
BOARD OF ADJUSTMENT
April 8, 2003
MINUTES

A regular meeting of the Board of Adjustment was held on Tuesday, April 8, 2003, at 8:45 a.m., in the City Council Room, Second Floor, City Hall, Abilene, Texas.

MEMBERS PRESENT: Wayne Bradshaw, Chairperson
Morton Langholtz
Scott Hay, Acting Secretary
Jim Salisbury
David Hejl

MEMBERS ABSENT: Rick Waldruff

ALTERNATE MEMBERS
PRESENT:

CITY ATTORNEY: Dan Santee, City Attorney

STAFF PRESENT: Richard Gertson, Director of Community Development
Dustin Luensmann, Planner I
Shannon Meinhold, Planner I
Helen Clanahan, Senior Secretary

NEWS MEDIA:

VISITORS: Elizabeth Fuller
Kay Spiva
Kay Dillard
Ruby Perez
Bob Roadcap
Pebbles Lee
Mike Hall
Linda Steerman
Rae Freeze
Steven Hendrix
Rodney Fletcher, Building Inspection
and others

Approval of Minutes: There were none available.

AGENDA ITEMS:

Case No.: BA-1903

Request: From Charles P. Hendrix; agent, Steven Hendrix, for a Special to locate a carport in the front yard.

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Legal

Description: Lot 8, Block 3, Highland Park Addition, Abilene, Taylor County, Texas, located at 1257 Ross.

Discussion: Dustin Luensmann gave the staff presentation. He said the applicant proposes to construct a carport in the front. The parkway is 12.5' and the setback requirement is 20'. As proposed the carport would be 26' from the curb.

Notification: Twenty comments were mailed. Four were returned in favor; none in opposition.
He said along this block there are two other carports in the front so it is compatible.

Staff

Recommendation: Staff recommends approval.

Steven Hendrix, agent, said the proponent needs the carport to protect their new vehicles. There was an old carport but had to be taken down. It will increase the property value. It will be a nice carport.

Mr. Salisbury asked if there is a garage.

Mr. Hendrix said, no. There may have been one years ago but when the proponent moved in there was only a one car driveway.

The public hearing was closed.

Vote: Morton Langholtz moved to vote for approval. Scott Hay seconded the motion.

- 5 approvals:
1. Morton Langholtz
 2. Scott Hay
 3. Jim Salisbury
 4. David Hejl
 5. Wayne Bradshaw

Decision: Case BA-1903 was approved.

Case No.: BA-2003

Request: from Kathryn L. Dillard for (1) a Special Exception to allow a bed & breakfast in F RS-12/H (Residential Single Family/Historic Overlay) zoning district; and (2) a 6 month extension to obtain a Certificate of Occupancy .

Legal

Description: Lots B & C, and the east 16' of Lot A, Block 9, Highland Addition, Abilene, Taylor County, Texas, located at 642 Sayles Blvd.

Discussion: Dustin Luensmann gave the staff presentation. He said the applicant is proposing a bed and breakfast at this location. This parcel has a house and a two car garage and an accessory structure. This is not a rezone request but only a special exception.

He said the property is zoned RS-12 with a Historic Overlay. Anything done to the exterior of the house or signage and landscaping has to be approved by the Landmarks Commission.

Notification: Sixteen comment forms were mailed. Six were returned in favor; none in opposition.

He said S. 7th & Sayles is a high traffic area. The two intersections are arterials. If vacant today, a business would be generally acceptable at this location. A residential area would not be desired. He read the requirements for a bed and breakfast. This house has been on the market for two years and not lived in for one year so it has some deterioration. Staff thinks this is a good use of the house and will improve the neighborhood to keep the house up.

Staff

Recommendation: Staff recommends approval.

Mr. Langholtz asked about parking.

Mr. Salisbury asked about the carport.

Mr. Luensmann discussed the parking.

The public hearing was opened.

Kay Dillard, proponent, said she owns the property. There are five parking spaces on the property. She said there are five covered parking spaces and two open spaces. She will address areas of concern that were brought up. One was the historic integrity and impact of the neighborhood. When they acquired the house in 1975, historic preservation was unheard of. Bankers would not talk with them. The house had been vacant about six years. It took them 25 years to bring it back. We wanted to consider it for the national register and historic overlay. The major interest for the house has been a bed and breakfast. The house has not been priced over the appraised value. The economic liability is she cannot maintain it on her own. She would have to rent it. Bed and breakfasts are not high use enterprises. Traffic was mentioned. This use will not increase traffic. Signage was another concern but the City already has those requirements in place. The house has city, state and national historic registry. The ordinance states what can and cannot be done. We will have to meet the City code. This will protect the house. She does not have a contract but has an interested buyer.

Ruby Perez, Abilene Preservation League, said we are in support of the request. We feel the property does have protection with the H zoning. Bed and breakfasts usually keep a residential appearance. One thing that is important is the owner usually lives in the residence. She has seen in other areas where bed and breakfasts make good neighbors.

Elizabeth Fuller said she lives on S. 7th. Her side yard joins their back yard. There is plenty of parking and it would not affect traffic. She has no objections.

Kay Spiva said she has an interest because she is the realtor of the property. As a citizen of Abilene she marketed the property in March 2001. At least 50% of the calls were for utilization of a bed and breakfast. They see the property as ideal for a bed and breakfast.

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We have had a lot of people calling about the property. This is the best use for the property. There is a lot of maintenance for the house to be used as a residence.

Pebbles Lee said she is the executive director of the Downtown Home Owners Association and they are in favor of the request. She lives two and four blocks from the other bed and breakfasts in Abilene. These bed and breakfasts keep their properties beautiful. The signage is small and nice. They are good for our neighborhood. When they travel to other towns, they stay in bed and breakfasts. On the weekends there are 4-5 cars at the ones nearby. Other times there are only one or two other cars. It just looks like the resident has company.

Mike Hall, 618 Sayles, said he has lived next to this property for 12 years. He would be afraid that this would hurt the value of his property if used as a business. There are other businesses along Sayles. He thinks with children playing in the driveway there will be a problem. With the traffic the home already has with the apartment in back in addition to the garage apartment would create problems. He does not want to hurt his property values.

Mr. Langholtz asked if he would like to see it stay vacant.

Mr. Hall said they may have to sell it for less than what they want. He said he has lived there for 12 years and bought his house in August.

Mr. Bradshaw said Highland Church of Christ is behind the property and that is a business.

The public hearing was closed.

Mr. Salisbury asked if they need to vote on the two requests separately.

Mr. Luensmann said the second request is for a 6 month extension to obtain a Certificate of Occupancy.

Vote:

Jim Salisbury moved to vote for approval of the Special Exception to allow a bed and breakfast in a RS-12/H zoning district. David Hejl seconded the motion.

- 5 approvals:
1. Jim Salisbury
 2. David Hejl
 3. Scott Hay
 4. Morton Langholtz
 5. Wayne Bradshaw

Morton Langholtz moved to vote for approval of a six month extension to acquire a certificate of occupancy. David Hejl seconded the motion.

- 5 approvals:
1. Morton Langholtz
 2. David Hejl
 3. Jim Salisbury
 4. Scott Hay
 5. Wayne Bradshaw

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Decision: Case BA-2003 was approved.

Case No.: BA-2103

Request: From Larry Floyd for a 480 square foot variance from the 600 square feet maximum allowed for RS-6 zoning districts.

Legal

Description: The south 140' of the west ½ of Lot 2, Block 22, Continuation of Scott Highway Place Addition, Abilene, Taylor County, Texas, located at 3426 Russell.

Discussion: Dustin Luensmann gave the staff presentation. He said the request is for the extension of the existing storage building. Proposed is the addition of a 24' x 21' addition.

Notification: Seventeen comment forms were mailed. One was returned in favor; three in opposition. He said the comments in opposition discussed a rumor of the proponent moving his auto mechanic shop to his residence.

He said that is not an allowed use at a residence. There are numerous commercial uses to the north but is zoned for that use. Staff feels this building is too large for the area. Proposed is a 1080 square foot structure.

Staff

Recommendation: Staff recommend disapproval.

Mr. Salisbury said it appears by the drawing that the structure would be close to the same size as the house.

Mr. Luensmann said it would be very close.

The public hearing was opened.

Larry Floyd, proponent, said the storage building will not be commercial. He owns a shop at 2929 S. 1st and is buying it. He presented pictures of his property. He said one photo shows what the house looked like four years ago and one shows what it presently looks like. We were required by the City to tear the garage down. There is not enough space for storage or a garage. We have had things stolen and have a need to protect our equipment.

Mr. Hejl said the slab exists and the building will be placed on it. He asked if the variance was to just make the building larger than allowed.

Mr. Floyd said he is trying to keep all his equipment inside the building and not in the yard.

Mr. Hejl asked if he can speak as to why people would think he may be moving his business to this location.

Mr. Floyd said he did not know. The structure would be 5' from the property line.

Mr. Salisbury asked what is located behind him.

Mr. Floyd said it is a large vacant field where the Starlight Hotel had been.

Mr. Santee said this board cannot legally give you a variance without a hardship. What is the hardship.

Mr. Floyd said things and equipment we stored outside have been stolen.

Mr. Langholtz said it will be a really big building. He asked if he could go with something smaller.

Mr. Floyd said he would if he could get his stuff in it.

Mr. Salisbury asked if he could put doors on the existing structure and lock it.

Mr. Floyd said everything inside the shop was in the business on S. 1st. The hardship is he does not have enough space. He does not believe it will create a problem with the neighbors. The shop will be just as nice as the house.

Mr. Langholtz said from a neighborhood point of view would this be appropriate for a neighborhood.

Mr. Luensmann said he does not know. He said one comment form at 3356 Russell was outside the notification area.

Mr. Floyd said it will not be commercial.

Linda Steerman, 202 Clyde, said they have noticed more traffic with more businesses opening up. We are opposed to the size of the building. With the new race track in town more people are racing their engines in their driveways.

Ray Freeze, 214 Clyde, said he would open his door and see the large storage building. He does not know why he would want a building that large. Why not make a double decker and put storage there. We do not need more traffic. He has not had anything stolen from his yard. He does not want a business there.

Mr. Bradshaw said he cannot put a business there. Why would someone want something that big then want another one.

Mr. Floyd said his cars are not race cars. They are just nice cars. He does not make any noise with cars on his property. He would like his stuff secured and be nice.

Mr. Salisbury asked about the wall height.

Mr. Floyd said they used to live in Clyde and his wife has a large collection of stuff. There will not be a second floor.

Mr. Hejl asked if the rear and side setback requirements would be met.

Mr. Luensmann said it currently meets the setback requirements.

Mr. Hay said the height is what makes it noticeable to all the neighbors. If he lowered it, there may be less opposition.

The public hearing was closed.

Mr. Santee said there are eight requirements for a variance. The hardship of the applicant's making does not make a hardship. It is open to interpretation.

Mr. Hejl asked if a deteriorating neighborhood is a hardship.

Mr. Santee discussed economic as a hardship. He said they could add onto the primary structure. He has other avenues and would not require a variance.

Mr. Salisbury asked how the size of the lot compares with other lots.

Mr. Luensmann said typically RS-6 zoning has a minimum lot size of 6000 square feet. This lot is approximately 9200 square feet. He did not calculate any other lots in the area. Our regulations are outdated. There is a zoning ordinance rewrite and we plan to change the requirement to 10% of lot coverage. To the west is RM-3 and duplexes could be built there.

Mr. Langholtz said the major concern was based on having a business but now the concern is size.

Vote: Morton Langholtz moved to vote for approval. David Hejl seconded the motion.

4 approvals: 1. Morton Langholtz
 2. David Hejl
 3. Jim Salisbury
 4. Wayne Bradshaw

1 denial: 1. Scott Hay

Decision: Case BA-2103 was approved.

Case No.: BA-2203

Request: From Mr. & Mrs. Joe Marver; agent, Robert S. Roadcap III, for a 10' variance from the 25' exterior setback requirement for a commercial structure.

Legal

Description: Lot 305, Block A, Curry Park Addition, Abilene, Taylor County, Texas, located in the 3300 block of John Knox Drive.

Discussion: Dustin Luensmann gave the staff presentation. He said the parkway of John Knox is 12' and the setback requirement is 25'. As proposed the structure will be 27' from the curb.

Notification: Five comment forms were mailed. None were returned.

He said there is a 15' utility easement located along John Knox Drive as well as a transformer box easement. They are in the process of obtaining release of the

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transformer easement. He discussed requirements for a variance. This lot is a triangle shape. If the lot was not such a curved lot, the variance would not be required. There will be no parking located along the side of the building. Also there will be landscaping. The lot is now an eye sore.

Staff

Recommends: Staff recommends approval.

Mr. Langholtz asked about the safety of visibility.

Mr. Luensmann said he does not think there will be a problem but did not talk with Traffic. One of the things we are looking at in the proposed Comp. Plan is moving structures closer to the front of the lot and putting parking in the rear.

Mr. Santee said usually when Traffic knows there will be a visibility problem they will require a site easement.

Mr. Luensmann said it will also have to go before the Site Plan Committee.

The public hearing was opened.

Bob Roadcap, agent, said this is an odd shaped lot and the use will be a retail store. It will be a shell for now. They also own the lot that Office Max is on. They will share the parking with that business. There is a retaining wall on the property. There is about a 4' drop. The proponent needs a certain amount of square footage to make the construction feasible. To be able to get the square footage, they will need to encroach into the setback requirement. In 2001 he was granted a 25' variance but it expired. Now he is only requesting a 10' variance.

Mr. Bradshaw asked if approved will he go through the permit process.

Mr. Roadcap said, yes, they will obtain a permit.

The public hearing was closed.

Mr. Salisbury asked if granted, how long do they have to obtain a permit.

Mr. Luensmann said it is six months.

Vote: Scott Hay moved to vote for approval. Morton Langholtz seconded the motion.

- 5 approvals:
1. Scott Hay
 2. Morton Langholtz
 3. David Hejl
 4. Jim Salisbury
 5. Wayne Bradshaw

Decision: Case BA-2203 was approved.

There being no further business, the Board of Adjustment meeting was adjourned at 10:15 a.m.

Wayne Bradshaw, Chairperson

Scott Hay, Acting Secretary

