

**MINUTES**  
**Tuesday February 3, 2009**  
**Planning and Zoning Commission Meeting**  
**County Administration Building**  
**1400 Highway 180 East**  
**Silver City, New Mexico**

**Commissioners Present**

Chair David Gershenson  
Doug Abbott  
Lori Ann Bonomo  
Ken Foster  
Alice Jones  
Teri Matelson  
Gillian Sherwood

**Commissioners Absent**

**Staff Present**

Alexandra Perrault  
Luan Mitchell

The regular meeting of the Planning and Zoning Commission for the Town of Silver City was called to order at 7:00 p.m. by Chairman David Gershenson. The Pledge of Allegiance was recited. A roll call of commissioners was taken and a quorum was present.

**Approval of Agenda**

Commissioner Foster moved to approve the agenda as written. Commissioner Jones seconded the motion. All in favor, motion carried.

**Approval of Minutes**

Commissioner Foster moved to approve the Minutes as written. Commissioner Jones seconded. All in favor, motion passed.

**Old Business**

None

**New Business**

**Public Hearings**

**VA 09-3** – request for a variance to allow an accessory building larger than 600 square feet (Section 151.032 (B)(5)(f) of the Land Use Code). The property is located on a tract

of land in a Residential A zone, addressed as 2701 N. Walnut Dr., on tract A, in the NE ¼ NE ¼ Section 34 of the Elder Addition. The applicant is Mike Teer.

There was no ex parte conversation or conflict of interest on the part of any commissioner. Two people were sworn in for testimony. Zan Perrault presented the case, stating that the applicant needs the extra square footage to accommodate a van with an attachment to hold a motorized wheelchair. Commissioner Matelson asked if Mr. Teer was going to run his business out of the garage. Zan said, no, that the size of the building was not conducive to that. Mr. Teer explained that he would have done an attached garage for which he would not have needed the variance, but due to the lay of the land, it was not possible. Commissioner Gershenson asked what materials would be used. Mr. Teer said it would be a metal siding building, the same color and similar look as the house. Commissioner Jones asked if the person who needs the wheelchair lives in the house and Mr. Teer explained that his brother lives in the house where the new garage will be built and that he and his mother, who uses the wheelchair, live in nearby houses. Zan said that a Mr. Gojkovich, a neighbor of the subject property, came into the Community Development office today and expressed his concern that the access road between Panorama and Walnut might be closed off. Mr. Teer explained that it is not exactly a road but just a stretch of land that was being driven on and there were erosion problems. The Town's solution was to pave the path to prevent erosion, but that it is not a dedicated road. Commissioner Jones moved to approve Variance 09-3 and was seconded by Commissioner Bonomo and passed by unanimous vote.

**VA 09-1** – request for a variance to allow a 9.5' setback where a 20' street setback is required (Table 151.033(B) of the Land Use Code). The property is located on a tract of land in a Residential A zone, addressed as 1701 N. Juniper Ave., on Lot 2 and part of Lot 1, Block 2, Section 34 of the Silver Heights Addition. The applicants are David and Blake Farley.

There was no ex parte conversation or conflict of interest on the part of any commissioner. Two people were sworn in for testimony. Zan Perrault presented the case, explaining that the applicant wishes to build a ramada in the back yard for shade and for privacy from neighbors whose properties are on a higher grade. The applicant has a hardship as his house sits on a corner of two streets, both of which require a 20-foot setback. Although the ramada will be in the back yard of the property, the applicant wishes to place it in line with the house that is only 9 feet from 17<sup>th</sup> Street. Only one objection to the variance was received from the Citizen Participation notices and that was an objection to a metal building. Commissioner Jones asked if the ramada would be a metal structure. Mr. Farley said it would be concrete columns with a metal roof. The house also has a metal roof.

Commissioner Abbott moved to approve the variance request. Commissioner Matelson seconded and it was passed unanimously.

**VA 09-2** – request for a variance to allow a 7.5’ fence in the 17<sup>th</sup> Street and side setbacks, and a 7.5’ wall in the Juniper Avenue setback, where the maximum height for allowed fences and walls is 6’ (Table 151.033(A)(3)(k) of the Land Use Code). The property is located on a tract of land in a Residential A zone, addressed as 1701 N. Juniper Ave., on Lot 2 and part of Lot 1, Block 2, Section 34 of the Silver Heights Addition. The applicants are David and Blake Farley.

There was no ex parte conversation or conflict of interest on the part of any commissioner. Four people were sworn in for testimony. Zan Perrault presented the case, noting that the applicants wish to replace an old fence with a new, higher one to provide more privacy from neighbors that are on a higher plane and can look down on the applicants’ yard. They want to build a wall in front of the house for privacy and noise abatement. Due to the slope of the land, the higher fence won’t obstruct anyone else’s views.

A Mr. Padilla asked what the area of notification is. He is a neighbor of the applicants but did not receive any notice of the variance request. It was determined that his property is outside the 300-foot notification area. It was explained that the purpose of the yellow notice sign posted at the applicants’ house was so that others beyond 300 feet could be advised of the request as well. Commissioner Jones commented that a seven-foot fence is very high. Mr. Farley explained that the fence starts at six feet but because of the slope of the land, it rises to seven feet. He did not want to stair-step the wall or fence. Commissioner Matelson noted that there are many high walls in the neighborhood and their purpose is for privacy and lessening noise.

Commissioner Matelson moved that the variance be approved. Commissioner Foster seconded. Commissioner Jones moved to amend the motion for approval to add a condition that the wall must be stuccoed and not left as bare concrete block. Commissioner Foster seconded that motion and it was passed by unanimous vote. The motion to approve the variance with the condition was then voted on and also approved unanimously.

### **Reports from Staff**

Zan Perrault advised the commission that care needs to be taken with conditions that are put on approval of requests to be sure they are something that can be enforced. At the last meeting a condition that two water meters be installed at a new duplex was determined by Robert Esqueda, director of utilities, to be unenforceable. He said the Town cannot require two meters. Much discussion followed about enforcing conditions and checking to be sure they are complied with. Commissioner Jones suggested having the applicant sign something acknowledging the condition and Zan said the applicant could sign a copy of the Notice of Decision, which includes all findings and conditions.

Zan also reported that she had placed an article in the Around the Town column of the newspaper recommending citizens call the Community Development Department for

advice and to ask questions before starting any land use or building project. She said the Town of Silver City Residential Construction Permit Guide will be posted on the Town's website. She was also going to follow up on a suggestion by CATS that the Town sponsor one of the Morning Shows and make an announcement there.

**Reports from Commission**

**Community Input**

None

**Adjournment**

Commissioner Abbott moved to adjourn the meeting. Commissioner Bonomo seconded the motion. All in favor, the meeting adjourned at 8:30 p.m.

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David Gershenson  
Planning & Zoning Commission Chair

March 3, 2009  
Approved