback.
14

15 (6) The alleged hardship is such that relief is justifiable in accordance with the
16 goals and policies of the Master Plan.
17

18 The 2020 Master Plan 3.1.1 Agricultural Goal: In recognition of the
19 importance of agriculture to the history and character of this valley area, and
20 in recognition of a limited and diminishing amount of land suitable for
21 agricultural uses, a primary goal of the of the Village is to preserve and
22 encourage agriculture and agricultural related activities.
23

24 3.1.2 Objectives: Encourage preservation of agricultural land as the highest
25 and best use of those existing agricultural lands; Promote small scale,
26 sustainable agriculture; Promote home gardens.
27

28 3.1.3 Policies: Policy A. In any action affecting land use, consider agriculture,
29 including livestock raising vegetation and open expanses, the most important
30 factors that maintain the Village's character and atmosphere.
31

32 2020 Master Plan: Guadalupe Trail Corridor and Character Area: The winding
33 nature of Guadalupe Trail and the fact that it starts and stops at several
34 points combine to give it a unique flavor. In contrast to Rio Grande Boulevard,
35 homes on Guadalupe Trail are in many sections, clustered near the roadway.
36 This historic settlement pattern hides much of the open space and agricultural
37 use in the corridor from a person traveling along the roadway. However, the
38 maintenance of these features is crucial to the character of the
39 corridor/character area.
40

41 Accordingly, based on these findings the Variance request meets the
42 hardship requirements of Section 24(E)(3)(a) and 24(E)(3)(b) sub paragraphs
43 (1)(2)(3) and (6).
44

45 **Chairman Hannah** asked if there was a second to the motion.

46
47 **SECOND: Commissioner Seligman** seconded the motion.
48

49 **Chairman Hannah** asked Commissioner Gollis if he wanted to make any
50 comments to the motion.
51

1 **Commissioner Gollis** stated no comments, no discussion.

2
3 **Chairman Hannah** asked Commissioner Seligman if there were any
4 comments.

5
6 **Commissioner Seligman** stated no comments.

7
8 **Chairman Hannah** asked if there were any other comments from the
9 Commissioners. Stating that as he understands it now they are strictly
10 dealing with the variance for the west side setback. Then stated that if there
11 were no further comments or questions called for a vote.

12
13 **VOTE:** The motion passed unanimously (7-0).

14
15 **Chairman Hannah** called for a motion on the second variance.

16
17 **MOTION: Commissioner Seligman** moved to approve Variance request V-
18 13-02 a request for a Variance from Ordinance 183 as amended, Section 6
19 (E) Area regulations (5) For very narrow tripa, unusually small, and/or
20 unusual shaped lots, any building over fourteen (14) feet in height must be
21 setback ten feet plus one foot for every foot in height over fourteen feet, to
22 allow for a seven (7) foot side setback on the east side in the A-1 Zone of the
23 Guadalupe Trail Character Area.

24
25 With the following Findings:

26
27 The Variance request meets the hardship requirements of Section
28 24(E)(3) subsections (a) and (b).

29
30 (a) The Variance is in conformance with the goals and policies of the
31 Village Master Plan.

32
33 The 2020 Master Plan is the guiding document that governs all land use in
34 the Village. The Master Plan's language concerning agricultural land is "a
35 primary goal", "the highest and best use of those existing agricultural lands"
36 and "the most important factors that maintain Village character and
37 atmosphere".

38
39 (1) It is not contrary to the public interest; and
40 (2) Owing to special conditions, a literal enforcement of this Ordinance will
41 result in unnecessary hardship E(3)(b).

42
43 (1) When compared with other land in the vicinity subject to the same
44 provisions, the parcel is exceptional by reason of physical characteristics of
45 the land that existed when the provisions were adopted or which were
46 created by natural forces or by government action for which no compensation
47 was paid;

48
49 The front portion of the lot, where the house is located is very narrow with a
50 very small buildable area behind.

1 (2) When compared to other land in the vicinity subject to the same
2 provisions, the parcel is exceptional by reason of the condition or use of the
3 parcel or of other land in the vicinity which condition or use existed when the
4 provisions were adopted;

5
6 The variance is requested in order to preserve the agricultural use of the land
7 on the rear portion of the property.

8
9 (3) The parcel is irregular or unusually narrow in shape, and the condition
10 existed when provisions were adopted or was created by natural force or
11 government action for which no compensation was paid;

12
13 The front portion of the property is too narrow to accommodate the required
14 setback.

15
16 (6) The alleged hardship is such that relief is justifiable in accordance with the
17 goals and policies of the Master Plan.

18
19 The 2020 Master Plan 3.1.1 Agricultural Goal: States, in recognition of the
20 importance of agriculture to the history and character of this valley area, and
21 in recognition of a limited and diminishing amount of land suitable for
22 agricultural uses, **a primary goal** of the of the Village is to preserve and
23 encourage agriculture and agricultural related activities.

24
25 3.1.2 Objectives: States, encourage preservation of agricultural land as **the**
26 **highest and best use of those existing agricultural lands**; Promote small
27 scale, sustainable agriculture; Promote home gardens.

28
29 3.1.3 Policies: Policy A. In any action affecting land use, consider agriculture,
30 including livestock raising, vegetation and open expanses, **the most**
31 **important factors that maintain Village character and atmosphere.**

32
33 The 2020 Master Plan: States, Guadalupe Trail Corridor and Character Area:
34 The winding nature of Guadalupe Trail and the fact that it starts and stops at
35 several points combine to give it a unique flavor. In contrast to Rio Grande
36 Boulevard, homes on Guadalupe Trail are in many sections, clustered near
37 the roadway. This historic settlement pattern hides much of the open space
38 and agricultural use in the corridor from a person traveling along the roadway.
39 However, the maintenance of these features is crucial to the character of the
40 corridor / or character of the area.

41
42 Accordingly, the Variance request meets the hardship requirements of
43 Section 24(E)(3)(a) and (b)(1)(2)(3) and (6).

44
45 This Variance is based upon a building height of a maximum of twenty-two
46 (22) feet as requested in this application.

47
48 **Chairman Hannah** asked if there was a second to the motion.

49
50 **SECOND: Commissioner Craig** seconded the motion.

1 **Chairman Hannah** asked if there were any comments on the motion from
2 Commissioner Seligman.

3
4 **Commissioner Seligman** stated no comment.

5
6 **Chairman Hannah** asked Commissioner Craig if there were comments.

7
8 **Commissioner Craig** stated no comments.

9
10 **Chairman Hannah** asked for a clarification from Attorney Chappell stating his
11 reading of the application that the need for this particular variance is due to
12 the existence of the second floor and therefore, the height that was requested
13 twenty-two (22) feet, however to his understanding that the Village
14 ordinances allow a second story to be up to the height of twenty-six (26) feet.
15 By granting this variance strictly mentioning only the seven (7) foot setback
16 could a future owner or future applicant come in and raise the roofline to
17 twenty-six (26) feet with the understanding they have already given a
18 setback.

19
20 **Attorney Chappell** stated that the setback approval has been based on the
21 stated height of the building if the height of the building changed the setback
22 requirement would change and would take a new setback determination.

23
24 **Chairman Hannah** stated then he would ask a procedural question would it
25 be appropriate to propose an amendment of the wording that the variance is
26 based on a building height of a maximum of twenty-two (22) feet as
27 requested in this application.

28
29 **Attorney Chappell** stated he was not in the position to recommend
30 amendments or other things to the motion.

31
32 **Chairman Hannah** asked if this would be legal.

33
34 **Attorney Chappell** stated that if the Commission thinks that it is important to
35 tie those factors together above the application, he didn't think there was
36 anything detrimental to do that. That would make it clear.

37
38 **Commissioner Seligman** stated she would accept that as an amendment to
39 the motion.

40
41 **Chairman Hannah** stated he proposed that as a friendly amendment and
42 asked Commissioner Craig if he would accept that as a friendly amendment.

43
44 **Commissioner Craig** concurred.

45
46 **Chairman Hannah** repeated for the record that would add to the findings that
47 this variance is based on a building height of a maximum of twenty-two (22)
48 feet as requested in this application. Then asked if there were any more
49 comments or discussion. Then recognized Commissioner Gollis.

1 **Commissioner Gollis** stated that this puts him in the unusual position as he
2 is completely one hundred percent (100%) in favor of this variance request,
3 but he does not agree with the friendly amendment. He thinks it is
4 unnecessary as a practical matter to think that at some point in the future the
5 owner of this home would desire to raise the height another four feet. The
6 ordinance does allow for a maximum height of twenty-six (26) feet. As a
7 practical matter he doesn't think it is necessary and he wanted to make that
8 clear for the record. He plans to vote in favor of the variance request, but he
9 does so disagreeing with the amendment made to the motion of approval.

10
11 **Chairman Hannah** stated he would make a comment to the motivation which
12 is the fact that his perception is that it is their responsibility as Commissioners
13 to grant variances at the minimum that can be acceptable and appropriate
14 and to him that makes it clear they are basing it on this minimum and he is
15 actually pleased to see the plan is less than the maximum provided
16 considering the unusual circumstances and very close access to the adjacent
17 lot.

18
19 **Attorney Chappell** stated he wanted to comment on the reason he hesitated
20 when he answered this. He hadn't seen the plans for the house. If the plans
21 are for a flat roof then of course the height standards are not a problem, but
22 someone may come along later and wants to add a pitched roof, which
23 doesn't raise the ceiling then that might come up even though the ceiling
24 areas is not raised. He thinks it is just a question of preference to the
25 Commission.

26
27 **Chairman Hannah** asked if there were any more comments or discussion on
28 the motion with the friendly amendment. Then called for a vote.

29
30 **VOTE:** The motion passed unanimously (7-0).

31
32 **5. OLD BUSINESS - None**

33
34 **6. NEW BUSINESS - None**

35
36 **7. REPORTS**

37
38 **A. PLANNING DEPARTMENT REPORT**

39
40 **Planner Seebach** gave a report on the EPA permits, which will be issued at
41 the end of June and they will have sixty days to submit it.

42
43 **9. COMMISSIONER'S INFORMAL DISCUSSION**

44
45 **Chairman Hannah** shared some discussion with the Attorney about the last
46 meeting.

47
48 **10. ADJOURNMENT**

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MOTION: Commissioner Tourville moved to adjourn the meeting at 7:48 p.m.

SECOND: Commissioner Lewis seconded the motion.

VOTE: The motion passed unanimously (7-0).

APPROVED by the **Planning and Zoning Commission of the Village Los Ranchos de Albuquerque** this _____ day of _____, 2013.

ATTEST:

Samuel D. Gollis Secretary
Planning and Zoning Commission