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MINUTES
VILLAGE OF LOS RANCHOS
Planning and Zoning Commission
6718 Rio Grande Blvd. NW
Warren J. Gray Hall
July 14, 2015
7:00 P.M.

Present:

STAFF

Administrator: Kelly Ward

Attorney: Bill Chappell

Planning Staff: Tim McDonough, Director

1. **CALL TO ORDER – Chairman Seligman** called the meeting to order at 7:03 p.m.

A. ROLL CALL - Commissioner Craig, Commissioner Riccobene, Commissioner Brawley, Commissioner Seligman, Commissioner Phillips, Commissioner Colman, Commissioner Tourville.

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

B. APPROVAL OF THE AGENDA

Chairman Seligman asked Planner McDonough if there changes to the agenda.

Planner McDonough stated there were no changes.

Chairman Seligman asked if there was a motion.

MOTION: Commissioner Riccobene moved to approve the agenda.

SECOND: Commissioner Craig seconded the motion.

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

2. **PUBLIC COMMENT PERIOD-NONE**

3. **CONSENT AGENDA**

A. APPROVAL OF CONSENT AGENDA

1. **Minutes of the June 9, 2015 regular meeting.**

1 **Chairman Seligman** asked if there were any corrections to the Minutes of
2 the June 9, 2015 meeting. Having none she then asked for a motion to
3 approve the minutes.

4
5 **MOTION: Commissioner Brawley** moved to approve the minutes of the
6 June 9, 2015 meeting.

7
8 **SECOND: Commissioner Colman** seconded the motion.

9
10 **VOTE:** The motion carried unanimously (7-0).

11
12 **4. PUBLIC HEARINGS AND APPLICATIONS**

13
14 **Attorney Chappell** swore in those present who would be speaking before
15 the Commission.

16
17 **A. V-15-03** A request by David and Robin Keicher for a Variance from
18 §9.2.7(E)2(a)3. Applicant requests a variance to §9.2.7(E)2(a)3, a rear
19 setback shall be twenty-five (25) feet, to allow construction of an addition to
20 an existing dwelling in the rear setback area to a distance of 14 ft. from the
21 rear (east) property line. The property is located at 7336 Guadalupe Trail NW
22 and is legally known as Tracts No. 209-B-1, 235-B, and 235-C on Middle Rio
23 Grande Conservancy Map 27, situate in Section 17, T11N, R3E, NMPM
24 within the Town of Alameda Grant. The property contains 0.8718 acres more
25 or less.

26
27 **Chairman Seligman** asked Planner McDonough for the planning report.

28
29 **Planner McDonough** gave the planning report with recommendations for
30 approval with findings.

31
32 **Chairman Seligman** asked if there were any questions for Planner
33 McDonough from the Commission and recognized Commissioner Riccobene.

34
35 **Commissioner Riccobene** asked for clarification on the one side of the
36 property line the adjacent property is a ditch. Was that correct.

37
38 **Planner McDonough** stated that was correct.

39
40 **Chairman Seligman** asked if there were any other questions from the
41 Commission. Then asked the applicant to come forward and state his name
42 and address for the record.

43
44 **David and Robin Keicher** 7336 Guadalupe Trail NW introduced themselves.

45
46 **Chairman Seligman** asked if they wanted to add any other comments to the
47 report or tell them about the request for the variance.

48
49 **David Keicher** stated they wanted to preserve the backyard for the two
50 special needs kids that they have adopted and they have lived there for ten

1 years and love the area. That's why they want to add on and Robin's mom
2 will be moving in with them.
3

4 **Chairman Seligman** asked if there were any questions from the
5 Commission. Then stated she did not see anyone in the hall who wanted to
6 speak in favor of the application.
7

8 **David Keicher** stated that they had actually talked to their neighbors and
9 none of them were opposed to it.
10

11 **Chairman Seligman** thanked the Keichers and told them they could sit down
12 and stated she did not see anyone in the hall who wanted to speak in
13 opposition of the application. Then closed the floor for public comment and
14 asked if there was a motion.
15

16 **Commissioner Tourville** disclosed the fact that he did go by the property
17 and happened to see and talk to Mrs. Robin Keicher and she allowed him
18 access to the property. He did not discuss the variance and did not feel he
19 needed to recuse himself.
20

21 **Chairman Seligman** thanked Commissioner Tourville and asked if there was
22 a motion.
23

24 **MOTION: Commissioner Colman** moved to approve the request for a
25 variance to §9.2.7(E)2(a)3, for a rear setback area to a distance of 14 ft. from
26 the rear (east) property line
27

28 With the following findings:
29

30 The Variance request meets the hardship requirements of Section
31 24(E)(3)(a) and (b).
32

33 (a) The Variance is in conformance with the goals and policies of the
34 Village Master Plan.
35

36 4.6.2 Residential Goal: The goal is to maintain residential development
37 in keeping with the rural and diverse character of the Village.
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.
42 (3) Use of premises shall never be changed via a variance.
43

44 E(7)(b)(2) When compared to other land in the vicinity subject to the same
45 provisions, the parcel is exceptional by reason of the condition or use of the
46 parcel or of other land in the vicinity which condition or use existed when the
47 provisions were adopted; the existing septic system significantly impacts the
48 location of an expansion of the dwelling unit.
49

50 E(7)(b)(5) The development proposed in the variance differs from that
51 allowed in this Ordinance only enough to relieve the alleged hardship,

1 reduction of the rear setback from 25 to 14 feet given it borders the Rice
2 Lateral.

3
4 Accordingly, the Variance request meets the hardship requirements of
5 Section 25(E)(3)(a) and (b)(4) and (5).

6
7 **Chairman Seligman** stated there was a motion and asked if there was a
8 second.

9
10 **SECOND: Commissioner Riccobene** seconded the motion.

11
12 **Chairman Seligman** stated there is a second and was there any discussion
13 and recognized Commissioner Brawley.

14
15 **Commissioner Brawley** stated the argument is that the sewer line is difficult
16 to move, but he sees no engineering report. The environmental department
17 basis it's ~~permits on a sewer system~~ **septic tank permits** on how many
18 bedrooms there are. His concern is that they would have to replace this
19 anyway. He is struggling to see what the real rationale is from a design
20 standpoint he doesn't see a hardship. And it could be done much differently if
21 it wasn't for the sewer system. He does not have enough information so it's
22 difficult as it's apparently in the way. He is taking into account that it has a
23 waiver for distance, but lift stations are not a big deal and this property
24 already had a variance. What he sees is ~~they have~~ incrementation and if this
25 were the only issue it would be easier to rationalize. He is struggling with the
26 issues that are associated with the property. Has there been an engineering
27 report?

28
29 **Planner McDonough** stated that no there has not been an engineering
30 report of the property. He was possibly remiss in not asking for an
31 engineering report and those are good points that Commissioner Brawley
32 raised.

33
34 **Chairman Seligman** asked if the applicant had any information on the septic
35 system.

36
37 **David Keicher** stated that the front room that they are using as an office right
38 now is actually a bedroom. They are adding on an office and a laundry room
39 so that doesn't change the amount of bedrooms that were permitted on the
40 property.

41
42 **Chairman Seligman** recognized Commissioner Tourville.

43
44 **Commissioner Tourville** asked does the office have a closet.

45
46 **David Keicher** stated that the addition would not have a closet. The one that
47 is the bedroom does have a closet.

48
49 **Commissioner Tourville** asked currently how many bedrooms do you have
50 that have closets.

51 **David Keicher** replied four (4).

1
2 **Commissioner Tourville** with ingress/egress to the outside. Because he
3 knows the regulations require that it have ingress/egress and a closet to be
4 considered a bedroom to determine how large your septic system should be.
5

6 **David Keicher** stated that all the bedrooms have closets and has not
7 changed since they moved in. And explained because of the shape of the
8 property they had to have a variance for the garage.
9

10 **Chairman Seligman** recognized Commissioner Colman.
11

12 **Commissioner Colman** asked wouldn't the capacity of the septic system be
13 done by whomever is granting the ~~her~~ **construction permit**. This does not
14 sound like anything that should be for Planning and Zoning. At this juncture
15 this might be a warning for them to make sure before he spends a lot of
16 money that they get a building permit that's going to allow it. In her view the
17 appropriate times for those questions into the engineering requirements and
18 all that are at the permit not with the Planning and Zoning Commission.
19

20 **Chairman Seligman** asked if Planner McDonough had a response for that.
21

22 **Planner McDonough** stated he appreciated those comments. If the basis of
23 the variance is the fact that it would require relocation of the septic system
24 and they are adding square footage it would seem reasonable to be
25 evaluating the variance. If replacement of the septic system was required
26 anyway and if that's the case how does that change the analysis of the
27 variance. It is a fair point. The response is they are not adding a bedroom
28 they are adding an office is a consideration as well. Given that is the basis of
29 the variance it's a valid point.
30

31 **David Keicher** explained that building on the other side of the house would
32 cause problems with the 3 year old and 6 year old. They currently have
33 speakers in their rooms so they can be heard at night. They are planning to
34 do this with Robin's mom. The front bedroom would be perfect for this and
35 easier to respond to problems with the kids and Robin's mom.
36

37 **Chairman Seligman** recognized Commissioner Riccobene.
38

39 **Commissioner Riccobene** stated he is having difficulty in placing the
40 addition on these drawings can he clarify that.
41

42 **Chairman Seligman** asked he needed clarification.
43

44 **Planner McDonough** stated he also had problems with the drawings and
45 noted what page Commissioner Riccobene would find a better drawing and
46 pointed out which one and explained what he was looking at.
47

48 **Chairman Seligman** asked where exactly was the septic.
49

50 **David Keicher** explained it was on the north and west side of the house.
51

51 **Planner McDonough** stated it was on the smaller sheets.

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Chairman Seligman asked Commissioner Riccobene if he understood the drawings.

Commissioner Riccobene stated he could see it now before he couldn't see how the house was laid out.

Chairman Seligman stated if he needed to discuss this to put it on the record.

Commissioner Riccobene replied okay.

Chairman Seligman asked if it was clear.

Commissioner Riccobene stated yes he was.

Chairman Seligman asked if they had any other questions. Then stated they have a motion on the floor to approve the variance and called for a vote.

There was a small confusion with the vote Chairman Seligman stating the vote was 4-1.

Attorney Chappell stating the Chairman must also vote.

Chairman Seligman stated she had and corrected the count.

VOTE: the motion carried with a vote of (6-1) with Commissioner Brawley voting nay.

Chairman Seligman stated let the record show that the public hearing on item 4-a. The request by David Keicher for a variance from §9.2.7(e) 2 (a) 3 is formally closed.

5. OLD BUSINESS-NONE

6. NEW BUSINESS

A. Discussion and Direction to staff for developing a policy on closed sessions.

Discussion included the following points:

- The use of closed sessions.
- Board of Trustees does not have closed sessions they limit themselves to the State Statues.
- Target time limits. 15 to 20 minutes maximum or no time limits at all.
- Periodic notices to applicants if they go over time limit if they set one.
- How to go into a closed session. Can the chairman call a closed session and any Commissioner should be able to call for a closed session. This is an internal policy that the Commission must set.
- If they do it by motion do they have to have a certain amount of the vote or is it a majority vote.

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- What sorts of circumstances will trigger a session.
- Attorney cannot be in closed session only the Commissioners are allowed.
- Do they go to closed session before or after a motion of approval or denial of the quasi-judicial question? It should be after a motion is made and the vote cannot be in the closed session it has to be in the open session.
- Session has to be about the information given to both parties and on our code only.
- Some of the Commissioners are uncomfortable using a closed session.
- Deferment is an option if there does not seem to be enough information of the hearing. Otherwise if denied a year has to pass before they can resubmit.
- Due process has to happen.

B. Discussion on Agenda for P&Z Commission working sessions. Subjects to cover, order of topics, goals and objectives, to aid staff in preparing the materials and schedules.

Discussion included the following points:

- Has to be noticed since it is considered a public meeting.
- Thoughts of putting it on a regular meeting agenda.
- Need for examples of what constitutes a hardship. The code does spell this out, but Commission would like to see what others have considered as a hardship.
- Not in favor of working sessions because of not enough questions to ask or investigate.
- Working sessions might help get everyone on the same page because they can understand what a hardship is and it helps to practice.
- Attorney Chappell offered to walk them through the ordinances that might require a variance and what comes under the ordinance and it's the place to start a working session. It would give them the knowledge of where it is found and what do they need to do.
- There was a request for a copy of the quoted ordinance attached to the planning reports.
- Can the goals and policies of the Master Plan be used in itself or must it also meet the hardship.
- Suggestion of Saturdays for a working session.
- Suggestion for end of a meeting if they have a limited specific topic that they want to deal with. So there are not any other topics that get into the conversation.
- Question about what a formal and informal discussion is. Formal was defined as conducting business and making a decision, and informal was just going down the line and talking about what ever was brought up, but not making any decisions.

- Can they include the topic packet information under informal discussion? Commissioners can call about ideas on informal discussions because no decisions are made.
- If the working sessions are considered an open meeting then anyone can access the tapes if they were interested in the content.

7. REPORTS

A. PLANNING DEPARTMENT REPORT

- Stormwater permit – The notice of intent to discharge has been delivered before the deadline and what once was a 2-page report now is a 40-page report and if anyone wants to read it Planner McDonough will send it to him or her.
- Gave out a list of business closings and opening for the prior fiscal year.
- Dealt with a code enforcement issue that had to have a court action.
- Gave the activity report for the department for the month of June.

9. COMMISSIONER'S INFORMAL DISCUSSION

- Discussed the parking lot at the barn and what could be done about the amount of water that has accumulated.

10. ADJOURNMENT

Chairman Seligman asked if there was a motion for adjournment.

MOTION: Commissioner Phillips moved to adjourn at 8:45 p.m.

SECOND: Commissioner Colman seconded the motion.

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

APPROVED by the Planning and Zoning Commission of the Village Los Ranchos de Albuquerque this _____ day of _____, 2015.

ATTEST:

Tim Tourville, Secretary
Planning and Zoning Commission