



Town of Mesilla, New Mexico

PZHAC WORK SESSION & MEETING MINUTES JANUARY 19, 2021

THE PLANNING, ZONING AND HISTORICAL APPROPRIATENESS COMMISSION (PZHAC) WILL HOLD A WORK SESSION VIA TELECONFERENCE ON TUESDAY, JANUARY 19, 2021 AT 2:30 P.M. TO JOIN THE MEETING BY PHONE DIAL 1-346-248-7799, THEN ENTER Meeting ID 603-754-4231 PASSWORD 193857.

- A. Submitted by Samuel Kane; a request to discuss plans to construct a rock wall around a residential property at 2610 Calle Tercera (Case 061151) Zoned: Historic Residential (HR)

The applicant was not present. Staff provided a brief review of this request, explaining that a decision on the case had been postponed at the December 4, 2020 PZHAC meeting in order to allow the applicant to provide the PZHAC with more detailed plans of the proposal. Tom Maese, Chief Inspector for CID, stated at the time that that CID would like to see more of a detailed rendering with better dimensions, especially with respect to the arches over the irrigation ditch. This has been provided and there were no further issues.

- B. Submitted by Cesar Huizar for “Casa Blanca de Mesilla” a request to discuss plans to construct a commercial building and conduct a retail operation on two properties located at the southeast corner of Avenida de Mesilla and Tierra de Mesilla. Zoned: General Commercial (C)

The applicant and his contractor (Al Medina) were present by zoom to discuss the request and answer any questions that might arise. Staff provided a brief review of this request, including the fact that the PZHAC heard this proposal at their January 4, 2021 PZHAC meeting and requested that the applicant provide further information on the fence, sign, and parking area. These issues discussed at this meeting in further detail, and included handicapped parking requirements, the style of the proposed parking structure, the fencing, and the fear that a mistake by the PZHAC on this property could set a precedent for the area. Commissioner Salas stated that the PZHAC was ready to see a more detailed site plan and elevations of the building with dimensions and more details.

There were no further issues.

- C. Submitted by Kevin McGinley of McGinley Construction, Inc. for Matthew Abrams, a request to discuss plans to construct an addition on a dwelling located along an easement at 2852 Snow Road. Zoned: Single Family Residential (R-1)

The applicant and his contractor (Kevin McGinley) were present by zoom to discuss the request and answer any questions that might arise. Staff provided a brief review of this request, including the fact that the PZHAC heard this proposal at their January 4, 2021 PZHAC meeting and requested that the applicant provide proof that the issues of access to the property and the overall size of the property recognized by the Town be addressed, including approval of the access road by Kevin Hoban, Mesilla Fire Chief. Mr., McGinley explained that the applicant, Matthew Abrams had purchased the property five years ago as four one-acre parcels, and that the Town had issued a permit to build the dwelling in 2009. The fence between the easement existed prior to that time. Mr. Abrams stated that he is willing to remove the fence in order to improve the access to his property and meet the Fire Code requirements for access by emergency vehicles.

There were no further issues.

- D. Submitted by Brad and Debbie Foreman, a request to discuss plans to build a residence and a structure with a 600 square foot casita, a pool, a workshop, and a studio on a five acre property located at 2725 Old Farm Road between Old Farm Road and Stanford Road along the Gillem Lateral. Zoned: Rural Farm (RF)

The applicant was present by zoom to discuss the request and answer any questions that might arise. Staff provided a brief review of this request, including the fact that two buildings will be the same size, and that each building will consist of a metal shell. The interiors of each shell will be finished by a local contractor according to the floorplans and drawings provided to staff. The proposal appeared to meet MTC requirements for a

dwelling with a guest house, pool, storage building and garage. Commission Chair Lucero stated that the plans need to be reviewed by the “Architectural Review” Committee, and then brought back to the PZHAC for review.

There was no further discussion.

THE PLANNING, ZONING AND HISTORICAL APPROPRIATENESS COMMISSION (PZHAC) WILL HOLD A REGULAR MEETING VIA TELECONFERENCE ON TUESDAY, JANUARY 19, 2021 IMMEDIATELY FOLLOWING THE WORK SESSION. TO JOIN THE MEETING BY PHONE DIAL 1-346- 248-7799, THEN ENTER Meeting ID 603-754-4231 PASSWORD 193857.

I. PLEDGE OF ALLEGIANCE

II. ROLL CALL AND DETERMINATION OF A QUORUM

All Commissioners were present. There was a quorum.

Other attendees:

Tom Maese (Chief Inspector-CID); Larry Shannon (Mesilla Staff); Cesar Huizar (applicant-Casa Blanka); Al Medina (contractor for Casa Blanka); Matthew Abrams (applicant); Kevin McGinley (contractor for Matthew Abrams); Debbie Foreman (applicant – dwelling); Susan Krueger (Town resident)

III. CHANGES/APPROVAL OF THE AGENDA

The PZHAC determined that Discussion Items 2 and Case 061156 were not ready for decisions at this time and decisions on these the items were to be postponed to a later date. Commissioner Houston made a motion to approve the agenda as amended, seconded by Commissioner Prieto, and approved by a vote of 5 – 0.

IV. *ACCEPTANCE OF THE CONSENT AGENDA

Note: Items on the agenda indicated by an asterisk () are on the consent agenda and will be voted on with one motion unless a Commissioner requests that a specific item be removed for discussion.*

There were no changes to the Consent Agenda. A motion to approve the Consent Agenda was made by Commissioner Nevarez, seconded by Commissioner Houston, and approved by a vote of 4 - 0. (Commission Chair recused herself from voting because she had an item on the Consent Agenda.)

A. *PZHAC MINUTES – PZHAC Work Session and Meeting of December 21, 2020.

Approved as part of the Consent Agenda.

B. *ADMINISTRATIVE APPROVALS

Zoning Permit:

1. **Case 061152** – 3311 Granby Lane, submitted by Dylan Burruss; a request for a zoning permit to allow a dwelling at this address to be reroofed. Zoned: Residential, one acre (R-1)

Approved as part of the Consent Agenda.

2. **Case 061153** – 3311 Granby Lane, submitted by Dylan Burruss; a request for a zoning permit to allow the replacement of the windows on a dwelling at this address. Zoned: Residential, one acre (R-1)

Approved as part of the Consent Agenda.

3. **Case 061154** – 2392 Calle de Parian, submitted by Yolanda Lucero, a request for a zoning permit to allow a driveway to be installed on a residential property at this address. Zoned: Historical Residential (HR)

Approved as part of the Consent Agenda.

II. PZHAC NEW BUSINESS:

A. PUBLIC INPUT ON CASES

Public input shall be received at larrys@mesillanm.gov at least one hour prior to the meeting and will be read into the record. You will also be given an opportunity to speak during this time by joining the meeting by phone and pressing *9 while in the teleconference. This will let the host know that you wish to speak. You will be prompted by the host or the Commission Chair when to begin speaking.

Staff stated that two e-mails had been received (one each from Susan Krueger, resident and Kevin McGinley, contractor for Case 061157). Staff read both e-mails for inclusion into the record. (Copies of the e-mails are attached at the end of these minutes.)

B. DECISIONS:

1. **Case 061151** – 2610 Calle Tercera, submitted by Samuel Kane; a request for a zoning permit to construct a rock wall around a residential property at this address. Zoned: Historic Residential (HR) **Discussed during the Work Session – Item 1**
Staff provided a brief review of this request, including the fact that the case was discussed during the Work Session and that the applicant had provided a new site plan as requested by the PZHAC. The PZHAC determined that there were no further issues with the proposed request. The PZHAC determined that the proposed wall met the requirements of the Code. Commissioner Nevarez made a motion to recommend approval of the request to the BOT, seconded by Commissioner Prieto, and approved by a vote of 5 – 0 with the following CONDITION:
 - a. **A WALL SECTION SHOWING THE FOOTING OF THE WALLS WILL BE PROVIDED TO CID.**
2. Submitted by Cesar Huizar for “Casa Blanca de Mesilla”, a request for a determination by the PZHAC as to what further information is necessary to allow the construction of a commercial building at the southeast corner of Avenida de Mesilla and Tierra de Mesilla. Zoned: General Commercial (C) **Discussed during the Work Session – Item 2**
This case was removed from the agenda in order to allow the applicant to bring the PZHAC further information about the proposed addition.
3. **Case 061155** - Submitted by Kevin McGinley of McGinley Construction, Inc. for Matthew Abrams, a request for a zoning permit to allow the construction of an addition to a dwelling located along an easement at 2852 Snow Road. Zoned: Single Family Residential (R-1) **Discussed during the Work Session – Item 3**
Staff provided a brief review of this request, including the fact that the case was discussed during the Work Session and that the applicant had provided a new site plan on a four acre parcel as opposed to four one acre parcel, and showing the required access easement as requested by the PZHAC. The PZHAC determined that there were no further issues with the proposed request. The PZHAC determined that the proposed addition now met the requirements of the Code. Commissioner Nevarez made a motion to recommend approval of the request, seconded by Commissioner Salas, and approved by a vote of 5 – 0 with the following CONDITION:
 - a. **THE PROPERTY IS TO BE RECOGNIZED AS A FOUR ACRE PARCEL.**
4. **Case 061156** – 2725 Old Farm Road, submitted by Brad and Debbie Foreman, a request for a zoning permit to allow the construction of a residence and a structure with a 600 square foot casita, a pool, a workshop, and a studio. Zoned: Rural Farm (RF) **Discussed during the Work Session – Item 4**
This case was removed from the agenda in order to allow the applicant to bring the PZHAC further information about the proposed addition.
5. **Case 061157** – 2821 Cielo Grande, submitted by William Zachary Penn; a request for a zoning permit to allow the construction of an open pool cabana and a pool equipment room behind a dwelling on a five acre property at this address. Zoned: Rural Farm (RF)
Staff provided a brief review of this request. The PZHAC determined that the proposed structure met the requirements of the Code. Commissioner Houston made a motion to recommend approval of the request, seconded by Commissioner Prieto, and approved by a vote of 5 – 0 with the following CONDITION:
 - a. **A PERMIT FROM CID IS REQUIRED.**

VI. PZHAC/STAFF COMMENTS

Commissioner Nevarez

Wanted to know what goes to the “Architectural Styles” Committee for review.

Tom Maese (Chief Inspector for CID)

Stated that all applications should go to the committee for review prior to being submitted to the PZHAC.

Commission Chair Lucero

Directed staff to bring all cases, big or small, to the Committee before putting them on the PZHAC agenda.

Staff

Reminded the PZHAC that there would be a joint work session of the BOT and the PZHAC to discuss Case 061148

VII. ADJOURNMENT *The meeting was adjourned at 4:42 pm.*

Public Input for PZHAC meeting, 1/19/2021. Susan Krueger

Summarizing a recent comment made during the discussion of a case before the Board of Trustees, “you can’t pick and choose which parts of an ordinance to apply.” With this in mind, regarding Casa Blanca de Mesilla, in addition to parking and setbacks, section 18.45.040, includes other requirements such as: Off-street loading and unloading (F.); Lighting (G.); Architectural style and design standards (J.); Landscaping (K.); Ponding (M.); and Perimeter wall or Fencing (N.) The description in Section 18.45.040 N. indicates that the developer, identified as Mesilla Mercado NV, the property owner to be, Cesar Huizar, and the PZHAC have shared decisions to make regarding the perimeter wall or fence.

Regarding Case 061155, submitted by Kevin McGinley for Matthew Abrams, my public input on 1/4/2021 which stated the zoning for this property was Rural Farm (RF) was wrong, and I went back through my notes to correct my error. 1 This is what I found: the fourteen acres, known as the “Fresquez land,” was rezoned at the request of Gertrude and Elizario Fresquez from RF to R1, Single Family Residential Zone, by the Board of Trustees in January, 1980; however, it was not subdivided at this time. 2 The Resolution filed by the Town Clerk in January 1980, confirms the rezoning with an attachment showing the division of the land into three parcels: one 5 acre parcel with a house owned by Juan Padilla, one vacant four acre parcel, and one 5 acre parcel with a house owned by R. V. Fresquez.2

The error in the presentation of this case is the use of a map, designated as the ZONING MAP, as if it is also the town’s SUBDIVISION MAP. It’s not a subdivision map, and there is no record in the Town of Mesilla of this 4 acre parcel ever being subdivided into four single acre parcels. The 9/23/2009, “Plat of Survey” in the packet is clearly identified as a boundary survey plat and not a land division or subdivision. 3

Leave the property line fence in place; do not remove any part of it, it provides protection to individual homes and lands. Then, as needed, each land owner can work with the Fire Department to address turn arounds, etc. Please let Mr. Abrams solve his problems without making them his neighbors’ problems.

[Footnote 1 : These notes were put together in the fall of 1997, both while I was working on an application for a loan from the Interstate Stream Commission to cement the Snake Ditch, and when I was considering Mrs. Duran offer to sell me an acre of Fresquez land.]

[Footnote 2: At the BOT Public Hearing in December 1979, Mr. Reese, an attorney representing the Fresquez family is recorded in the minutes as saying, Elizario Fresquez anticipated the property would be divided among his eight children at 1 ¾ acre each. While acknowledging the town has a subdivision act, he went on to say it would be financially difficult for the family to comply with it at this time; and no subdivision request was filed.]

[Footnote 3: Charles Saenz, GIS Mapping Specialist for Dona Ana County, confirms that no subdivision of this property by the Town of Mesilla has been recorded in the County.]

Finally, does the case submitted by the Foremans, meet the setback requirements in the RF zone?

larrys@mesillanm.gov

From: Kevin McGinley <kevin@mcginley-construction.com>
Sent: Friday, January 15, 2021 1:37 PM
To: larrys@mesillanm.gov
Cc: Matthew Abrams (abramsm@gmail.com); yolandaglacero@gmail.com; daviesalas@comcast.net; prietobilt@gmail.com; mesillaj3@aol.com; judykhouston@gmail.com
Subject: RE: 1/19/21 (Tuesday) PZHAC Agenda Packet

Larry & Commissioners

In researching road fence issues we have discovered there is only one 15' easement adjacent to south property line which goes from Snow Rd all the way back to Rudy Fresquez property. The properties on the south of property line (fence) have an unused easement on their southern property lines. Their use of existing road thru northern edge of their properties has been established as their only access. Most likely could be described as a prescriptive easement since this is only access and travels thru several properties.

Prescriptive easements, also called "**easements** by prescription," are created when an individual continually and openly uses a portion of another person's property without the permission of the owner.

In my google mark up Matt has a 28'6" road way at the front of his house. And also Chief Hoban stated with our improvements we were good even with out fence removal. We have the same situation on our road Camino Bodegas Gohrick property is part of our road way.

We are going to remove the fence at Matts southern line (800') and are having a meeting with Fresquez & Padilla family members Monday to try to get them to buy into removal up to Snow Rd.

The fence was put up by Fresquez family we are told it is on north side of property line. (we are verifying this with Moy Survey marking corner Monday)

We don't believe this changes any thing materially.

Also at the last meeting their were Comments from Susan Kruger about the zoning classification that were not factual at all. I have included Mesilla Zoning map you provided me (2005) as well as Dona Ana Co. plats with respective owners names & acreage to clarify this issue.

Larry & Commissioners please call me with any question or clarification on our application (available on mobile)

Thanks Kevin

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From: larrys@mesillanm.gov <larrys@mesillanm.gov>
Sent: Friday, January 15, 2021 8:57 AM