



Approved 5-0
March 28, 2017

VALENCIA COUNTY PLANNING & ZONING COMMISSION

Tuesday February 28, 2017@ 3:00 pm
M-I-N-U-T-E-S
Valencia County Administration Building
County Commission Chambers
444 Luna Ave, Los Lunas, NM 87031

PRESENT	ABSENT
Michael McCartney, Chairman	Sue Moran, Member
LeRoy Baca, Vice-Chair	
Frank A. Gurule, Member	
Steven R. Otero, Member	
James M. Aranda, Community Development Director	

1) Call the meeting to order

Chairman McCartney

2) Pledge of Allegiance

Commissioner Leroy Baca

3) Approval of Agenda

Motion to approve by Commissioner Baca

Seconded by Commissioner Otero

Approved 4-0

4) Approval of Minutes February 7, 2017

Mr. Aranda: Mr. Chairman I had a last moment addition to the minutes. I had thought it was important that we have the discussion item included in the minutes because we talked about pertinent information for upcoming meetings and with that decision coming with such short time Ms. Maes was unable to actually finalize the minutes so I would prefer if we just defer and approve these minutes at the next hearing.

Chairman McCartney: So table?

Mr. Aranda: Yes sir.

Chairman McCartney: Do we accept Mr. Aranda's recommendation?

Motion to approve by Commissioner Gurule

Seconded by Commissioner Otero

Approved 4-0



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5) Swearing in of participants

Chairman McCartney

6) Action Item(s)

A) Request for a Conditional Use for a Second Dwelling

Application: #2017026

Applicant: Rose Candelaria; Kimberly Candelaria as Agent

Location: 89 B La Entrada Road, Los Lunas, NM 87031

Purpose: To allow for a second mobile home for tenants to aid in the care of Mrs. Candelaria as well as property maintenance

Legal Description: T6N; R2E; Section 34; Map 95; N.M.P.M.; Lands of Sebastian Mirabal; Tract A; 1191 Split; 1.00 AC; (C-5-34); Zoned RR-1; Also known as 89 B La Entrada Road, Los Lunas, NM 87031

This property is located approximately 0.32 miles south of Vallejos Rd. off of Highway 47

This property falls with District IV

County Commissioner Charles Eaton ♦ P&Z Commissioner LeRoy Baca

Mrs. Candelaria: My name is Kimberly Candelaria and I am here on behalf of my grandmother Rose Candelaria. The reason for the request for conditional use for the second dwelling is because my grandmother is 77 and she lives alone. She recently lost my grandfather and in the second dwelling are close family friends. I work full time and am not able to be there with her all day. She cannot drive and needs help getting to the store and doctor's appointments. The Leyba's do help her get around and also help her if she needs help around the yard and do help maintain the yard. They are a big help to us when we are not able to be there. She does need that help for day to day activities.

Commissioner Baca: Looking at the picture here I see three dwellings. There is a house and then two trailers.

Mrs. Candelaria: No. There are only two trailers on the property. That third trailer was the old mobile home. She just purchased a new one and that trailer is already moved off the land. There is also a carport in the back.

Commissioner Baca: This is one acre. Is it owned by Sebastian...

Mrs. Candelaria: No it is owned by Rose.

Commissioner Baca: And Rose is your grandmother?

Mrs. Candelaria: Yes Rose is my grandmother.



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Commissioner Baca: You have one dwelling on there now and you are going to put a second dwelling there?

Mrs. Candelaria: The second dwelling is already on the property and they are working on the permit for their mobile home and that paperwork is in process.

Commissioner Baca: So you are renting the first one?

Mrs. Candelaria: The first dwelling, that is the owner of the property and that is owned by Rose Candelaria.

Commissioner Baca: And she is renting that one right?

Mrs. Candelaria: Is she renting the one she is living in?

Commissioner Baca: Yea. Because...no I thought there was going to be a second one. A third?

Chairman McCartney: There are two on there Commissioner Baca and they are replacing the old one.

Mrs. Candelaria: Yes. There is a brand new mobile home on there. The old one was moved off and the new one was placed on there.

Commissioner Baca: I was kind of confused over here because it said there was a second dwelling and I thought I guess you moved it out.

Mrs. Candelaria: There is a dwelling that is right there in the middle and the one on the side is the one that we are requesting the conditional use for.

Commissioner Baca: Ok and your grandmother is going to live there. I am not sure if this a proper question to ask but if you have a trailer like that with somebody that needs some help does it require that we have or does the county require that they have handicap accessibility?

Mr. Aranda: Generally if it is a public facility we have authority to require ADA. That is federal requirement. When it comes to private personal property I don't believe we have the authority to require it. It would go a long way in helping Mrs. Candelaria.

Commissioner Baca: And this a request for one year right? Because after one year we actually have to go back and renew it.

Mr. Aranda: Yes sir. Pursuant to section 154.105(c)(1) the temporary or secondary dwelling is allowed for a period of up to two years.



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Commissioner Baca: Up to two years. But you have to go back and renew it at the end of the year?

Mr. Aranda: It is a little bit of a grey area in that we have approved a temporary extension. It is nothing that can be there indefinitely and is temporary in nature so it would have to come back to the department for any kind of extension though.

Commissioner Baca: I know we have done a lot of approving in situations like this but how do we remind them that they need to renew it after the year or how do they know this? Because I know that in the area there is one trailer and then a second trailer and then a third trailer and I don't know that we want to do that or allow that. I am not speaking directly about yours, but I have seen it in the area and we want to make sure that we maintain something that is suitable for the area based on the comprehensive plan.

Mrs. Candelaria: We have spoken with the family that will be taking on that second dwelling and they agree to uphold anything that has to be done in order for them to stay there.

Mr. Aranda: Mr. Chairman and members of the Commission, you have before you some photographs that were taken by our Code Enforcement Department on the subject property just to give you an idea of condition of the mobile home and then the requested secondary dwelling. As you can see the site itself is well kept and in good condition. It is an older mobile home and I do believe it is permissible.

Chairman McCartney: The property is clean?

Mr. Aranda: The property is in immaculate shape, yes.

Chairman McCartney: In regards to Commissioner Baca's question James, and correct me if I am wrong. You keep a list in the computer that automatically comes up at the end of the time frame for you to realize that it needs to be renewed correct?

Mr. Aranda: We are in the process of developing a tracking system to make sure that these temporary uses are flagged and that way we can follow up with applicants.

Chairman McCartney: Commissioner Baca's question was well within the realm.

Mr. Aranda: Yes that is well within the realm. We are in the process of developing a more up to date program to do that. I will be 100 % honest, at least in my first tenure that was something towards the end that I realized we needed to start doing a better job of tracking these. I cannot comment on what happened in the time that I was not here. But to my knowledge, we have begun the process of tracking these temporary uses and conditional uses and our goal in our department is to improve upon that system and to ensure uses that are



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temporal in nature are in fact temporal and that applicants do come in for the required follow-up just to get a handle on things.

Chairman McCartney: That was a good question and a good comment. I think James will take care of it.

Commissioner Otero: So the older mobile home is the one you are asking to get approved as a second dwelling or the newer one?

Mrs. Candelaria: The older mobile home.

Commissioner Otero: And how long has the older mobile home been there now?

Commissioner Baca: It has been there for some time.

Mrs. Candelaria: Now it has...and we were uh...there was some confusion about it being permitted. That was something that we were going through when we were getting the permit for the new mobile home to be put on there. I was working with Kerrie in order for them to get everything up to where it is supposed to be as far as paper work and what they need for that mobile home to be permitted. Again my grandfather passed away so whatever went on when he was, you know, when that was placed on the land I am not sure, but they are working on the paper work in order for that mobile home to be permitted on that property and have submitted that packet.

Commissioner Otero: I know at one time there was a restriction as to the age of mobile home and size of mobile home that could be brought into the county. Is that still in place?

Mr. Aranda: I don't...I think those regulations are conforming to HUD who basically prescribes the length, the square footage, etc. for mobile homes.

Chairman McCartney: Because back in the day James like Steven is referring to it had to be a minimum of 840 square feet.

Commissioner Otero: And the age. So is that still in place?

Mr. Aranda: I would defer to Code Enforcement who is in charge of the mobile placement certificates. I can thumb through the ordinance real quick if you want.

Commissioner Otero: That is just one question I have. My next question is if this mobile home has been here for such a long time, it is not skirted. And I guess maybe they don't want to skirt it until they find out what is going on? Could we, if it is approved, put regulation that it has to be skirted within a certain period of time?

Commissioner Baca: Yes we could definitely.



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Mr. Aranda: Ms. Maes has a comment.

Ms. Maes: The restrictions on mobile homes right now are the size which is 840 square feet. As of right now we do not have an age restriction. As far as the mobile home being skirted, if the property is being rented for the mobile home then skirting is not required.

Commissioner Baca: I think we have the prerogative to ...

Ms. Maes: It is not permanent foundation. Anything on a permanent foundation needs to be skirted.

Chairman McCartney: I think as part of the approval for the conditional use we can put a requirement.

Ms. Maes: Absolutely yes sir. And Mr. and Mrs. Leyba, the occupants of the second mobile home, have already gone through the process of getting the mobile home permitted and on the tax rolls and have complied with everything that has been asked of them in a very timely manner. This was just the next step in the process.

Commissioner Otero: My next question is this. Do you have approval by...well I will follow up with another question. Is there one septic tank or two septic tanks?

Mrs. Candelaria: There is one right now.

Commissioner Otero: And they are all tied to one septic tank?

Mrs. Candelaria: Yes. There are three people living on the property which is my grandmother and Mr. and Mrs. Leyba.

Commissioner Otero: Have you received approval from the environmental division on the use of two mobile homes being under...?

Mrs. Candelaria: We are waiting answers from the Environmental Department but if it is stated that we do have to put a septic tank on the property we are ready to do that.

Commissioner Otero: This kind of sets for me being new/old, it is my belief to be consistent with anything that is done and to me it is like if approved then it opens the door for other people to keep on moving on and this is in your district Mr. Baca and that is concerning to me, number one. I am set on a vote yet. I do want to find out more information. It is hard for me to be in favor of this number one being two mobile homes, and number two we forget what is going on on the east side of La Ladera. I am sure if this was right next to Mr. Baca's house and right off of Highway 47 we would have the people from Tome here. Am I right?



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Commissioner Baca: That's right.

Commissioner Otero: I wish that people would take concern about the county as a whole rather than just a certain select area. So that is just my concern. I know it is needed and I know our elderly need the care but I am leaning towards holding off until we get an approval from the environmental department saying "yes it can be done" or "no it can't be done". That is just something I would like to see first. And another thing, I don't have a problem approving it, but I would like to see it skirted. The other mobile home is nice and skirted and I think it just looks good for the property as a whole if that was also a condition. Those are my concerns and I looked at comments from other agencies in the county and there was no concern what so ever, but I did not see anything there from the environmental department such as whether there is an application there or is there a septic tank and is there enough leach field, and so on. Those are my concerns.

Ms. Maes: Mr. Chairman and Commissioner Otero, I did speak with Katina Wilson at the Environmental department and she has been just as busy as we have so we have not been able to establish an email chain of communication for this, but when I did speak to Ms. Wilson who handles the septic system permitting, she is aware of the situation. Even though the newer mobile home is a bedroom size larger, she did agree that they can hook up the two mobile homes temporarily to the one septic system until such time as the Planning & Zoning Commission should approve or deny the conditional use second dwelling at which time she will speak with the applicants. Being as the number of people has not changed, she may take that into consideration or they may need to either add a septic system or extend the leach field. So she is very well aware of that. I also received calls from two neighbors asking if an additional mobile home was being installed and I explained that they are just asking for permission for this one. The two neighbors I did speak to stated they did not have any problem with that and the yard is kept very nicely, and are very nice quiet people and would not approve the commission approving this. I did not receive any phone calls or letters of opposition.

Commissioner Baca: Mr. Chairman if you look at one of the pictures you can see both trailers. Is the one on the extreme right the one that is skirted? Is that it?

Chairman McCartney: Yes.

Commissioner Baca: So where about is the septic tank? I can see the well by the white car. At least I think it is the well.

Mrs. Candelaria: The septic system tank is located-if you see there is a red truck that is towards the back of the property, the septic tank is behind that.

Commissioner Baca: We could require that they put a leach line for the other one. How many total people will live on the property?



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Chairman McCartney: We cannot require that Commissioner Baca.

Mr. Aranda: Being that you are-you have the authority to enact any type of requirements or conditions, it would be possible to make approval conditional upon receiving approval from NMED. Also the requirement of the (could not understand) is beyond the extraordinary (could not understand).

Commissioner Baca: The only reason I suggest that is-how many people are going to live in both trailers? Three people?

Mrs. Candelaria: My grandmother in hers and then two-Mr. and Mrs. Leyba in the second dwelling.

Chairman McCartney: Are Mr. and Mrs. Leyba here today?

Mrs. Candelaria: Yes they are.

Chairman McCartney: Commissioners do you have any questions for the Leyba's?

Commissioner Otero: Not at this time. She seems very well informed. But I do have follow up on that septic system. To my understanding it is my understanding that it is 550 gallons of usage and they can have up to 5 bedrooms. So I think if it was an issue they would have been cited a long time ago. But as Mr. Aranda stated we can make it a condition that EID approve the use of the mobile home as a second dwelling. I would hate to see them go through the expense of this for a temporary two year process. I can look at it both ways. My concern is the cleanliness of the property.

Commissioner Gurule: I agree with Commissioner Baca and Commissioner Otero as far as there being a level playing field here for everyone. I also noticed here that Dr. Nelson provided a letter that Mrs. Candelaria is at high risk for falls and we should consider her health condition. Two years, alright Mr. Chairman?

Chairman McCartney: You can go for a year, it depends on the motion. The max is two years.

Commissioner Gurule: We also need an address for that second dwelling right?

Mr. Aranda: That would be correct.

Commissioner Gurule: And who would assign that address? Mr. Sampson?

Mr. Aranda: That is correct.

Commissioner Gurule: So would that come after the approval?



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Mr. Aranda: Yes Sir.

Commissioner Otero: Is the second mobile home owned by the same family?

Mrs. Candelaria: The Leyba's, it is owned by the Leyba's.

Commissioner Otero: Your family members or the Leyba's?

Mrs. Candelaria: My grandmother owns her mobile home and the Leyba's own theirs.

Commissioner Otero: Here is another thing I have always said for the last seven years. We have rules and regulations but we never have enforcement. And you guys have dealt with this constantly. So the Leyba's decide they don't want to live there anymore and they leave the trailer there and put an undo expense on the people who are there and it becomes an issue and then we drag them to court and it goes on for years and we can't move it and its falling apart. That is another thing that troubles me. It would be a lot easier for us to go forward if it was your grandmother's trailer as well since she would own them both and then if they move out someone else could move in a take care of here.

Commissioner Baca: I do agree with you Commissioner Otero because some people just want to rent another piece and make a little bit more money and then it becomes a real mess in the area and we want to avoid that. We want to make sure that we have rules and we abide by those rules. That we have a community that is presentable and livable and making sure that everybody has their area kept up. This is what my concern is just like yours because I have seen it before. Maybe half a mile from where I live there is a trailer among all these beautiful houses that has never been kept up or anything so that is my concern. We need to make sure that if we say one year there is the definity of one year. Somebody needs to checks.

Chairman McCartney: Ma'am please don't misunderstand I think every gentleman up here is concerned about your grandmother and they just want to make sure that the rules are followed and that your grandmother is not taken advantage of. Commissioner Otero made a great point. If that family wants to get up and leave then who is taking care of your grandmother then?

Mrs. Candelaria: And if I might add, for as long as they have been there they have never mistreated my grandmother. They call every day to check up on her and have never had a problem with them. I don't have one bad complaint. They have kept their word and take care of the property.

Chairman McCartney: Commissioners would you like to talk to Mr. & Mrs. Leyba.

Commissioner Baca: Sure bring them up.



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389

390 **Mr. Leyba:** My name is Pete Leyba and I am here to ask if you will let me stay there. I help
391 Mrs. Candelaria out. We have been friends for a while.

392

393 **Commissioner Baca:** Mr. Leyba, how do you help Mrs. Candelaria?

394

395 **Mr. Leyba:** We help her if she needs to go to the doctor or to the store, and keep the
396 property clean and take care of the weeds. We check on her to make sure she is doing ok.

397

398 **Commissioner Baca:** And which trailer do you live in? The one that is skirted or not
399 skirted?

400

401 **Mr. Leyba:** The one that is not skirted.

402

403 **Commissioner Baca:** How long have you lived in this trailer?

404

405 **Mr. Leyba:** About 5 years.

406

407 **Commissioner Baca:** And you haven't skirted the trailer?

408 **Mr. Leyba:** Not at this time.

409

410 **Commissioner Baca:** Why?

411

412 **Mr. Leyba:** Because I didn't know.

413

414 **Commissioner Gurule:** What would be the cost of skirting that trailer anyway? Does
415 anybody know?

416

417 **Mr. Leyba:** I have no idea, expensive.

418

419 **Mrs. Candelaria:** My grandmother paid \$900 for hers.

420

421 **Commissioner Otero:** Mr. Leyba, I utilized Google earth and at one point it looks like there
422 is open sewage in the back by your septic system. Are you aware of that? Is there open
423 sewage.

424

425 **Mr. Leyba:** No there is not.

426

427 **Commissioner Otero:** I am still good with it but the septic system is very important as well
428 as the skirting and a few other things.

429

430 **Commissioner Gurule:** I agree.

431



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Commissioner Otero: I know it's a hardship that you don't have the money, but here again this is something we need to take into consideration for the whole county and not just your neighborhood. I don't want somebody to walk up and say "hey you approved theirs, and not mine".

Chairman McCartney: Thank you Mr. Leyba. Let me ask the audience if there is anybody who would like to speak on their behalf? (There was no body). Is there anybody who would like to speak against this request? (There was nobody).

Commissioner Baca: I make a motion that we accept the temporary dwelling providing that they skirt the trailer and that the sewage should be approved by the NMED.

Commissioner Otero: Can we put a time line on the skirting?

Commissioner Baca: Let's give them a month. Mr. Leyba how long until you can put a skirting on their?

Mr. Leyba: I can do it by the end of the month.

Commissioner Baca: We will give you 60 days.

Mr. Aranda: There has been a motion to approve this temporary second dwelling under the condition that skirting is provided around the temporary home within 60 days. Also the septic condition is approval by NMRD if needed.

Commissioner Otero: Are we looking at this for two years?

Commissioner Baca: I think one year would be good because I think the maximum is two years.

Commissioner Otero: I believe administratively it can be continued after that?

Mr. Aranda: No I don't believe that is the case.

Commissioner Otero: It would have to come before us again?

Commissioner Baca: It has to come before us again.

Chairman McCartney: I think because of the concerns one year is good.

Commissioner Otero: Again I would hate to have them come back and pay another fee whatever it is.

Chairman McCartney: That is up to Commissioner Baca. Do you want to go two years?



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Commissioner Otero: Couldn't we say that the administration can approve it provided all the conditions are still met so they don't have to pay the money and see us again?

Chairman McCartney: The Planning & Zoning Commission gives you the authority to approve this administratively.

Commissioner Gurule: Mr. Chairman I would like to say two years. I really would.

Commissioner Baca: Let's redo the motion and make sure we put two years instead of one year.

Mr. Aranda: Mr. Chairman and members of the commission there is a motion on the floor to conditionally approve the second dwelling. Condition one being skirting is provided around the secondary second dwelling within 60 days. Condition two being approval be granted only upon concurrence or approval by NMED on the existing septic system. Third condition being that it be approved for two years.

Chairman McCartney: Correct. Do I have second?

Commissioner Otero: I second.

Roll Call Vote:

Commissioner Otero	Yes
Commissioner Gurule	Yes
Commissioner McCartney	Yes
Commissioner Baca	Yes

Motion passed 4-0.

B) Request for a Variance on Setbacks

Application: #2017041

Applicant: William E. West III and Jennifer West

Location: 3118 Highway 47, Los Lunas, NM 87031

Purpose: Requesting setbacks of 9 ft. 6 in. from property line for storage shed to maintain access to septic system

Legal Description: T6N; R2E; Section 10; Map 82; N.M.P.M.; Tract 14H1B2A; 1.16 Acres; Zoned RR-2; Also known as 3118 Highway 47, Los Lunas, NM 87031

*This property is located approximately 0.05 miles south of La Frijolaria Ln off of Highway 47
This property falls with District II*

Mr. West: My name is William West.



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522 **Chairman McCartney:** And I assume that person next to you is Jennifer?

523

524 **Mrs. West:** Yes sir.

525

526 **Chairman McCartney:** Just give a little background sir.

527

528 **Mr. West:** We started to put a portable next to our house and did not apply for a permit
529 originally because I was unaware that anything over 150 square feet needed a permit. I
530 wasn't aware of the zoning rules. We placed it about 9 feet 6 inches from the property fence
531 so we could still access the back gate that goes into the back yard to the existing septic tank.
532 If we put it any closer to the house we wouldn't have that access and it would be too tight of
533 an area.

534

535 **Chairman McCartney:** So all you're asking for as far as a variance is a little over 5 feet? Is
536 that correct Mr. Aranda?

537

538 **Mr. Aranda:** That is correct.

539

540 **Chairman McCartney:** Mrs. West would you like to sit in?

541

542 **Mrs. West:** No I don't think so.

543

544 **Chairman McCartney:** Commissioner Otero?

545

546 **Commissioner Otero:** They have a nice place and everything they do looks really nice. I did
547 notice in our paper work is that the set backs are more concerning to the fire department and
548 they have no concerns with that as well. I think it is below 100 square feet that you don't
549 need a permit? I don't know what it is. Also it is portable and it can be moved at any given
550 time. I know the building division has their requirements so I have no issue.

551

552 **Chairman McCartney:** And I agree with Commissioner Otero in regards to the fire
553 department. As long as they have access between the building and whatever they are fine.

554

555 **Commissioner Baca:** If you look at the sketch they submitted to us, why did you not push it
556 more towards the fence line?

557

558 **Mr. West:** To fence in the back area? I am not sure.

559

560 **Mrs. West:** The way the drive curves to house it just looks physically nicer there and we
561 were not even thinking about how far in the back to put it. That is where the ground evens
562 out as well also. It was the easiest way for it to level out and where everything was flat and
563 symmetrical.

564

565 **Commissioner Gurule:** The shed is going to be strapped down correct?



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566

567 **Mrs. West:** Yes it will be.

568

569 **Chairman McCartney:** Is there anyone here who would like to speak in favor of this
570 request? (There was no one). Is there anyone here who would like to speak against this
571 request? (There was no one).

572

573 **Commissioner Otero:** I make a motion to approve the variance on set-backs as requested.

574

575 **Commissioner Baca:** I second the motion.

576

577 **Roll Call Vote:**

578 Commissioner Otero Yes

579 Commissioner Gurule Yes

580 Commissioner McCartney Yes

581 Commissioner Baca Yes

582

583 Motion passed 4-0.

584

585 **8) Next Meeting:**

586 Tuesday- March 25, 2017 @ 3:00 pm

587

588 **9) Adjournment**

589 Motioned by Commissioner Gurule

590 Seconded by Commissioner Baca

591 Motion carries 4-0