

Planning & Zoning Minutes
Regular Meeting
February 6, 2020

Call to Order

- ◇ Tom Scroggins called the meeting to order at 6:33 p.m.

Roll Call

- Present: Chairman Tom Scroggins, Vice-Chairman John Thompson, Secretary L. E. Rubin, Lawrence Gordon, and Dennis Kintzler
- Absent: Scott Adair
- Present: Deputy Clerk Amy Lopez and City Manager Leisa Haynes

Approval & signing of minutes of January 16, 2020 Regular Meeting Minutes.

- ◇ John Thompson made a motion to approve the January 16, 2020 Regular Meeting Minutes. Lawrence Gordon seconded the motion. With a 4-0 vote, the motion to approve the January 16, 2020 Regular Meeting Minutes (L.E. Rubin was not present for vote).

Public Hearing

- John Thompson moved that we go into a public hearing. Lawrence Gordon seconded motion.
- Roll Call Vote: Lawrence Gordon - Yes, Dennis Kintzler -Yes, John Thompson – Yes, and Tom Scroggins- Yes (L.E. Rubin was not present for vote)
- Tom Scroggins said we haven't really done this thing before so I have a script I am going to work on, but first of all I will introduce us. I am Tom Scroggins and I am the Chair of Planning and Zoning. This is John Thompson; he is Vice-Chair. Lawrence Gordon, Dennis Kintzler, and we may have another one coming and if he gets here, we will introduce him. The other person that is at this hearing is Code Enforcer Reeves. And here is L. E. Rubin, everyone was here, and we thought we would start.
- L. E. Rubin: That is fine.
- Tom Scroggins: So welcome to Planning and Zoning Commission bi-monthly meeting. All of our meetings are open to the public and we meet here on the first and third Thursday of each month. We encourage you to come participate. Okay, this is a public hearing to determine the case of a resident who has asked for permission to build a carport within 8' of a roadway. The ordinance requires 10' separation. Possible outcomes that might result are the ordinance must be adhered to, and the 10' clearance must be maintained, or that a waiver is granted, and the carport may be constructed with a different clearance. This is a quasi, judicial hearing before the Planning and Zoning Commission, who, by ordinance is required to provide opinions and evidence to the governing body withing this matter. The governing body will make the final Municipality decision about this matter. General rules of fairness are used by the Planning and Zoning Commission. No member of the Commission can gain or lose financially by any decision by this Commission. No member can add ex party communications with either the proponent, or the opponents of this hearing. Does any member feel that they can't be objective in this hearing? Does any member wish to declare of any of these issues, or does any member of the audience wish to challenge any member on fairness issues, you must state that ground, if none, we will proceed?
- Tom Scroggins: We have some rules, there are two lists in the back of the room, one is a list of witnesses who would like to testify on the issue, these people are within a 100' of the people's property. And from what I understand that is the red highlighted one. By signing this you are hereby swearing to tell the truth in your testimony. Second is the list for people that are not within a 100' from the petitioner's property and thus did not receive notice by mail about this hearing and wish to testify. By signing the list, you are hereby swearing to tell the truth in your testimony. All others are observers only and may speak only if asked to do so by the chairman. That's me. Do we have all the documents we need?
- Deputy Clerk Lopez: I think so.

- An audience member: At the end, do we wait for you to look at us and say would you like to speak, or do we raise our hand and say we would like to speak. We are all signed in? Are you going to read names off?
- Tom Scroggins: We will read names off.
- Tom Scroggins: This is how the hearing will proceed. The petitioner will speak first and will have a time limit of ten minutes. We will also have the Code Enforcer speak and I think he may speak first because he did the citation and then we will hear from the petitioner. The next to speak will be the people on the first list, the red one, within a 100' of the property. The sign-in sheet will be used to establish order of testimony. If there are any problems, please bring it to the attention of the Chairman and limit their comments to 5 minutes. The next to speak will be those people that are lesser impacted, those who do not live within a 100', but wish to speak. The second sign-in sheet will be used to establish the order of testimony. People that did not sign up to speak on either list, may speak only upon the permission of the chairman. If you are not on a list, you may raise your hand and we will go from there. The members of the Planning and Zoning Commission may ask questions at any time, and will speak last in order, so we will talk after we hear all the testimony. Discussion and voting on the petition will be based on the length of the hearing, if testimony is not complete by 8:30 p.m., then voting will occur on the next regularly scheduled Planning and Zoning Meeting, which this month would be on the third Thursday, the 20th. Direct presentations and comments to the Planning and Zoning Commission and not directly to the audience. I am sorry we do not have microphones, so. Please limit your comments only to the subject listed, and not to previous or future issues. Please only one conversation at a time, as personal discussions in the room can be a distraction to us all, and after a voting decision the Commission will return to regular session. Is there any questions about the rules?
 - Audience member: No, but if any of you up there are speaking, if you could face and speak perhaps even a little bit louder, I read a lot of lips and so it is hard to decipher (inaudible).
- Tom Scroggins: So, I am one of those that is hard of hearing. So anyhow, so that's the rules, so I think, (inaudible) let's have Gordon speak first, I think.
- John Thompson: Normally the petitioner would speak first with the request for variance.
- Tom Scroggins: I know but it doesn't say anything about the staff, does it?
- John Thompson: Whatever you like. You are the Chair.
- Tom Scroggins: Yes, go ahead Gordon, and if it doesn't work out very well this time, then we'll try it different.
- Code Enforcer Reeves: My name is Gordon Reeves, Code Enforcement Officer, hired by the City of Rio Communities. Uh, yes, I did cite the property on March 8, 2019. Okay, the property had a substructure with a canvas over the 2x4 structure, creating a carport and it wasn't within City ordinance and how that is supposed to be, which you will see on the second page, constructed so I red tagged the property and then a stop notice letter to cease work until we clarify and figure out what we are going to do about fixing the situation. Four months later they went ahead and completed the carport ignoring the stop notice, red tag that I gave them. And, then I wrote another citation to the residence. They did come to court, they ruled on it. My ruling at the time, was that it needs to come down because it did meet City Ordinance, plus it was sitting in an easement in that area. So, she wanted a solution to figure this out, what can I do to keep what I have, and it was determined to bring it to P&Z and have them discuss on it what we can do to rectify it. The problem is the back side of the property, on that fence, first of all, it is a wooden fence and it is made of 2x4 and chip board and it doesn't meet the requirements for a fence in our City Ordinance, plus it is over 6' tall and need to be uh, and anything over 6' has to have engineering on it plus it need to come to Planning and Zoning if it wants to be above 6'. So, on top of that they put the carport on top of the fence, which doesn't meet City Ordinance. The fence runs along the ground and from what I can tell it is just sitting on the ground. There is no foundation and there is no attachment, from what I can tell, it just sits on the ground. Plus, it runs, the end of it runs into an electrical panel, and that is a CID requirement, code, electrical code zoning on that. It has to have at least 3' clearance from an electrical panel. So, as it sits right now, if she wants to go ahead and seek a permit through CID and do permitting and have it gone through with CID which is structural engineer for the State, they clean it up and redo it. Plus, you have to have the clearance from the Planning and Zoning for the easement that goes down through there. There is an electrical easement all along that whole side and do you have any questions.
- Tom Scroggins: (Inaudible)
- L. E. Rubin: Will you be here through the meeting or will you leave?

- Code Enforcer: Yes, I will be here.
- Audience Member: At what point can we ask questions, do we have to wait to the end or is this an appropriate time to?
- John Thompson: I think we should, the normal process would be we would hear the petitioner who, the property owner who wants to make changes.
- Tom Scroggins: Then we will go through this.
- Audience Member: Then we will go through this, but you will be here the whole time to answer questions?
- Code Enforcer Reeves: Yes.
- Tom Scroggins: Okay, now we have the petitioner, Mona and Herman Soliz, is that how you pronounce it?
- Mona Soliz: Soliz, it's okay.
- Tom Scroggins: I've got a name that people mispronounce all the time.
- Mona Soliz: They say Solace, don't worry about it. My name is Mona Soliz and I live at 480 Rio Communities Blvd. Yes, you have some pictures from last summer and it does look horrible but as I explained in court, we were in the process of trying to build the carport. I did explain in court that at that time, I was going through financial, I'm the only income, I am disabled, have a special needs grandchild that I take care of, fighting for my husband's disability. So what started as just me and my husband living there, being able to fix it, we came into having legal custody of my grandson and that held finances up, finances to finish anything because it took me ten trips to California, so it put me back financially. And yes, I would like the carport, safety reasons for me and my husband to take care of our cars, it does look nice, and I would like to fix it, I have plans to fix it. Um, my husband is going to have surgery on the 24th of this month, back surgery, my carpal tunnel will be Thursday, which is the 28th, so life is happening for me, it is not like I don't want to comply. I am new to all this like I discussed with you last time so um, I am trying to, I want to improve my home, you know, I want my neighborhood to look nice. You know I take pride, I don't have a lot of money, but just because I don't have a lot of money does mean I don't have pride in what I have. I also participate in taking care of the lot across the street, with one of my neighbors when I am allowed to now. Um, but uh, I am not trying to cause problems, I just want to improve my property. Unfortunately, it is a time thing and financial right now, but my neighbors are willing to help me, they have helped me before and, uh, so I am just asking for this variance, please.
- Tom Scroggins: The variance is to ignore the distance, the setback for the carport to be put there, that is what the variance is for, correct?
- Mona Soliz: Yes, and like we discussed last time, my property is very unique, you know, and how they did everything when they did it, I don't know but it is in my hands and now it falls with me, and um, Like I said just let me know what to do and I am willing to work with the City. And as far as the electrical box, um, my dogs are by it, like I told you guys, I want to move it, I want to put, you know, a fence to make it safe for my dogs to run loose, but because of all the crime the dogs alert us when someone is coming around our neighborhood or messing around the neighborhood, and I do have plans to move it. But the carport is not, I repeat, next to the electrical box. The dogs are, yes, and they can be moved like we discussed, but the carport.
- Tom Scroggins: The wall extends.
- Mona Soliz: The wall extends here and then, like, this is the wall and then my dogs are around here and their house, but the box is over here so it's not even near the.
- Tom Scroggins: Not on the house, right?
- Mona Soliz: No, it is not connected to the house.
- Tom Scroggins: Okay. Do you have questions?
- Mona Soliz: So, yes, it does look horrible, yes we had a tarp, because at that time we couldn't do everything, we were going to, you know, we have had hail before, I have incurred damage before, you know, but this is part of the reason.
- L. E. Rubin said Mr. Chairman, I have a question.
- Tom Scroggins: Okay.
- L. E. Rubin: Of the Code Enforcer. When that picture was taken, is this the actual fence itself that comes out and overlaps in front of the meter, or?
- Code Enforcer Reeves: It is directly in the middle.

- L. E. Rubin: It is up against the meter?
- Code Enforcer Reeves: It is directly in front of the, uh, electrical meter.
- L. E. Rubin: Does it make physical contact with it, or is there a space between here?
- Code Enforcer Reeves: There is probably a four-inch space.
- L. E. Rubin: Not enough room for PNM to get in there and pull that. Has this wall been moved since that photograph had been taken?
- Code Enforcer Reeves: No, No. The box that she is talking about is the transformer box at the other end, this box is the one that connected to the residence and for electrical code issue there has to be a 3' clearance.
- L. E. Rubin: And that is the actual meter for the property?
- Mona Soliz: For two properties, yes, and we did, he did take it, excuse me. It is not connected to the wall because the is something we discussed not to be because it can't be connected to, it's not a structure to the house so we did open, remove it.
- L. E. Rubin: This is this how it still resides today?
- Mona Soliz: At first, yes, like I said, but it's not touching, sorry.
- L. E. Rubin: This is like a, like a 2x6 here and it is in front of where the electrical meter is?
- Mona Soliz: Yes, but here is the electrical so it is like half, because it right in the middle, it is on the line of our property, they built the box right on the line of the retaining wall.
- Dennis Kintzler said have you appeared in court for your violations?
- Mona Soliz: Yes Sir.
- Dennis Kintzler: What was the outcome?
- Mona Soliz: To come here and ask for a variance for.
- Code Enforcer Reeves: Well, the outcome was I denied the structure, it needs to come down and, uh, it was recommended, she wanted to save it and go to the next step, she wants to spend the extra money to come to P&Z to get a variance to put a carport there with permits.
- L. E. Rubin: Would this still have to come down in order to put a carport?
- Code Enforcer Reeves: the way it is built right now, it won't pass CID with permits and everything on it. It is directly sitting on the ground like we talked about.
- Tom Scroggins: The fence it.
- Dennis Kintzler: The fence is, not the carport, right?
- Code Enforcer Reeves: The carport is sitting on that wall, which is that fence.
- L. E. Rubin: Is that this wall right here, Sir? It runs along on, kind of the back side of the (inaudible) from, this is the structure, this is the wall, right here? Clarify for me where that wall is on that drawing.
- Code Enforcer Reeves: Yeah, it is right here. There is a transformer right here and the wall.
- L. E. Rubin: So, this is the wall.
- Code Enforcer Reeves: Yeah.
- L. E. Rubin: And that is the one that is sitting on the ground?
- Code Enforcer Reeves: Correct, and the carport is coming this way.
- L. E. Rubin: is the carport currently built?
- Code Enforcer Reeves: Correct.
- L. E. Rubin: And this is the carport?
- Inaudible -multiple conversations
- Code Enforcer Reeves: It, it's, it's not within eight, it's encroaching the property line out front.
- L. E. Rubin: Is this already built?
- Code Enforcer Reeves: Yes.
- Scott Adair: Can I see your drawing right here? I cited her on the.
- John Thompson: What you are showing L. E. is probably good for everybody. Could you maybe go up there and describe it for all of us?
- Tom Scroggins: L. E., there is a picture of the carport, more recent.

- Code Enforcement Reeves: The carport right here, it's right here, see, everyone can see, the carport is right here, and it is framed up with 2x4s and they have a canvas drooping over it.
- John Thompson: Show us, we are the decision makers.
- L. E. Rubin: There is a later picture.
- Code Enforcer Reeves: This is when I cited her. I gave her a stop notice letter to cease and don't do any more work on the property but, because first of the carport is not within City Ordinance. So, this is the carport, it is framed, it has a canvas cover over the top of it for shade.
- L.E. Rubin: This is how it looks now?
- Code Enforcer Reeves: And I cited it on March 8th. I gave her a stop notice letter
- John Thompson: This is like 11 months ago.
- Code Enforcer Reeves: Yeah, this letter right here is the stop noticed letter I gave her, citing her telling her what we need to do and how to proceed, four months later she decided to go ahead and build the carport even though I gave her a stop notice, okay. And that's how it is right now, with the corrugated roofing on top of the framing. On the back wall is this framing right here, and that back wall is sitting on the ground.
- Scott Adair: It's roughly 8' tall.
- Code Enforcer Reeves: It's an eight-foot wall on the property line in back and that doesn't meet the ordinance of fencing.
- John Thompson: Issue number one is the variance and the City regs say, the City Ordinance say 10' between the roadway and the corner of the carport, the structure.
- Scott Adair: Right, 10' from the offset of the structure.
- John Thompson: Somewhere, there is a request for the variance, saying they want to ask permission to build within 8'.
- Lawrence Gordon: 7'-4".
- John Thompson: 7'-4", okay.
- Tom Scroggins: Well, that's the current house, it's 7'-4" from the property line, it's already there.
- John Thompson: Right.
- Code Enforcer Reeves: Because the carport goes along the, uh, the shed, the storage shed right here. The carport is right along that shed out to the road.
- L. E. Rubin: What's the distance going to be from the property line to the corner of that carport, do you know?
- Mona Soliz: inaudible.
- L. E. Rubin: So, the carport is here, what is the distance from your property line to the corner of that carport?
- Herman Soliz: I have it written down on one of those papers.
- Mona Soliz: You guys have my papers.
- L. E. Rubin: That would be the closest.
- Tom Scroggins: That would be the closest thing we've got right now.
- Mona Soliz: Actually, the corner of the house sticks out farther than the posts for the carport.
- John Thompson: Your house is 7'-4" away.
- L. E. Rubin: So, it is at least 7'-4" away from your property line to the corner of that carport?
- Mona Soliz: Yes.
- Tom Scroggins: Also, the other end of the house is 4' from the property line.
- Scott Adair: So, this structure here is 7'-4"?
- Code Enforcer Reeves: So, this, yours, the structure here is 7'-4", so what it is, is there is a shed here, they have a washer and dryer storage shed right here in that little shed area and the carport is off, off of that but the 7'-4" off because the width of that shed.
- Tom Scroggins: What about this corner of the carport?
- Multiple people talking at once.
- Mona Soliz: So, you can see, here is the corner of my house, the carport is back here, the posts are back there. The shed, then the corner of the house.
- Dennis Kintzler: It is back further (inaudible)
- Mona Soliz: The only part that it comes in question, is because my property goes.

- Dennis Kintzler: At an angle, it's not a square.
- Mona Soliz: Yes.
- Dennis Kintzler: Right.
- Mona Soliz: Here is the corner of my house, here is the posts, right here, so it comes in like this and then it comes like that, so that's why it's king of (inaudible)
- John Thompson: Mr. Chairman, I see 5 different issues here. We've got the clearance, the space, the electrical issue, the fence height, construction materials, and construction techniques. My suggestion is we take those one at a time and start with the variance.
- Tom Scroggins: Yeah, that's. Do you have anything to say Lawrence?
- Lawrence Gordon: My only concern, my main concern is the electrical box, with that only being inches away from the front of it. I was wondering if that could be moved.
- Mona Soliz: Which electrical box are we talking about? The big blue one or the one for the meters.
- Lawrence Gordon: The one for the meters.
- Mona Soliz: So, what did you need again?
- Inaudible conversation amongst Commissioners.
- Lawrence Gordon: That's so close, that is unacceptable.
- Mona Soliz: We cut it out, we took that down because he said it needed to be, so we took all that down.
- Lawrence Gordon: When was that done?
- Mona Soliz: It was done a couple of months ago.
- Dennis Kintzler: So, you took this back to.
- Lawrence Gordon: When were these pictures taken?
- Code Enforcer Reeves: About two weeks ago.
- Lawrence Gordon: They are saying the moved this.
- Mona Soliz: Yes, we did.
- Code Enforcer Reeves: No.
- Lawrence Gordon: What is the distance supposed to be?
- Mona Soliz: We were told as long as it wasn't an inch from the.
- Code Enforcer Reeves: If we had worked this out when I gave them the stop notice on the structure and sit down and work it out and get a permit, come to Planning and Zoning a get a variance, you get a variance, you got the variance, got the okay, you got your plans and took it to CID for construction, they would not permit this at all, they wouldn't permit the wall to be sitting on the ground with 2x4 flat on the ground and that's it. You know it's.
- Lawrence Gordon: It's supposed to be on concrete?
- Code Enforcer Reeves: It's got to be, got to be yes, on a footing.
- Dennis Kintzler: How do they keep trespassers out if it can't go all the way to the ground?
- John Thompson: You normally build a fence by sinking post in cement and then putting in lateral pieces.
- Herman Soliz: That back wall has 3 post on it, and it is connected to it.
- John Thompson: So, the issue is you have requested a variance, do you have that. Are you reading from it, no?
- Lawrence Gordon: That is the first issue.
- L. E. Rubin: Mr. Chairman, do we have the application for the variance?
- Tom Scroggins: Do we have that?
- Deputy Clerk Lopez: I have that in the office, yeah.
- Dennis Kintzler: Would you have one on hand?
- John Thompson: Could you get that? As I see, the logical way to approach this, is to first discuss the request for a variance and then, after that is resolved, look at electrical, building construction, material, construction techniques, location, ect.
- L. E. Rubin: The height of the fence, all of the things that would apply to the ordinance.
- Dennis Kintzler: it goes back to what Gordon said, had they followed procedures step by step, we are going to have to start over and do that now.
- John Thompson: There are two steps, first is the variance, then there is a building permit.

- A discussion took place between Commissioners to decide how to proceed.
- John Thompson: Chairman, the proper process would be to they speak, we hear from the neighbors and then we discuss.
- L. E. Rubin: So, you want to finish your, Chairman, do you to finish your presentation, so we can hear from the neighbors and other people in the audience.
- Tom Scroggins: Are you ready? Alright then, we will talk to the neighbors and these are the list I've got, Betty Reeves.
- Betty Reeves: Well, first of all, I think it is a really sad situation, because this house that they are living in, should never have been sold as a residence. It should have been sold as a commercial. It is not really a proper place for anyone to be living. They are wonderful neighbors and we want to keep them but, it has two addresses and it even had the wrong address. It should be 311 Horizon Vista.
- Mona Soliz: It took me forever to find anything on this property. I went several times to Los Lunas, they sent me over here, I went back to the assessments and zoning over there and they told me that my address isn't even 480 Rio Communities, or 4801 Horizon Vista, it is actually 311 Horizon Vista
- John Thompson: And that is really not germane to the whole issue.
- Betty Reeves: No not really but it's just, it's just really short property, they don't have much land to do anything with and I can understand where you would need a carport and I can understand the Code Enforcer wanting to do the proper thing and follow the rules, but you know, the carport. Is there some way that even if us neighbors can get together and do something to make it so it's more proper and it's nicer, anything to approve it. Because it, right now it doesn't look great, I feel for these people, right now they can't financially afford it, he is having surgery for the second time, I think. I understand where they are coming from. It's a sad situation and it like what do you do, we like our neighbors, but we want to improve our neighborhood too. So, what can we do all, to work together to get this done without it costing a million dollars, that's my issue.
- Tom Scroggins: Thank you.
- Betty Reeves: And also, it would probably be a good idea if you guys all went and looked at it.
- Scott Adair: Can't do that.
- Betty Reeves: Oh, you can't?
- Tom Scroggins: The next one will be Allen Zach.
- L. E. Rubin: Ma'am, how far do you live from this?
- Betty Reeves: 100', right across that empty lot, which by the way belongs to the City.
- Tom Scroggins: Are you the one I saw when I drove by there.
- Allan Zach: I am the one that is keeping the City's property clean, I have been doing it a few years now.
- L. E. Rubin: Thank you.
- Allan Zach: Anyway, I don't know much about this because we are newcomers here but over the time, we have learned a few things. But what I see is these people here were sold a bill of goods, because there were a lot of mistakes before they moved in so they should not be liable for those mistakes, alright? So, if you have to change a power panel or do something in concrete or do something they have to do, it should not be their expense, it should be the precious property owner. As far as the easement, I think I have a simple solution. Does this City own the street?
- Tom Scroggins: I think so.
- Allan Zach: Okay, the City also owns the land that I am taking care of. Take 2' of street into bare land, move the street over, now you have your 2'. Okay, that's a simple solution, you've got the land, all it takes is a little black top. I rest my case.
- Tom Scroggins: Thank you. Amanda Herbina.
- Amanda Herbina: I want to speak up on what Allen was saying, these houses were built a long time ago and a lot of stuff on out property doesn't go with Code Enforcement nowadays, it is really difficult to go and change everything, things that were built before. But I also have a question, you said your fence is on existing posts, that were there before, are they concreted into the ground?
- Mona Soliz: The are concreted into place.

- Amanda Herbina: So, it is structurally sound. I don't think that should be an issue, I don't think that is something they should be harassed about. They said they cute their fence from around the meter so it's no up against them and the carport, I don't understand how that is an issue, but I agree with Allan, if it is that big of an issue move the road.
- Tom Scroggins: Thank you. Darrel Kingsley.
- Darrell Kingsley: I am on the black list, not the red list, I signed both sorry.
- Tom Scroggins: You Are out of 100'?
- Darrell Kingsley: I am out of 100'.
- Tom Scroggins: Alright, I suppose Mickie is also out of 100', we have heard from Gordon. Now we have Marie Castillo?
- Marie Castillo: I am directly, I face the restaurant and them, but it doesn't bother me, it's not an eye sore to me, but I do understand, so I agree with all the comments. I am here to support her because I agree with all comments today. It would help for her because they are good neighbors, we keep each other safe, you know, we all have cameras (inaudible) I have a big flood light, but the thing is I would like them to stay, it is unfortunate the way it was built. I thought it was supposed to be part of the restaurant, what it was I don't know it became a separate unit, but I would like them to stay and for it to be resolved. They were sold a very odd, it doesn't match the town.
- Tom Scroggins: So that, I think that took care of all the ones within a 100'.
- Oceana Lowry: May I speak Sir, I am right across the street on the corner there and I watch these people improve the neighborhood, keep it clean, bring new life into the neighborhood. I was just thinking, when I was heading over here, I found in my phone a really old photograph that I did, it snowed about that deep about 4 years ago. I heard a commotion and I looked outside and there was her and little Weston, and they built the biggest snowman I have ever seen and decorated it. It lasted almost a week and I thought, that is life coming back into the neighborhood. What we need. And um the children, they cleaned up the whole little lot there, they put in little tables and had picnics and birthday parties and bring in those things the kids jump in. They have been such a plus to the neighborhood. I have been in real estate nearly 50 years and I can tell you this whole thing started when the original plat was made over fifty years ago when they were laying out the community. No body back then had an inkling of what was coming, the density, the size of vehicles, nobody was with a crystal ball, a this was the off shoot. Throughout real estate, in different pockets, almost every existing subdivision has a weird little property or two, and I think in Rio Communities has four or five scattered around, that have been rendered useless especially after Rio Communities came in and designated these setbacks. They've rendered this property useless, so we have to go back to real estate law, and the basis of all real estate law is a bundle of rights. And the bundle of rights are sacrosanct with real estate. It provides that a person who owns real estate has the right to protect it, control it, to live on it, to dispense with it, to put it up for inheritance, to give it away, to lease it, to rent it, and the big one, and the big one of the bundle of right is the quiet enjoyment of property. And these people have not had that quiet enjoyment, because every since Rio Communities came in and put these restrictions, they have render this property absolutely useless. No place to park, no place to sit in front, no place to put a little pool for kids to play, no place to park, where to put the dogs. So, I think that variances are the way to go, and when we do have variances in place, we need to figure out a way to make them work because this isn't the only one in the community, this is only the beginning. And they people have really suffered with this, economically and emotionally and when they suffer all of us suffer. We are a community, we stand together, so let's work together and think what we can do. You are right about on big thing, the first thing that happens tonight is to address the variance and then we get that cleared up, they get their variance, and then we deal with codes. But you know what, everything these people have put into the community at their own expense, I mean, I look at what Allen Zach has done out there on the side of the road, before you all came in, when the winds came, the tumble came in and ended up in the middle road and ended up in the driveway at 310. Unlivable, and 312, and 312 is a big windstorm too, so their cleaning that up has rendered us to be able to live there quietly and its clea, and the place is cleaning up and we are proud of it.
- Toms Scroggins: Can we get your name?
- Oceana Lowry: Oceana Lowry, is my time up?
- Tom Scroggins: Your time is up.

- Tom Scroggins: Darrel.
- Oceana Lowry: Charles, you forgot Charles.
- Lawrence Gordon: Charles is within a 100'.
- Multiple conversations (inaudible)
- Charles Perry: I live right across the street from them and I have not had any trouble with them, so I think they are not a nuisance, they are some people that can help you out when you need it, so they need work on their house and uh, that is about all I have got, I just live right across the street, if you can imagine.
- Tom Scroggins: And you are Charles Perry, right?
- Charles Perry: Yeah, right.
- John Thompson: The issue is not whether these are nice people, the issue is if that building, if there was a building, within 8' of the roadway instead of 10', would that be a detriment to fire trucks, moving vans, vehicles, for the operation of the neighborhood.
- Charles Perry: (Inaudible)
- Mona Soliz: What's more of a problem with no other stop sign, with no other stop sign, that's more of a problem, because we have one coming in, but we have people coming from the shopping center, racing up Horizon and they come up on that corner real fast, and I mean other than that we even have the Shamrock truck, we have the Shamrock company come deliver food to the restaurant that.
- John Thompson: Is the Shamrock Truck one of these 53' semis, and it goes around the corner?
- Mona Soliz: Yes, it does.
- Multiple Conversations (inaudible)
- Dennis Kintzler: How long is that street that goes past that place there, how long is that street, is it a block, I mean the one that passes your place.
- Audience member: Two and a half blocks.
- Lawrence Gordon: Are you going to add anything else?
- Charles Perry: No, I am done.
- Lawrence Gordon: Thank you, Sir.
- Tom Scroggins: Okay, Darrel, maybe we will try again, third times a charge.
- Darrel Kingsley: Okay, it was so aptly stated, it's 7'-4" from the house corner to the street, it is a farther distance from the street to the front edge of their present car port, it is approx. 8', I don't have an exact dimension on it, but you do an eyeball on it and its more than that distance. So, if there is any hazard, they are going to take the house out before they hit the carport. SO, there is not an issue with that distance, in regards to traffic. In regards to yes, it's not 10', you're correct, it's not 10', there is no way on this green earth that they can take an add 2' o ground into the property they own, it is physically impossible to create earth, so does it need the variance, yeah it does. Because they need to have the carport. I'm going to pick on them in one sense here. Yes, sir, you came out to the property on that date, I believe it was March 19th, March or May of 2019, note. Since that period of time Herman has had two surgeries since then, and he is scheduled for another surgery so you can at least stand up and move at a faster than a snail's pace. You two are going to race, I know that, but plus, there's been legal issues that Mona and Herman and Weston have been involved in in California, where they have been helping out family members. So, between the fact that they have d to be in and out of town 18 times and surgeries, of course nothing has gotten done. They have asked me about a few things. Okay, now I am going to kick into the next side of the program. Okay, you had an issue with the access to the panel, I comprehend, I was an electrician for 20 years. Rode the horse, got the belt buckle, spent 20 years in the army after that, oorah. I will go to ground with anybody, one way or the other, so here is my deal, if you need to have, and I understand you need to have x distance in front of the panel, I get that, I would hazard to guess that if we can get the variance, for the carport, that I, an some of the brethren from the church could assist in making it so there is an enclosure, so it is boxed out the necessary distance to cover that. You get your CID or CDI or whoever those boys are t, get them to look at it and tell me what is needed, tell them and they will tell me and we will see what we can get accomplished. And as for that fence, if I remember correctly those posts are set in concrete, so it's not something that is going to be wobbly, bobbly, flopping around in the breeze. We can do the rest of it. We need the variance, we can cover the bases, I have a whole lot of brethren at the church. We'll go to ground for them. Oorah.

- Tom Scroggins: Thank you. You want to talk too Mickey?
- Mickie Kingsley: Sure. So, in reference to the little fence in the front that he was referring to that was made out of little pieces of wood and what not, was that what you were referring to by that patio, was that what you were referring to?
- John Thompson: No.
- Mickie Kingsley: That one is okay? Because at one period of time I was told that because the fence was made of different materials and it wasn't all the same height and it had to be 4' high and it was out of property responsibility too. Now when I hear that I went around Rio Communities, and even on the Mayor's property alone, there are three different sizes and styles of fence, so that kind of goes out the window, in my opinion. Plus, it's New Mexico, in Santa Fe it's bring everyone in and see how we can be creative, and that is exactly what they did with that patio, it was just a regular back patio, just all wide open and nothing, they made creative, they put grass in by their back doorways, the top of the carport is no longer burlap, or anything like that, but is some time of wood something or other that is more solid. I go over there, I have seen it. He had a picture. The electrical telephone box thingy going between the two properties, between the building and where the gas station's wall is there is a sub-wall, that is about this high that runs between this property and his property, there is only about a four and half to five foot access. But that is not because of them but because it is how it was concreted in initially. He must have got permission to, because he was an up-standing guy and had been in this community longer than a lot of folks. Not only has Herman had surgeries but Mona has had surgeries too and this young man that is standing back there, hearing that all these things are happening has lived through hell, literally. That little boy has lived in a place where his dad shot at a family member in his home and he was there. He was 7 and a half 8 years old. She has been back and forth from California on her own expenses and help from people, I can't even tell you how many times, driving it by herself, so that she could rescue that boy from a life of crime. That boy couldn't even read when he came here, he was so shy he could hardly go to school. My license in California was in psychiatry, adult and children. I have worked in mental hospitals for the disabled, I have worked in mentally insane, I have worked in hospitals for the mentally disabled I know what that little guy has gone through. And all this harassment that had happened because someone is trying to do his job, but is maybe what we call in German, an uberfliger, he's an over achiever, perhaps, trying to do a job. But these people have an odd shaped piece of property, which by the way their very front fence is here and here is the road a prior to the, they did that so they you be safe. So, they could have a place. We have, unfortunately, lots of homeless people, they have picked up the trash and the crap and the needles and the drugs. That have been thrown between the restaurant and their place. There are properties all over Rio Communities, this place is called Rio Communities, we are supposed to be friends and neighbors. Like little house on the prairie, be we are not anywhere nears it. Some people are targeted, and I could probably give you addresses of five, ten houses in this Rio Communities that is not on the golf course side, heaven forbid, over on the other side on the poor people's side where we live, that actually look like dumps, literally and nobody addresses them, but time and time and time and time again and you have lied straight to my face before, and I can get back to that at another time.
- Tom Scroggins: Okay, okay
- Mickie Kingsley: I apologize for that part, but my point is he didn't come straight forward with this group either. But that little boy needs a sound home, it's home it's a house it's a building but it is their home. And I hope each one of you understands the difference between those two terms and they're doing their darndest to give that boy a safe home and all we are asking every person in this room is a variance and a little time.
- Tom Scroggins: Thank you. We have Jerri Salazar.
- Jerri Salazar: I am just here to support my neighbors.
- Tom Scroggins: You are just here for support. And Maci Shaufelburger?
- Jerri Salazar: She has already stepped out.
- Tom Scroggins: So, we have heard from everybody that did want to talk.
- Richard Rhodabeck: I crossed off my name, but I did have a question after hearing everybody talk. Do you mind if I ask or should I not?
- Tom Scroggins: Why don't you ask.
- Richard Rhodabeck: The question was for Gordon, when you were initially presenting, I think I heard you say something about a right of way for electrical, is that being encroached upon by the fence or anything else?

- Code Enforcer Reeves: There is an easement through that whole side of that property, and you are talking about the electrical easement.
- Richard Rhodabeck: I am understanding the easement would be basically an underground feed or something similar, is it being used?
- Code Enforcer Reeves: The easement? The electrical? Yes, and it is live.
- Richard Rhodabeck: And is it being encroached upon?
- Code Enforcer Reeves: The easement along that electrical that meter, to that property, the structure is sitting on that easement.
- John Thompson: Can you show us on the map?
- L. E. Rubin: So, the attached storage shed sits on top of that.
- Code Enforcer Reeves: Yes, that is on top of it. That is not in question. Let me elaborate and clean this up a little bit so folk really understand that I have worked with them. When I cited you and said let's talk about the structure and you told about the surgery and what you were going through, I asked you how long will that take, and you said it's going to take a month for you to get through it. I gave you the month, I gave you that time, and soon after that month was up you left and went to California for about a month and a half, I believe.
- Mona Soliz: No, I didn't.
- Code Enforcer Reeves: So that's the reason why I gave you time, it was up to almost three months. But I gave you time to work that out. But what is disappointing is the structure is not sound and that is the reason why I wrote you up.
- Mona Soliz: I respectfully understand, but in the procedure, it looked like it wasn't you know, and this came in so I couldn't have it sound like you wanted, and I did discuss that. And I didn't say that is would be a month because a knee replacement doesn't just take a month.
- Code Enforcer Reeves: We talked and I gave you a month and we talked some more, what happened was I gave you a red tag not to continue with any structure on this thing before we worked it out but you proceeded and went right on ahead, that's the reason why we went.
- Mona Soliz: You know, anytime I call your office and I have been in the office, you are never there you are busy, it is hard to get ahold of you.
- Tom Scroggins: Okay, I think we need to talk with the Commission. Lawrence do you have something to say about it.
- Lawrence Gordon: I think that uh, if there is any way we could do a special use, and if they ever sell the property, they could uh.
- A discussion began on whether it qualifies for a special use.
- Tom Scroggins: Here, if I may interject, in a variance use permit, provisions for variance, the subject property must be irregular, narrow, shallow, or steep, or otherwise have physical conditions where applications of the requirements of the this code would result in practical difficulty or unnecessary hardship to the owner and the use of the land or building.
- Lawrence Gordon: My thing is, I want to help them, but if they sell the property with it being a variance, we are stuck with the variance.
- A discussion began about the property.
- Lawrence Gordon: Is the carport in the easement?
- A discussion began about the easement and an easement encroachment agreement.
- L. E. Rubin: This is not something that we need to be concerned about. The discussion on easements continued.
- Lawrence Gordon: I have no problem with the distance, grant them the variance for the distance, I am fine with that, I just want make sure the height, I don't want someone to come in and need that easement and have to tear down what they did and start over.
- John Thompson: There is a difference between and easement and a building permit.
- The Commissioners continued the discussion.
- Dennis Kintzler: This electrical code violation could be easily remedied.
- Tom Scroggins: We are discussion a variance tonight.
- Lawrence Gordon: I have no problem with the distance.

- Dennis Kintzler: I have nothing.
- L. E. Rubin: First, sometimes our Code Enforcer gets beat up by people, even by me. He has a job that he does and I think that even prior to him our Code Enforcers, they are the worst enemy in the community. I know if he came and told me that my fence had to be moved, I wouldn't like him at all either. But I think he is trying to do the best he can to try to work with people. I guess I didn't like the idea that he gave a stop work order and people continued to work on it. I think that flies in the face of what he is being charged to do. I think we have to work with him. I think that the Code Enforcer is willing to work with people in the community and let them get to the right place and get the right thing done. And in order to get this carport put up and have it correct, it's already all built and now we are trying to get the carport in front of the house. Now we are in violation of setback that should be 10'. That having been said, I have looked at this and I think that it meets all the rules of offering a variance; so I don't have a problem with the variance to go back to whatever it is 7', 8', because I don't think that was what the problem is. What I think, looking at the photographs, is the way the structure is built it may not cut mustard, one for electrical because of where the fence comes up within a certain distance of the meter and it may not pass the fire code. So, I don't have a problem with the variance to get the setback, but I would say that all of the other components of this carport, the fact that it exceeded 6', I wanted to put up a fence that was over 6' and I had to go outside the City to CID to get permission. So, I think all of those components you are going to have to work on, me personally I do not have a problem with the setback but, um, any of the other code violations, you are going to have to remedy those, working with the Code Enforcer and working with CID to get it up to what the code has to be and that is something we are not going to deal with tonight.
- An audience member began a discussion about the fence.
- L. E. Rubin: What they are saying is that there are fence posts sank into the ground, so the fence is not resting on the ground.
- Code Enforcer Reeves: That is probably a possibility. The problem is 8' high. I am 100 percent for the variance, but you are going to have to get a permit for the carport to put it in.
- The discussion continued about fence height.
- Code Enforcer: As Code Enforcer, let me elaborate real quick and clear this if, if they grant you the variance, that okay, let's go ahead and do the carport, get some plans together, take it to CID and get a permit issued, then come back with us and they might grant you an 8' wall, but you would have to come before P&Z to get that permission.
- Mona Soliz began a conversation out of order about the height of her fence.
- L. E. Rubin: Gordon if they were to get the variance to not be held to the 10' but to go back to whatever it is 8' or 7'-2", are the rest of the problems that are code violations, easily remedied once they go to CID, do you think?
- Code Enforcer Reeves: Once they get a variance here, apply for a building permit with CID for the carport, get those plans together, bring those plans back to P&Z asking for a height variance or a setback variance, that's where you can start moving that carport back in, she will have to come back in to you guys to do that.
- An audience member spoke out of turn.
- Code Enforcer Reeves: There has to be a time limit.
- L. E. Rubin: Gordon, what do you think would be a good time limit.
- Audience began inaudible conversations.
- John Thompson: I am really happy to hear so many good neighbors, that come together and support each other, that's a community in my book. What we have to look at here as Planning and Zoning, we are kind of like the advocates for the City, and we have to look out for the other 5,500 or so residents we have here. So, my concerns are, and they have been answered, that we can get a fire truck through there, we can get a moving van through there, and it does seem kind of hypocritical if we say 10' on this side when it is 4' here and 7' here and there is plenty of space with an open lot that we can deal with in some future spot, so like the others, I am in favor of a variance. But there is a distinction between, okay to build within 8' instead of 10, but using proper building construction techniques, materials, electrical code, ect. and that can come later. So, I think we are ready to put this into a motion and I move that we grant the variance. And you brought this back from the office?
- Tom Scroggins: We don't have one that shows anything.

- John Thompson: The variance, as I recall, says that instead of going by the 10' rule, we will allow you to build within 7'-4".
- Tom Scroggins began a discussion about the distance.
- Code Enforcer Reeves: What typically happen when you grant a variance, that means it's okay to go with your building on that piece of property, providing you go ahead and submit for your permit, it has to be permitted so that you can move on with this, then you bring the drawings back with dimension showing exactly how far the setback needs to be, and that is when you guys come in and approve the setbacks. If you try to approve the setbacks right now the variance, we don't know. Once they get a permit to build the carport and when they submit to CID, they will issue the permit, the permit is good for 1 year.
- Lawrence Gordon: Is it one year to get the plans in or one year to complete the project?
- Code Enforcer Reeves: It is one year to complete the project. We grant you the variance, the way you have to put your money down, get your paperwork done and your plans done and submit them to CID. You are sincere you want to get the variance, we are sincere that we will give you the variance, so we will give you that time limit to complete the project and CID will inspect the project.
- Audience began inaudible conversations.
- John Thompson: I think it is a consensus of this legislative body here, if you want to call us that, that Planning and Zoning and on the law enforcement end, and the neighbors, that everyone wants the same thing, we just want to get there safely, and not cause some electrical issue that burns the place down. The thing that needs to be done, the proper things in the proper sequence, and if you do that we are all behind you, but if you do things that are kind of out of order is when you end up in court and upset and it becomes a bigger issue. So, follow Gordon's direction there, do this step by step, get it all done and done safely.
- L. E. Rubin: Gordon, is this still tied up in Municipal Court, not that it matters
- Code Enforcer Reeves: Once she comes back with the decision of this board, then I can make the ruling.
- John Thompson: We don't have a variance with exact dimensions tonight?
- Dennis Kintzler: We are not able to vote on it tonight.
- Tom Scroggins: We can grant a setback variance on the carport, at least I believe we could, without necessarily saying 8' or 7'6".
- John Thompson: I do not think we can vote on that if we do not have anything specific.
- A discussion began among Commissions about the ability to vote on the variance.
- Code Enforcer Reeves: Normally, we can vote, granting the variance providing that you come back with your drawings showing your setbacks, where exactly it will be setting on there, then you have something to look at, exactly where it is going to be put, and then you vote on your setbacks when you get the drawings.
- John Thompson began a discussion on what was included in the variance and how to word the motion for the variance.
- Tom Scroggins: Just let me say something, let me say something here, everyone else had their chance to say. The proper way to do a building permit in Rio Communities now, is to apply in Rio Communities. And then, I guess I am the one that gets to sign off on some of them, and then they have to go off to CID to be worked and looked at because we don't have any building inspector. With this in mind, I would be probably in favor of a variance on setback, and you know, looking at this I don't know if this is a front yard or a side yard a back yard or whatever, but I would.
- L. E. Rubin: Just a question, did we do anything to change to where the setbacks move from 10' to 5'.
- Dennis Kintzler: That was for new construction.
- A conversation began on setbacks, fences and sheds.
- The audience began discussions of turn.
- Code Enforcer Reeves: They can grant the variance, but you can't grant the distance until we get the plans.
- Audience members spoke out of turn and began conversations.
- Code Enforcer Reeves: The issue is now if CID will accept the building as is, see right now it is substructure, but when you get the permits, provided if, you get the variance you will have to get the permits, get the drawings and get them submitted back in here for the distance of that setback along with that variance, but we need a set of

plans that show exactly point b and point a where that structure is setting, that will show exactly where your setbacks are.

- Audience members started conversations out of turn.
- L. E. Rubin: Chairman, what are we able to do, Sir.
- Tom Scroggins read the definition of a variance.
- Tom Scroggins: So, I think we can grant a variance without it necessarily being specific before we have the, you know, building permit applied for and approved. I don't know if we even need to approve the building permit if you file a building permit and go through all the steps. Do we have to approve the building permit? I don't think we have to approve the building permit.
- L. E. Rubin: No, but we have to approve the setbacks, but we won't know that until we see the drawings. So, we can grant the variance subject to them submitting drawings back to P&Z for approval of exact setback.
- Tom Scroggins: Does anyone else have anything else to say? Can I get a motion from one of you about granting the variance, subject to the setback being approved in the building permits?
- L. E. Rubin: I make the motion we grant the variance, subject to them proceeding to get a building permit and coming back to this commission with the drawings that show the exact setback distances they need and understand that we are not bound to allowing it, I mean if they come back with a drawing that has a 2' setback we are not signing off tonight that we will approve that, we are going to grant a variance subject to them bringing back a set of drawings that has an acceptable setback distance to this commission.
- Lawrence Gordon: Can I add something to that? Once we do approve, they have one year to complete it.
- A conversation began between Commissioners.
- John Thompson: So, I have your motion down to 6 words: Grant variance subject to scene specifics.
- A conversation began between the commissioners.
- Tom Scroggins: Is there a second to this motion.
- Lawrence Gordon: I second it.
- A conversation began between the Commissioners.
- Code Enforcer Reeves: A time limit?
- A discussion began on the time limit.
- L. E. Rubin asked if 30 days was unreasonable?
- A discussion began about the time limit and permitting process.
- Mona Soliz was given 60 days to return to P&Z with permits and setback specifics.
- Tom Scroggins: All in favor of the motion, say aye.
- All Commissioners voted aye.
- Tom Scroggins: So, we have a 5-0 vote accepting the motion.
- Tom Scroggins asked for a roll call vote to return to the regular meeting.
- L. E. Rubin: I make a motion to have a roll call vote to go back to the meeting.
- An audience member began a discussion out of order.
- Tom Scroggins: Do we have a second to go back to the meeting.
- The audience members began a discussion out of order.
- Dennis Kintzler: I second.
- Roll Call Vote: Lawrence Gordon-yes, Dennis Kintzler -yes, John Thompson- yes, L. E. Rubin-yes, Tom Scroggins-yes

General Discussion

- John Thompson asked if we could add the neighborhood homogenizing to the next agenda and began a discussion.

Abatement

- Abatement will be moved to the next meeting,
- L. E. Rubin asked if people have seen Bill Brown's research on Abatement and thought it was a good idea to review it, so we can talk about next meeting.
- Tom Scroggins said there will be General Discussion, Abatement and Hearing Procedures and began a discussion.

Hearing Procedure

- L. E. Rubin mentioned there were a few typos in the procedures, but he liked it.

ADJOURN

- Dennis Kintzler moved to adjourn. L. E. seconded the motion and the meeting adjourned at 8:16p.m. with 5 -0 vote.

Respectfully submitted,

Amy L. Lopez, Deputy Clerk

Approved:

Thomas Scroggins, Chairman

John Thompson, Vice-Chairman

L. E. Rubin, Secretary

Scott Adair

Lawrence Gordon

Dennis Kintzler

Date: _____