

# MINUTES

Tuesday, March 4, 2008  
Planning and Zoning Commission Meeting  
County Administration Building  
1400 Highway 180 East  
Silver City, New Mexico

## **Commissioners Present**

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

## **Commissioners Absent**

Roxana Marsh

## **Staff Present**

Peter Russell  
Mike Eley  
Luan Mitchell

The regular meeting was called to order at 7:00 pm by Chair 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 and was seconded by Commissioner Foster. The agenda was approved by unanimous vote.

## **Approval of Minutes**

Commissioner Matelson moved to approve the minutes as written. Commissioner Bonomo seconded the motion. The minutes were approved by unanimous vote.

## **Old Business**

None

## **New Business**

**VA 08-02** – A request for a Variance to allow for a reduction of the front yard setback from ten feet to six inches on the northwest corner of the lot and a reduction from ten feet to four feet on the northeast corner of the Lot. The applicant is also requesting a reduction in the rear yard setback from ten feet to approximately three feet at both the southwest and southeast corners of the lot and a reduction from five feet to three feet on the east side of the lot. The property is addressed as 517 W. 13<sup>th</sup> Street. The applicants are Robert and Joette Trombi, owners.

There was no ex parte conversation or conflict of interest on the part of the commissioners. Six people were sworn in for testimony. Mike Eley presented the case, noting that it was somewhat complicated due to the four requests in one application. After his presentation, Mike was asked by Chair Gershenson if he could make a recommendation to the commission about approval or denial. Mike said they could only approve the variance if all the findings were met. When pressed for a more definite answer, Mike said he did not see how Finding # 8 (The variance will neither result in the extension of a non-conforming situation in violation of Article VII nor authorize the initiation of a non-conforming use of land) as the existing house on the property already encroaches into the setback and to allow the Trombi's request would extend an already non-conforming situation. Peter Russell explained that some time in the 1940s a portion of the lot was taken by the Town to provide a drainage culvert. This resulted in the front lot line being many feet from the street and a six-inch setback would not actually be as small as it might seem. Also, the side setbacks were approved by the fire marshal as long as the sides remained open.

Mrs. Trombi testified, saying first that she had different measurements than were shown on the survey. Commissioner Gershenson said the commission would have to go by the figures given in the staff report. Commissioner Jones asked Mrs. Trombi if she meant the 2002 survey was incorrect. Mrs. Trombi said she meant the figures in the variance request were not correct. Commissioner Matelson asked exactly what they were trying to do so she could understand the hardship. Mrs. Trombi replied that they bought the house with the intention of fixing it up and they are now ready to move into the house from their farm in Arizona and would like to make it attractive.

A neighbor of the Trombis, Steve Oppenheim, questioned how finding #6 (The variance granted is the minimum necessary to make possible the reasonable use of the land or building.) could be met as other people had lived in the house for many years previously, which assumed reasonable use of the property. He also stated that since the drainage culvert was there when the Trombis bought the house, they should have been aware of the hardship.

Don Redwine, the neighbor who owns the wall behind the Trombis, said he showed them the pins marking his property line. Now the pins are missing. Their existing building is already only three feet from the property line. If they build the way they want to, they will be on his property. He said he was unhappy about having to ask the commission to protect his property and unhappy that the fire department won't have proper access.

Mr. Oppenheim asked whether the commissioners see properties in question before the meetings. Chair Gershenson said that was a very interesting question and there was some discussion about the legalities of that issue until Peter Russell suggested it was not the topic to be discussed at this time.

Chair Gershenson asked that the request be broken down into three parts. Commissioner Abbot moved to approve Part A, the request involving the porch, and was seconded by Commissioner Foster. In discussion Chair Gershenson acknowledged that this is a unique situation in that even though the porch would be so close to the property line, it would

still be 15 feet or so from the street. Commissioner Jones agreed and added that the appearance of the front of the house would be improved with the addition of a porch. The measure was passed unanimously.

Commissioner Jones asked if Parts B, C, and D could be bundled, but Chair Gershenson suggested the carport should be a separate issue. Commissioner Jones moved to deny Part B of the request concerning construction of a carport and was seconded by Commissioner Matelson. In discussion Commissioner Matelson said she believed that even if the carport were left open, when it was full of stuff it would still be a hazard. Once it was full, it would no longer be open. Chair Gershenson said he was torn on this issue as the fire department was not concerned about it. Commissioner Jones mentioned that the existing building already encroaches on the setback and to approve it would make a mockery of what setbacks are all about. Commissioner Foster pointed out that finding #8 could not be met as it would result in the extension of a non-conforming situation. A roll call vote was taken and the motion was passed unanimously.

Commissioner Jones requested that Parts C and D, the covered patio and utility room, be bundled together and moved that they be denied. Commissioner Matelson seconded. The motion was passed unanimously. Chair Gershenson reminded everyone that the decisions could be appealed to the Town Council.

**ZC 08-1** A request for a Map Amendment/Zone Change from Residential B to Commercial on a tract of land located in the SW ¼ NE ¼ of Section 36, T17S, R14W, N.M.P.M, Town of Silver City, Grant County, New Mexico. The property is as yet unaddressed. The applicants are Gerald and Rhonda Billings, owners.

There was no ex parte communication on the part of any commissioners. Four people were sworn in for testimony. Peter Russell presented the case, and reiterated that part of the parcel is already zoned commercial. Applicant Gerald (Billy) Billings spoke. He thanked the commission for considering the request and explained that the application is for a larger area than necessary in anticipation of possible changes in the size of the proposed hotel to be built on the site, and also due to some terrain issues.

Commissioner Jones moved to approve the zone change request with finding #7 (The proposed amendment provides additional flexibility in meeting the objectives of the Land Use Code without lowering the standards of the Land Use Code. Commissioner Abbot seconded. The commission voted unanimously to recommend approval of the zone change to the Town Council.

### **Reports from Staff**

Peter Russell reported that Luan Mitchell is the new planner in the Community Development Department and everyone offered their congratulations. Luan spoke with Robert Scavron about providing a training session for the commissioners. He suggested that three dates be chosen when all who wanted to attend could, and he would make himself available one of those dates. Commissioner Jones requested the session be postponed until April and Commissioner Matelson said she could only make an evening meeting.

### **Reports from Commission**

Commissioner Jones asked if there were any news about the proposed multiplex movie theater. Peter Russell said the developers have gotten highway access and a variance to the parking requirements, but no building permits had been applied for yet.

Commissioner Gershenson said the Daily Press had been following that story and the latest news was that they would be starting construction within a month.

Discussion then continued about whether the commissioners should be allowed to make site visits on their own. The reasoning behind the prohibition is so that no commissioner can have more information than the others. Chair Gershenson asked rhetorically whether that meant that if he lived next door to the site of a request, should he recuse himself. The commissioners are already volunteering their time and it could be an onerous imposition to ask them to meet even earlier to make site visits together. Peter Russell explained that the commissioners are sitting as judges and they all have to have the same information. If it is necessary, a site visit for all commissioners could be arranged. Commissioner Matelson then commented that if a commissioner does not go with the group to the site, it doesn't mean they have less information. Commissioner Jones suggested that since Silver City is such a small town, and they all have fairly intimate knowledge of most of the neighborhoods anyway, it shouldn't be a big deal and lead to bogging down the commission or dragging anyone into court. Commissioner Gershenson suggested continuing with a "don't ask, don't tell" policy.

### **Community Input**

None

### **Adjournment**

Commissioner Matelson moved that the meeting be adjourned. Commissioner Bonomo seconded the motion. All in favor, the meeting was adjourned at 8:20 PM.

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David Gershenson  
Planning Commission Chair

April 1, 2008  
Approved