

**MINUTES**  
**Tuesday December 2, 2008**  
**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  
Alice Jones  
Teri Matelson  
Roxana Marsh

**Commissioners Absent**

Ken Foster

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

**Approval of Minutes**

Commissioner Abbott moved to approve the minutes of the November 5, 2008, meeting as written. Commissioner Jones seconded. Commissioner Marsh abstained from voting on approval of the Minutes as she had not been at the meeting. All in favor, motion passed.

**Old Business**

None

## **New Business**

### **Public Hearings**

**VA 08-13** – request for a variance to allow a 0’ setback where a 10’ street setback is required and a 3.5’ setback where a 5’ side setback is required (Table 151.033(B) of the Land Use Code). The property is located on a tract of land in a Residential B zone, addressed as 1401 W. Kelly St., in the NW corner of Block 35, Section 3 of the Black’s Addition. The applicant is Suzanne Lerner.

There was no ex parte conversation or conflict of interest on the part of any commissioner. Three people were sworn in for testimony. Zan Perrault presented the case. She noted that construction had begun on the carport that necessitated the setback variance because the applicant’s contractor told her she did not need a permit and did not know about the setback requirements. The applicant believes she only needs a 1 to 1 ½ foot setback but since they were unable to find one of the survey pins, she was asking for a 0-foot setback. There is still room for a sidewalk to be installed if necessary. The applicant testified that she asked the contractor about the need for a building permit and he told her she wouldn’t need one because the carport was not attached to the house. Commissioner Matelson said the structure did not look structurally sound in the photograph and also asked about runoff. Ms. Lerner said the pad is sloped to the street so there will be no runoff to the neighbor’s property. The contractor, Ron Cook, claimed the structure is actually over built and is so sound that you could build another house on top of it. Commissioner Abbott questioned if he had a contractor’s license and when answered affirmatively, asked how he did not know about needing a building permit. Cook explained that he had done multiple free-standing carports in town and had never gotten a permit. Commissioner Jones asked if it wasn’t the responsibility of the contractor to know the building regulations. Cook claimed it was difficult to keep up with all the regulations and that the real problem was the zoning and he couldn’t know all the zoning rules. Commissioner Matelson pointed out that he could and should call the Community Development Department and they would be glad to give him all the information he needs. Commissioner Jones reiterated the need for a brochure to educate the public about zoning issues. Commissioner Abbott moved to approve VA 08-13. Commissioner Jones seconded and it was passed unanimously.

**VA 08-14** – request for a variance to allow a 6’ setback where a 10’ 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 B zone, addressed as 1510 Raven Dr., on Lot 2, Block 5, Section 26 of the Valley Vista Subdivision #4. The applicants are Alfred and Alexandra Perrault.

There was no ex parte conversation or conflict of interest on the part of any commissioner. Three people were sworn in for testimony. Luan Mitchell presented the case as Zan Perrault was one of the applicants. She noted that the applicants had recently moved their mobile home to the property mistakenly thinking that it would fit the setbacks in spite of the power lines at the rear of the property.

The applicants testified that the mobile home was moved to the property before the variance was requested because it appeared on paper that it would both avoid the power line and meet the setback. It was only after the mobile home was situated did it become apparent that a variance would be needed. They said they cannot afford to cover the cost of moving the power line or to hire an attorney to fight PNM's decision that if they moved the power line the applicants would have to pay for it. They said if the variance is not granted, they would have to move the mobile home diagonally across the lot and several neighbors, who support the variance, feel that would be worse than having the structure in the setback.

Commissioner Marsh moved to approve variance 08-14. Commissioner Matelson seconded and it was passed by a unanimous vote.

### **Election of Officers**

Commissioner Jones nominated David Gershenson as chair of the Planning and Zoning Commission. Commissioner Marsh seconded and the vote was unanimous in favor.

Commissioner Abbott nominated Teri Matelson as vice chair. Commissioner Jones seconded and the vote was unanimous in favor.

### **Reports from Staff**

None.

### **Reports from Commission**

Commissioner Jones asked if there was something that could be done about properties that are situated in two zoning districts. Would it be possible to do a search for all such properties and to enact an ordinance that all single properties must be in one zone with the largest segment of land determining in which zone it would lie? Chair Gershenson said he would follow up on that with Peter Russell.

Commissioner Marsh asked if the Town couldn't put pressure on PNM to move all power lines that cross property without an easement.

Chair Gershenson presented a plaque to Commissioner Marsh as this was her last meeting after serving on the commission for more than four years. Everyone said they will miss her, and Commissioner Marsh thanked everyone for the plaque and kind words and said she had enjoyed her time on the commission.

Commissioner Jones reiterated the need for a brochure to explain permits and other Town requirements. Chair Gershenson and Zan Perrault agreed to work on it. Commissioner Jones then stated that she thought that sometimes there was subjective language in the staff reports and she thought the language should be clear and not anything that might sway the commissioners. For instance, actions should be noted but not characterizations of people or motives. Zan said she tried to avoid that and will continue to try to work on

it. Commissioner Matelson said she had not seen anything inappropriate and Commissioner Marsh agreed with her. Commissioner Bonomo said she could understand both points.

**Community Input**

None

**Adjournment**

Commissioner Matelson moved to adjourn the meeting. Commissioner Abbott seconded the motion. All in favor, the meeting adjourned at 8:15 p.m.

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David Gershenson  
Planning & Zoning Commission Chair

January 6, 2009  
Approved