



VALENCIA COUNTY PLANNING & ZONING COMMISSION AGENDA

M-I-N-U-T-E-S

Tuesday January 23, 2018 @ 3:00 pm

Valencia County Administration Building

Commission Chambers, 444 Luna Ave, Los Lunas, NM 87031

PRESENT	ABSENT
Michael McCartney, Chairman	
LeRoy Baca, Vice-Chair	
Vacant	
Frank A. Gurule, Member	
Sue Moran, Member	
James M. Aranda, Community Development Director	
Gabriel Luna, Land Use Planner	

MEMBERS OF PUBLIC ON RECORD: Kenneth Best, Jerry Nelson, Dometrio Chavez, Jason Cameron, Mary Barbre

1) CALL THE MEETING TO ORDER

- At 3:02 PM Chairman McCartney brought the meeting to order.

2) PLEDGE OF ALLEGIANCE

- Chairman McCartney asked Commissioner Moran to lead the Planning & Zoning Commission and the audience in the Pledge of Allegiance.

3) APPROVAL OF AGENDA

- Community Development Land Use Planner, Gabriel Luna presented the Agenda to the Planning & Zoning Commission.

APPROVAL: Motion to table item E Zone Change due to incomplete package

MOVED: Commissioner Baca

SECONDED: Commissioner Moran

CARRIED: Motion passed on a vote of **4 FOR (Commissioner Gurule-YES; Commissioner Baca-YES; Commissioner Moran-YES; Chairman McCartney-YES)** and - **0 AGAINST**

4) APPROVAL OF MINUTES

- No minutes were provided from last meeting: (Nov 28 or Dec 14, 2017). Community Development Director, James Aranda, advised the Commissioners that the minutes from the Dec 14, 2017 meeting were not prepared as of 1-23-2018.

APPROVAL: Chairman McCartney moved that the reading of the minutes be tabled.

MOVED: Chairman McCartney

SECONDED: Commissioner Moran

CARRIED: Motion passed on a vote of **4 FOR (Commissioner Gurule-YES; Commissioner Baca-YES; Commissioner Moran-YES; Chairman McCartney-YES)** and - **0 AGAINST**

5) SWEARING IN OF PARTICIPANTS

- Chairman McCartney swore in members of public who would be speaking during the hearing.



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6) ACTION ITEM(S)

A. Re-Organization of the County Planning & Zoning Commission

- **County Planning & Zoning Commission Oath of Office**

Oath was read by Planning & Zoning Director, James Aranda. Commissioners unanimously accepted by Commissioner Moran, Commissioner Gurule, Commissioner Baca, and Chairman McCartney

- **Election of Chair and Vice Chair**

Nominations were called for, Commissioner Baca nominated Commissioner Moran as Chairman, and Commissioner Gurule nominated Chairman McCartney to remain in position. After brief discussion

MOTION TO ELECT COMMISSIONER MORAN AS CHAIRMAN OF 2018-2019 P&Z COMMISSION BOARD WAS PASSED 4-0.

NOMINATION FOR CHAIRMAN MCCARTNEY FOR VICE CHAIRMAN OF THE 2018-2019 P&Z COMMISSION BOARD PASSED 4-0

2018 Planning & Zoning Board of Commission

Chairman: Sue D. Moran, District III

Vice Chairman: Michael McCartney, District V

Commissioner Frank Gurule, District I

Commissioner (vacant), District II

Commissioner Leroy Baca, District IV

- **Adopt Open Meeting Act for 2018**

Community Development Director James Aranda presented the Open Meetings Act for 2018 to the board and it was **UNANIMOUSLY APPROVED 4-0**

- **Adopt Robert's Rules of Order**

Community Development Director James Aranda presented the Open Meetings Act for 2018 to the board and it was **UNANIMOUSLY APPROVED 4-0**

- **Adopt 2018 County Planning & Zoning Commission Schedule**

Community Development Director James Aranda presented the Open Meetings Act for 2018 to the board and it was **UNANIMOUSLY APPROVED 4-0**

- B. CUHO 2017-498** *Kenneth and Mary Ann Best Request a Conditional Use Home Home Occupation Permit for an Assisted Living Facility in their Home to Provide Care for No More than 4 (four) Residents on Tract A-2, Land of Curtis Smith, located at 3 Kokopelli Trail, Los Lunas, NM, Zoned Outland District (OD) and containing approximately 1.50 acres.*

Background: The applicants are in the process of obtaining approval from NM Department of Health (NMDOH) to operate as an assisted living facility and are required to obtain a Home Occupation and Business permit from Valencia County before they can precede with the NMDOH application process. Documentation of the applicants' contact with NMDOH is included in Appendix J of the application. Department reviews were handed out on January 3, 2018. According to Public Works, Kokopelli Trail is a private road that is not owned or maintained by the county. In addition the applicants will need a fire inspection upon approval of this request before a business license can be issued. Aside from those departmental comments, no outstanding issues have been identified at this point in time. **Analysis:** This request is to house 1 to 4 elderly patients who require assistance with daily living. According to information contained in the application packet, the applicant is a registered nurse with 6 years of experience in hospital, outpatient, home care, and community health environments. Initially the applicants intend to operate their business between the two of them and plan to potentially hire 1 additional employee to assist with the night shift at a



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future date if necessary, which is below the allowable 2 additional employees allowed in conjunction with a home occupation as prescribed in Section 145.168 (A)(2) of the Valencia County Zoning Code.

Discussion: The applicants spoke on behalf of their intent and desire to have this home occupation conditional use. Commissioner questions: Commissioner Gurule (Question) if there was a fence. (Answer) yes entire property is fenced at least a 4' height. Commissioner McCartney (Question) if Mr. Best would be quitting his job and applying his nursing skills to do this job. (Answer) Not at first, Mrs. Best would be running the home facility and in the future will be working with the Veterans Hospital. Commissioner Gurule (Question) about signage. (Answer) Mr. Best was told that there could be no signage and the only one that Mr. Best will be required to place is "Oxygen In Use" by the front door. Commissioner Baca (Question) regarding the septic report inspection and if an advance treatment septic was required and in place in 180 days. (Answer) Mr. Aranda advised that the report reads inapplicable, Mr. Best advised the report was from 2016 and there is no advance treatment center it is a standard septic but does have 2 tanks for his home. Commissioner Baca (Question) the number of rooms in the home is six and the family consists of 2 adults and 2 children and if that meant that his kids would be sharing a room. (Answer) Mr. Best and his wife would be there as the two kids are in college. Commissioner Baca (Question) Where would the location of the shed be and will it be enclosed. (Answer) The property already has a storage shed on it and it is not visible from the road. Director James Aranda explained the difference from Permissive and Conditional which requires review by the board. There was nobody who spoke for or against the application. There was a vote to APPROVE the Conditional Use Home Occupation for two years with the condition that they house no more than 4 patients at any one time.

APPROVAL: Motion to approve the Conditional Use Home Occupation Request

MOVED: Commissioner Gurule

SECONDED: Commissioner Moran

CARRIED: Motion passed – Vote count of 4 FOR / 0 AGAINST (Commissioner Gurule-yes; Commissioner Baca-yes; Chairman McCartney-yes; Commissioner Moran-yes)

- A. Variance2017-494** *Jerry Nelson requests a Variance of the Side Property Line Setback (District V) Requirements from 15 feet to 7 feet for the Placement of a Pole Barn on the property on Tract B2, Land of Santa Ana Land LLC, located at 15 Tuki Court, Los Lunas, NM, Zoned Rural Residential 2 (RR-2) and containing approximately 2.11 acres.*

Request Title: Request for a variance on side yard setback requirements in a Rural Residential-2 (RR-2) Zoning District (Nelson, Jerry) Application #: VR 2017494

Legal Description: T7N, R3E, Section: 19, Map 70, NMPM; Tract B-2; Zoned Rural Residential-2 (RR-2); Filed in Plat Book L, Plat Number 251 in the office of the Valencia County Clerk, also known as 15 Tuki Court, Los Lunas, NM 87031.

Request Description: Jerry Nelson requests a variance of the side property line setback requirements from 15 feet to 7 feet for the placement of a pole barn on the property on Tract B-2, Land of Santa Ana Land LLC, located at 15 Tuki Court, Los Lunas, NM, Zoned Rural Residential 2 (RR-2) and containing approximately 2.11 acres.

Background: According to the application, the applicant(s) are requesting a variance of the side property line setback from 15 feet to 7 feet for the placement of a 60' x 20' pole barn.

Financial Impact of this Request: There are no foreseen long-term financial impacts associated with this request.

Analysis: According to the applicant's proposal letter contained in the application, the building in question would be used for the storage of hay and a tractor. The footings have already been poured but construction was halted once variance requirements were found. Pursuant to Section 154.058 (A)(1) of the Valencia County Zoning Code, the purpose of a variance is to provide administrative relief when a strict application of the zoning requirements of lot width, lot depth, building height, setback, access or other dimensional requirements would impose practical difficulties or unnecessary hardship. These difficulties or hardships may result from geographic, topographic or



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other physical conditions on the site or in the immediate vicinity. Based on all available information, the applicants have made every effort to come into compliance. Therefore, the Planning and Zoning Department recommends approval of this request.

Discussion: The applicant, Mr. Nelson spoke on his behalf of his reason for building of the structure, for storage of tractor, implements, hay storage/horse cover. Commissioner Baca (Question) How big is the barn is and what the storage purpose. Pictures were hard to see what was under the barn. (Answer)The barn had the lumber he is using for the build under the structure it is not running a business and using this structure for a business. Commissioner Baca (Question) What is behind the structure on the adjacent property. (Answer) the property behind the structure is an open alfalfa field and this subdivision can no longer split off as it has to be a minimum of 2 acre lots. Mr. Nelson indicated that his front fence is a 6' cinder block wall and his intent is to finish that wall all the way around his property for additional security. Public Comment: Demetrio Chavez: Concerned that Mr. Nelson built the building without permits and not calling for setbacks and wants to change from 15 to 7 and built it with a 2 foot overhang and 7 foot the water will go into his walkway. Mr. Chavez says he has already allowed him 10 inches since he put his fence in 10 inches in his land. Mr. Chavez questions whether he is running a business from his land but Mr. Nelson is building it for Hay but there is a trailer of lumber every day and that there is not hay only lumber. Says Mr. Nelson also has another shed back there that has a light on the back shed that comes on every night and shines right in Mr. Chavez's bedroom window and he cannot sleep. Chairman McCartney (Question) how close is your house from the structure Answer about 30 feet from Mr. Chavez home. (Director Aranda- Let the record show that Mr. Chavez brought pictures and wanted to hand them around to show as an exhibit. Photos were passed around for the conditioners to review.) Commissioner Baca (Question) It is hard to determine from photos that he does not see more sheds he sees a back barn inquired if the light was on all night. (Answer)Mr. Chavez said it is on all night every night. Mr. Director Aranda presented the plat maps and showed that the structure is 40.5 feet from the property line and the other structure to the north is showing a similar distance so it is more than the 20 feet that Mr. Chavez had given as distance. Director Aranda summarized that with the 2 foot overhang there is concern for water drainage into the adjacent property. Would like to know what would be in place for rain fall. Chairman McCartney (Question) Mr. Chavez had anything else to add. (Answer) Mr. Chavez says with the pitch roof the water will come into his land. Chairman McCartney dismissed Mr. Chavez and requested Mr. Nelson back to the podium. Chairman McCartney (Question) What is the trailers of wood? (Answer) Mr. Nelson said that the wood in the photos was the wood he bought to do the building. Mr. Nelson stated he works on jobs and if there is any wood left over from a project job he may bring it home but turns around and sends it out on the next project. He does not bring semi-trucks of lumber to his property. Structure is built backed to a 1 acre alfalfa field. He has had Tibbets survey the property and the existing fence is on the property. Mr. Nelson explained that he built the barn with a 2 foot overhang and a 2/12 pitch toward Mr. Chavez property and there will be a gutter to divert the water. Chairman McCartney (Question) Are you putting in 3 stalls one for a tractor one for hay and what the third one is for. (Answer) Mr. Nelson owns 2 trucks and 1 does not fit in his garage and would like it under cover. Commissioner Moran (Question) Is it possible to put a down shield on the light. Answer: It is a motion light that comes on used for security in the yard there have been animals and people that have come in to the yard at night and have stolen things. It is used as yard security. Commissioner Moran (Question) Can you put a down shield. (Answer) Yes and will adjust the sensitivity of it but that particular barn is over 150 feet from Mr. Chavez. The Departmental reviews show no issues. Director James Aranda directed the commission that if there were going to be any conditions he would recommend the gutter and down spout system be installed although it is not an enforceable requirement. Chairman McCartney advised that they can make it a condition of the motion. Mr. Nelson advised that it already included in the plans.

APPROVAL: Motion to approve the request for a Variance for side setback with the condition that a gutter and down spout are installed and no water imposes on Mr. Chavez

MOVED: Commissioner Moran

SECONDED: Commissioner Gurule

Additional Discussion/Comments: Commissioner Baca inquired to need of variance and purpose if there would be reason why other than he just started work. Chairman McCartney and Director James Aranda advised that Mr. Nelson is trying to rectify situation of what has already been built in violations. Intent of this Variance is to address the setback and assess if there is any impact on the adjacent property. This is the intent of the gutter and down spout as the redirection of the watershed to remain on Mr. Nelson's property and not flow onto Mr. Chavez. Primary



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concern is the watershed and guttering with the down spout will address the acceleration of the watershed on the 2/12 slope, guttering and downspout prevent any water or flooding negative impact to Mr. Chavez. As far as the lighting issue until there is a dark skies ordinance it is unenforceable by the ordinance. We can mitigate any of the negative impacts of a violation like of to the neighbor and it is understandable to ask why have and ordinance if no one is going to read and adhere to it. The County is trying to get the word out there and as we catch them we work with them to gain compliance and that is the purpose of the Planning and Zoning review board to make these hard determinations. Commissioner Baca requested a question to Mr. Chavez to see if his land is higher or is sloped into his land. Mr. Chavez said that the water will run into his property from Mr. Nelsons. Mr. Chavez also says that the gutters will not stop the water as the rain will just splash out over them because he has gutters on his house and the rain goes right over them splashing out. Also commented that if we have ordinance and it says you have to get a permit to build something. Chairman McCartney commented that was why Mr. Nelson was appearing before the board. Mr. Chavez stated that he was not happy if you put gutters the water is still going to go to his property. Mr. Chavez wanted someone to go out there, Chairman McCartney explained that they have already been there and there were no issues reported by the departments. Additional discussion between Mr. Chavez and Chairman McCartney regarding why Roads Department was involved Chairman McCartney explained it was protocol since it was not on a road it is in back.

CARRIED: Motion passed on a vote of 3/1 (Chairman McCartney-yes; Commissioner Gurule-yes; Commissioner Baca-no; Commissioner Moran-yes)

- B. Variance2017-512** *Jason Cameron Requests a Variance of the Front Property Line (District IV) Setback Requirements from 30 feet to 20 feet for the Purpose of Building an Open Car Port on Tract 208B3, MRGCD Map 97, located at 5 Flamingo Lane, Belen, NM, containing approximately 1.04 acres.*

Request Title: Request for a variance on front yard setback requirements in a Rural Residential-2 (RR-2) Zoning District (Cameron, Jason) Application #: VR 2017512

Legal Description: T5N, R1E, Section: 12, Map 97, NMPM; Tract 208-B3; Zoned Rural Residential-2 (RR-2); Filed in Plat Book 8, Plat Number 265 in the office of the Valencia County Clerk, also known as 5 Flamingo Lane, Belen, NM 87002.

Request Description: Jason Cameron requests a variance of the front property line setback requirements from 30 feet to 20 feet to build an open carport on Tract 208-B3, located at 5 Flamingo Lane, Belen, NM, Zoned Rural Residential 2 (RR-2) and containing approximately 1.04 acres.

Background: According to the application, the applicant(s) are requesting a variance of the front property line setback from 30 feet to 20 feet to build an open carport to protect vehicles from weather damage.

Financial Impact of this Request: There are no foreseen long-term financial impacts associated with this request.

Analysis: According to the applicant's proposal letter contained in the application, vehicles were damaged during the last hail storm. Pursuant to Section 154.058 (A)(1) of the Valencia County Zoning Code, the purpose of a variance is to provide administrative relief when a strict application of the zoning requirements of lot width, lot depth, building height, setback, access or other dimensional requirements would impose practical difficulties or unnecessary hardship. These difficulties or hardships may result from geographic, topographic or other physical conditions on the site or in the immediate vicinity. Based on all available information, the applicants have made every effort to come into compliance. Therefore, the Planning and Zoning Department recommends approval of this request.

Discussion: Jason Cameron explained that he had hail damage and with existing carport and the two cars that they have do not fit both of their vehicles. Commissioner Baca (Question to Director James Aranda) were letter sent to neighbors as public notice (Answer from Director James Aranda) yes were sent out beginning of January. Mr. Cameron advised had heard from neighbors inquiring what the letters were about. One of the neighbors was present



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in support of the variance. Commissioner Baca (Question) Photos show you have adjacent neighbors will this cause any obstructed views or roads issues it is hard to unable to tell from neighbors yards. (Answer) Mr. Cameron explained with an open carport there should be no impact and he will not be adding sides to enclose the carport. Director James Aranda, advises that item three shows calculate distance from middle of road to fence (Question) Would the end of carport be even to fence? (Answer) Jason stated no that it would be 20 feet back from the fence line. Commissioner Gurule (Question) is hail damage the only damage you get. (Answer) Mr. Cameron stated no we get all inclimate weather damage. It has been a hardship to pay the deductibles. Last time was Oct 2017. Public comments: Mary Barbe, neighbor to East - stated that it would be no visual impacts. Commissioner Baca (Question to Mary Barbe) Are you are adjacent to Mr. Cameron and did you see any obstructions. (Answer) no.

APPROVAL: Motion to approve the Variance Request
MOVED: Commissioner Baca
SECONDED: Commissioner Moran
CARRIED: Motion passed – Vote count of 4 FOR / 0 AGAINST (Commissioner Gurule-yes; Commissioner Baca-yes; Chairman McCartney-yes; Commissioner Moran-yes)

Letter will be sent and anyone can appeal the decision.

Discussion: Commissioner Moran concerned that a lot of variances issued when does it stop. Chairman McCartney commented that you have to take into consideration the human element. Constant changes in product and in growth of development yet the ordinance has not changed in years. Director Aranda gave discussed that the department is going through staff changes and a learning process so he wanted to acknowledge that.

Commissioner Baca commented that the discussion on Zone Change will be complicated as they have already been calling... Ag preservation to RR2 that will be a battle and advised that there will be some attorneys.

Internally that request was not ready to be on agenda with an incomplete application; Director James Aranda did meet with one of the brothers, Mr. Sanchez. They have not completed the application and this is one of the changes that the Planning and Zoning Department is working to clean up.

8) Next Meeting:
Tuesday- March 27, 2018 @ 3:00 pm

9) Adjournment