

BOARD OF ADJUSTMENT

May 10, 2005

Minutes

Members Present: Rick Waldruff
Scott Hay
Morton Langholtz
Wayne Bradshaw
:
Jim Salisbury

Alternates Present: Brenda Coleman

Staff Present: Jeff Armstrong, Development Services Manager
Gloria Brownell, Planner I
Dan Santee, City Attorney
Rodney Fletcher, Permit Specialist
Larry Abrigg, AICP, Senior Planner
Jon James, AICP, Director
Terry Pribble, Professional Engineer

Mr. Bradshaw, Chair, called the meeting to order at 8:45 AM and declared a quorum present.

The minutes of the April 12, 2005 meeting were unanimously approved.

Agenda Item BA-2005-14, Request for a 45' variance from the 50' rear setback requirement for a proposed commercial structure at 925 Ambler Avenue.

Mr. Hay made a motion to remove this request from the table. Mr. Salisbury seconded the motion, which passed by a vote of 5 in favor and 0 opposed.

Mr. Armstrong presented the staff report. The applicant wanted to construct a retail auto parts store. The proposed building site is located in two zoning districts; the proposed structure would be built across the boundary line between the two. The portion to the east is zoned HC and has a required rear setback of 50 feet when abutting residential zoning. The applicant proposed locating the building 5 feet from the property line. Residential zoning lies across the alley that is adjacent to the subject parcel's rear property line. Mr. Armstrong expressed concerns over intrusion of light and detrimental effects to the residential character of the adjacent neighborhood due to the reduced separation of the commercial structure. Staff recommended denial of the request. If the Board voted to approve the request, staff recommended that no lighting be permitted to the rear of the structure and that a 6' opaque fence constructed of wood or masonry be required along the property line adjacent to the alley. No comment forms were returned in favor or opposition.

Mr. Bradshaw asked the depth of the lot. Mr. Armstrong said it was 129.84 feet on the east side. Mr. Langholtz asked if there were any objections received from the nearby residences and Mr. Armstrong stated that no comment forms had been returned. Mr. Santee asked what the least-intense zoning district would be that would allow the proposed use and what the setbacks for that district would be. Mr. Armstrong said that Limited Commercial would accommodate the request and that the rear setback would be 20 feet. Mr. Santee asked if Popeye's was located on the adjacent HC zoning and if they had required any variances. Mr. Armstrong confirmed that it was Popeye's but was not sure if they had needed variances.

Mr. Bradshaw opened the public hearing. David Bentley, a representative from Autozone, spoke in favor of the request. He stated that an engineer met with Mr. Armstrong to discuss alternatives. He disagreed with the staff recommendation and stated that the peculiar zoning and the nearby residences imposed a hardship. He stated that the alley provided a buffer for the residences. He had met with the engineer and discussed moving the building but that would place the parking lot and the dumpsters closer to the residences. They were concerned that this would increase the amount of activity directly adjacent to the homes and would be more of an intrusion.

Mr. Langholtz asked what activity would take place to the rear of the structure if the request were approved. Mr. Bentley said that there would be almost none. The plans called for only an emergency door on the east side of the building. Mr. Salisbury asked where the dumpsters would be located. Mr. Bentley stated that they would be near the northeast corner of the building and adjacent to the delivery doors. Mr. Hay asked for Mr. Bentley's response to the conditions staff had recommended upon approval. Mr. Bentley said that he would be happy to accommodate whatever conditions the Board thought were appropriate. Mr. Salisbury asked him to state the hardship. Mr. Bentley stated that the split zoning and the shallow depth of the property did not allow sufficient building space with compliance of the current regulations. Mr. Salisbury asked if Autozone already owned the property and if they knew about the zoning before purchasing. Mr. Bentley said that they were under contract and that they had requested the case be tabled the previous month because they were not aware of the split-zoning situation. Mr. Santee stated that Mr. Bentley had sited the split zoning as a hardship and that the proposed setback would not comply with the regulations of any zoning district. Mr. Bentley responded that the shallow depth of the lot constituted a hardship regardless of the zoning. Mr. Santee asked about the possibility of rearranging the site and Mr. Bentley replied that the delivery access prohibits any other layout. Mr. Salisbury asked him to explain. Mr. Bentley stated that the business receives one tractor-trailer delivery truck per week from Washington D.C. They arrive during daylight hours some time during the week to avoid conflict with the busy weekend sales periods. He stated that getting the truck to the building would be difficult if it were moved closer to Pine Street. Mr. Hay asked how many of the required parking spaces were usually full. Mr. Bentley said that Autozone prefers to provide as much parking as possible and that the proposed number was adequate for sales projections at the site. Mr. Hay asked if it would impact the business much if the ten western parking spaces were moved to the east side of the building. Mr. Bentley stated that it would cause an impact but could not say how much. He said that customers would be unhappy parking in the rear and walking around to the front. Mr. Santee suggested designating them for employee parking and Mr. Bentley stated that there generally were not that many employees working at the same time. Mr. Salisbury asked Mr.

Armstrong if trucks could still access the site if the building was moved. Mr. Armstrong said that it was not unusual for trucks to use parking aisles for access. Mr. Salisbury asked if this would require the employees to move their cars for refuse collection. Mr. Armstrong stated that the minimum permitted aisle width is 24 feet and that should accommodate the collection trucks without moving any vehicles.

Paul Johnson, a representative for the bank that is the current owner, spoke in favor of the request. He said that the intention for the setback requirement was to protect the adjacent residences. He stated that the alley provided a sufficient buffer and that there were no complaints from the residents. The proposed site layout would have less of an impact than locating the parking in the rear, which would produce more activity and need for lighting. He stated that the parcel has been vacant for several years and that the only opposition to the development was from the City. Mr. Bradshaw asked what would happen if the request was denied and Mr. Bentley responded that Autozone would not build on the site.

Mr. Bradshaw closed the public hearing. Mr. Bradshaw stated that the split zoning seemed like a hardship but that the proposal would not be allowed in any other zoning district. Mr. Salisbury said that if the structure were moved the dumpsters would be closer to the residences. Mr. Hay also expressed concerns over the added activity near the homes. Mr. Hay made a motion to approve the variance request, with the condition that there be no lighting in the rear and that a 6-foot opaque fence be provided along the rear property line, based on the following findings:

Unique Conditions of the Property: The property has two zoning classifications. The western 165 feet is zoned General Commercial and the eastern 50 feet is zoned Heavy Commercial.

Hardship From Strict Interpretation: Enforcing the current setback regulation would place more activity directly adjacent to the surrounding homes. The building would act as a buffer from noise and activity if it were placed closer to the property line.

Effect on Public Health, Safety, and Welfare: The conditions placed on the approval help mitigate the impact on the adjacent homes and no residents responded in opposition.

Mr. Langholtz seconded the motion, which passed by a vote of 5 in favor and 0 opposed.

Agenda Item BA-2005-15, Request for an 11' variance from the 25' front setback requirement for a proposed addition to a commercial structure located at 3349 North 12th Street.

Mr. Bradshaw made a motion to remove this request from the table. Mr. Hay seconded the motion, which passed by a vote of 5 in favor and 0 opposed.

Mr. Armstrong presented the staff report. The applicant wanted to construct an addition that would expand the chapel area of the existing funeral home. The applicant proposed to be 11 feet, instead of 25 feet, from the property line and 23 feet from the curb on North 12th Street. There is sufficient building space to the rear of the structure where even a larger addition would still comply with current regulations. The proximity to the intersection at North 12th Street and

Glenhaven Drive may also present problems with visibility. No comment forms were returned in favor or opposition. Staff recommended denial of the request. Mr. Santee asked if trees and hedges were allowed to be planted within the visibility triangle. Mr. Armstrong confirmed that they were allowed as long as they were on private property.

Mr. Bradshaw opened the public hearing. Jack Fuqua, applicant, spoke in favor of the request. He stated that there is no north entrance to the chapel so all traffic flows through the south entrance. If a new chapel were placed on the south end of the structure it would create a barrier to the rest of the rooms in the building. The single entrance also facilitates families traveling to the cemetery. He spoke with an engineer and determined that a 6-foot addition would allow 198 seats and the 11-foot addition requested would allow 240 seats in the chapel. The existing chapel has 150 seats and the smaller addition would not be financially feasible for the small increase in seating. Jim Salisbury asked if the orange flag in the pictures provided were marking the dimensions of the proposed addition. Mr. Fuqua stated that they marked the 6-foot addition and that the 11-foot addition would be in line with a shrub in the picture. Ms. Coleman asked the number of seats that would preclude an addition and Mr. Fuqua replied that an increase of 48 seats was not financially feasible.

Mr. Bradshaw closed the public hearing. Mr. Salisbury stated that the hardship might be that the applicant would have to reconfigure the internal layout if the request were denied. Mr. Waldruff agreed that the existing configuration did not allow for additions to the other side of the building. He asked if the church further down North 12th Street was closer to the property line than current regulations allow. Mr. Armstrong confirmed that it was. Mr. Waldruff said that the addition could reduce visibility but it was still in compliance with the visibility triangle. Mr. Bradshaw noted that he could plant vegetation that blocked visibility in the area in question and that it could be more detrimental than the proposed addition. Mr. Waldruff made a motion to approve the request based on the following findings:

Unique Conditions of the Property: There is no entrance on North 12th Street even though that is considered the front of the structure.

Hardship From Strict Interpretation: The internal configuration of the building prohibits effective use of the building unless the addition is constructed as proposed.

Effect on Public Health, Safety, and Welfare: The proposed addition does not substantially reduce visibility because it does not extend into the visibility triangle.

Mr. Salisbury seconded the motion, which passed by a vote of 5 in favor and 0 opposed.

Agenda Item BA-2005-17, Request for a 17' variance to the 30' rear setback requirement for a residential addition at 2401 Christopher Drive.

Mr. Waldruff made a motion to remove this request from the table. Ms. Coleman seconded the motion, which passed by a vote of 5 in favor and 0 opposed.

Mr. Armstrong presented the staff report. The applicant wanted to construct a recreation room addition and patio cover over an existing 20' x 17' patio behind his home. The enclosed addition would have 17' along the south side of an existing carport and extend 10' southward. The southern half of the patio would be covered with a 10' x 17' extension of the same roof that would be open on the sides. If the applicant rotated the proposal 90 degrees and built the longest side of the enclosed portion along the rear of the existing home, the variance request could be reduced. The enclosed portion would still require a variance to achieve the requested square footage, but the amount would be greatly reduced. No comment forms were returned in favor and one was returned in opposition the previous month. Staff recommended denial due to the lack of hardship and the possibility of an alternative layout that would reduce the request. Mr. Waldruff asked if the lot coverage requirement would still be met if the request was approved and Mr. Armstrong confirmed that it would be in compliance.

Mr. Bradshaw opened the public hearing. E. Forrest Herndon, applicant, spoke in favor of the request. He stated that he proposed to enclose a 10' x 20' portion of the existing patio area for a game room and extend a patio cover over the remaining portion. If the addition was rotated to run along the rear wall of the existing house it could only be 7 feet wide and remain in compliance. Mr. Herndon said that his family had a similar game room in their previous home and that a 7' x 20' room would be too small. He stated that there were 2 windows on the existing rear wall and that they would look into the addition if he had to rotate it to meet the setback requirement. The proposed addition would not be connected to the existing carport but would be separated by 2 or 3 inches. Mr. Hay requested that he point out the windows in the picture from the staff presentation. Mr. Waldruff asked if there was a garage adjacent to the carport. Mr. Herndon confirmed that there was. Mr. Armstrong stated that the applicant would still need a variance if the addition were reconfigured and wider than 7.5 feet. The extension of that enclosed addition would enclose the existing open carport, which would change the variance to include the entire carport. Mr. Bradshaw asked how far away the addition's wall would have to be to allow the existing carport to remain open. Mr. Armstrong stated that it would require 6 feet for fire separation. Mr. Hay asked Mr. Herndon if he had visited with the neighbor that had returned the comment form in opposition. Mr. Herndon said that he had and that she had not returned a second comment form after renotification. Mr. Waldruff asked him what he would find as a hardship. Mr. Herndon stated that the requested configuration would allow a better view out the existing windows and the new ones in the proposed addition. Mr. Waldruff stated that a view did not really constitute a hardship. Mr. Santee asked if the rotated configuration would cause natural light issues. Mr. Armstrong stated that if the existing room was a bedroom it would, but not if it was a living area. Mr. Hay stated that the rotated configuration would not provide the highest and best use of the land and would not pose any negative effects on the public health, safety, and welfare.

Mr. Bradshaw closed the public hearing. Mr. Waldruff said that the hardship was that the configuration of the existing home did not permit improvements for the best use of the property. Mr. Salisbury agreed and stated that rotating the addition would still require a variance and that the loss of the windows was not the best use of the land. Mr. Hay made a motion to approve the request based on the following findings:

Unique Conditions of the Property: The existing layout of the house does not allow for improvements that would be the best use of the property.

Hardship From Strict Interpretation: Any other development would not allow for the best use of the property.

Effect on Public Health, Safety, and Welfare: There would be little or no effects on the general public from this request.

Mr. Salisbury seconded the motion, which passed by a vote of 5 in favor and 0 opposed.

Agenda Item BA-2005-21, Request for (1) a 2' variance from the 3' side setback requirement and (2) a Special Exception to locate a carport in the front yard setback at 2540 Portland Avenue.

Ms. Brownell presented the staff report. The applicant wanted to construct an open carport that would be 7 feet and 6 inches from the front property line, 20 feet from the curb on Portland Avenue, and 1 foot from the side property line to the north. The existing driveway could be widened to the south to accommodate two vehicles while still complying with the current side setback regulations. There are several other front carports in the immediate area so the request meets the criteria of compatibility. Staff recommended approval of the Special Exception but denial of the variance. Two comment forms were returned in favor and none in opposition.

Mr. Bradshaw opened the public hearing. James Burleson, applicant, spoke in favor of the request. He stated that he wanted to get the car out of the elements. He said that the church across the street owns the lot adjacent to his and that they are in favor of the request. The variance would allow enough room to park two cars under the carport. Mr. Bradshaw asked why the driveway could not be moved further south to avoid the variance. Mr. Burleson stated that a gas meter at the south corner of the existing driveway would be difficult to move. Mr. Hay asked what the barrier on the south side of the driveway was made of. Mr. Burleson replied that it was landscaping timbers. Mr. Hay asked for the width of the existing driveway. Mr. Burleson stated that it was 17 feet wide.

Mr. Bradshaw closed the public hearing. Mr. Waldraff made a motion to approve the variance request based on the following findings:

Unique Conditions of the Property: Existing utilities prohibit moving the driveway further to the south.

Hardship From Strict Interpretation: Existing utilities prohibit moving the driveway further to the south.

Effects on Public Health, Safety, and Welfare: Existing utilities prohibit moving the driveway further to the south.

Ms. Coleman seconded the motion, which passed by a vote of 5 in favor and 0 opposed.

Mr. Hay made a motion to approve the Special Exception based on the following findings:

Compatibility With Surrounding Land Uses: There are several other front carports in the immediate vicinity of the request.

Effect on Public Facilities: There are no negative effects on public facilities from an open carport in this location.

Relationship to the Intent of the Regulation: This request is in an area with several other front carports so it is consistent with the intent of the regulation.

Mr. Waldraff seconded the motion, which passed by a vote of 5 in favor and 0 opposed.

Agenda Item BA-2005-22, Request for a Special Exception to locate a carport in the front yard setback at 1410 Marsalis Drive.

Ms. Brownell presented the staff report. The applicant wanted to construct an open carport over an existing driveway that would be 5 feet from the front property line and 17 feet from the curb on Marsalis Drive. There are several other front carports in the immediate area so the request meets the criteria of compatibility. Staff anticipated no negative effect on public facilities from this request. Staff recommended approval of the Special Exception. Six comment forms were returned in favor and none in opposition.

Mr. Bradshaw opened the public hearing. Roy Young, agent, spoke in favor of the request. He stated that the carport would be used to protect the applicant's vehicles from the elements.

Mr. Bradshaw closed the public hearing. Mr. Waldraff made a motion to approve the request based on the following findings:

Compatibility With Surrounding Land Uses: There are several other front carports in the immediate vicinity of the request.

Effect on Public Facilities: There are no negative effects on public facilities from an open carport in this location.

Relationship to the Intent of the Regulation: This request is in an area with several other front carports so it is consistent with the intent of the regulation.

Mr. Hay seconded the motion, which passed by a vote of 5 in favor and 0 opposed.

Agenda Item BA-2005-23, Request for a 2' variance to the minimum finished floor elevation requirement in the 100-year floodplain at 2518 Greenbriar Drive.

Ms. Brownell gave the staff report. The applicant wanted to construct a 12' x 16' skid mounted storage building on the northwest corner of his property. The majority of the lot lies in the

floodway, with only the northwest corner extending into the 100-year floodplain. The northwest corner is the proposed location for the storage building. The property is located in flood hazard Zone A6, which has a required minimum finished floor elevation of 1752.7 feet above mean sea level (msl). The variance request would allow a finished floor elevation of 1750.7 feet msl. The applicant provided a Certificate of Elevation for the primary structure on the subject property that showed the finished floor to be 1749.8 feet msl. The applicant was given the option of attaching the addition to the primary structure in order to meet the City's requirements for development in the floodway, but preferred to have a detached structure in the 100-year floodplain instead. Although the general public is not likely to be affected by this request, the proposed structure may be susceptible to property damage from significant rainfalls. Variances such as this could ultimately affect flood insurance rates across the community. Staff recommended denial due to the lack of hardship and the possible effect on public welfare. Three comment forms were returned in favor and none in opposition. Mr. Bradshaw asked if the other homes in the area were also in the flood zone. Ms. Brownell confirmed that they were and that their construction predated the current regulations. Mr. Salisbury asked if structures could be built in the floodway. Ms. Brownell explained that new structures in the floodway required a Floodway Development Permit. Attached additions that totaled less than 50 percent of the value and 30 percent of the square footage of an existing structure in the floodway were permitted without obtaining the Floodway Development Permit.

Mr. Bradshaw opened the public hearing. Wayne Jepson, applicant, spoke in favor of the request. He explained that the required elevation would cause difficulty moving his lawnmower and other equipment into the storage building and that several neighboring properties had storage buildings that were not elevated. He stated that attaching it to the primary structure would not be aesthetically pleasing. Hawk Portable Buildings would be constructing the building and the finished floor would be approximately 12-14 inches high. Mr. Hay asked if his property had sustained any damage from flooding. Mr. Jepson stated that the home was built in 1964 or 1965 and had never been flooded. Mr. Hay asked why they had obtained an elevation certificate. Mr. Jepson said that his wife had wanted to get flood insurance, which required the certificate. Mr. Salisbury asked if he was over age 65. Mr. Jepson confirmed that he was and that he was a 100 percent disabled veteran.

Mr. Bradshaw closed the public hearing. Mr. Armstrong elaborated on some of the floodplain issues and Mr. Pribble provided more detailed information. Mr. Bradshaw stated that he thought the request would not have an effect on other properties. Mr. Waldraff said that it was important to express reasons for approval, including the fact that the accessory structure constituted a small percentage of the existing value of the property. Mr. Hay stated that he was not yet convinced that the approval would not have negative effects for the community. He said that a ruling from FEMA might help determine those effects. Mr. Pribble explained that all cities have a minimum size for storage buildings that do not require permits, but that FEMA expects full compliance from those that are permitted. Mr. Waldraff expressed concerns over affecting the rest of the community.

Mr. Bradshaw reopened the public hearing. Mr. Bradshaw asked for the size of the porch attached to the proposed structure. Mr. Jepson stated that he was not going to have a porch as originally proposed, he was going to enclose the entire 14' x 16' structure. Mr. Hay asked him if

a building with 120 square feet would work. Mr. Jepson replied that he required enough space to clean out his garage so he could use it to store a sports car.

Mr. Bradshaw closed the public hearing. The Board requested Staff to research with FEMA whether a structure such as the one proposed would have effects on the community as a whole. Mr. Hay made a motion to table the request. Mr. Waldruff seconded the motion, which passed by a vote of 5 in favor and 0 opposed.

Agenda Item BA-2005-24, Request for a Special Exception to locate a carport in the front yard setback at 1909 Poplar Street.

Ms. Brownell presented the staff report. The applicant wanted to construct an open carport over an existing driveway that would be 8 feet from the front property line and 20 feet from the curb on Poplar Street. There are several other front carports in the immediate area so the request meets the criteria of compatibility. Staff anticipated no negative effect on public facilities from this request. Staff recommended approval of the Special Exception. Six comment forms were returned in favor and none in opposition.

Mr. Bradshaw opened the public hearing. A friend of Ms. Jiminez, applicant, translated and spoke in favor of the request. She stated that the intent was to protect the applicant's vehicles.

Mr. Bradshaw closed the public hearing. Mr. Hay made a motion to approve the request based on the following findings:

Compatibility With Surrounding Land Uses: There are several other front carports in the immediate vicinity of the request.

Effect on Public Facilities: There are no negative effects on public facilities from an open carport in this location.

Relationship to the Intent of the Regulation: This request is in an area with several other front carports so it is consistent with the intent of the regulation.

Ms. Coleman seconded the motion, which passed by a vote of 5 in favor and 0 opposed.

Agenda Item BA-2005-25, Request for a Special Exception to locate a carport in the front yard setback at 4038 Wilshire Drive.

Ms. Brownell presented the staff report. The applicant wanted to construct an open carport over an existing driveway that would be 6 feet from the front property line and 18 feet from the curb on Wilshire Drive. There are no other front carports in the immediate area so the request does not meet the criteria of compatibility. The nearest front carport is over 650 feet away on an adjacent street, which is outside the 200-foot area generally considered by the Board. Staff recommended denial of the Special Exception. Four comment forms were returned in favor and none in opposition.

Mr. Bradshaw opened the public hearing. Charles P. Love, applicant, spoke in favor of the request. He stated that the carport would be used to protect his vehicles from weather and bird droppings. Mr. Salisbury asked if he had a garage and Mr. Love said that he did but half of it had been converted into a living area. Mr. Hay asked if he had visited with his neighbors about the request and Mr. Love said that he had mentioned it to a few of them. Mr. Salisbury stated that the nearest front carport was a long ways away from the request.

Mr. Bradshaw closed the public hearing. Mr. Salisbury made a motion to deny the request based on the following findings:

Compatibility With Surrounding Land Uses: There are no other front carports in the immediate vicinity of the request.

Effect on Public Facilities: There are no negative effects on public facilities from an open carport in this location.

Relationship to the Intent of the Regulation: This request is in an area with no other front carports so it is not consistent with the intent of the regulation.

Mr. Waldruff seconded the motion, which passed by a vote of 5 in favor and 0 opposed.

Agenda Item BA-2005-26, Request for a Special Exception to locate a carport in the front yard setback at 2109 Marsalis Drive.

Ms. Brownell presented the staff report. The applicant wanted to construct an open carport over an existing driveway that would be 5 feet from the front property line and 17 feet from the curb on Marsalis Drive. There are three other front carports in the immediate area so the request meets the criteria of compatibility. Staff recommended approval of the Special Exception. Three comment forms were returned in favor and none in opposition.

Mr. Bradshaw opened the public hearing. Kathryn Oliver, applicant, spoke in favor of the request. She stated that the existing garage had been converted to living space and that the carport would protect her vehicles.

Mr. Bradshaw closed the public hearing. Mr. Salisbury made a motion to approve the request based on the following findings:

Compatibility With Surrounding Land Uses: There are three other front carports in the immediate vicinity of the request.

Effect on Public Facilities: There are no negative effects on public facilities from an open carport in this location.

Relationship to the Intent of the Regulation: This request is in an area with three other front carports so it is consistent with the intent of the regulation.

Mr. Hay seconded the motion, which passed by a vote of 5 in favor and 0 opposed.

Agenda Item BA-2005-27, Request for a Special Exception to locate a carport in the front yard setback at 1810 Richland Drive.

Ms. Brownell presented the staff report. The applicant wanted to construct an open carport over an existing driveway that would be 20 feet and 3 inches from the front property line and 32 feet and 3 inches from the curb on Richland Drive. There are no other front carports in the immediate area so the request does not meet the criteria of compatibility. The nearest front carport is over 500 feet away on an adjacent street, which is outside the 200-foot area generally considered by the Board. Staff recommended denial of the Special Exception. One comment form was returned in favor and none in opposition. Mr. Bradshaw asked if the adjacent cement business had carports for its commercial trucks. Mr. Santee stated that the business was in a different zoning district and the covered parking was not located in the front setback.

Mr. Bradshaw opened the public hearing. Earl L. Redman, applicant, spoke in favor of the request. He explained that the carport would have a gabled roof that would connect to the house. He said that the house was built 1965 or 1966 and the existing single-car garage was too small for his wife to safely park their SUV.

Gene Hughes, 1809 Richland Drive, spoke in opposition of the request. He provided photographs of Mr. Redman's business. He asked the Board to place a condition that the carport be used only for vehicle storage and that it could not be used for storage of any other kind, including business materials, so that it would not look like the business in the photographs.

Mr. Bradshaw closed the public hearing. Mr. Hay made a motion to deny the request based on the following findings:

Compatibility With Surrounding Land Uses: There are no other front carports in the immediate vicinity of the request.

Effect on Public Facilities: There are no negative effects on public facilities from an open carport in this location.

Relationship to the Intent of the Regulation: This request is in an area with no other front carports so it is not consistent with the intent of the regulation.

Mr. Salisbury seconded the motion, which passed by a vote of 5 in favor and 0 opposed.

Agenda Item BA-2005-28, Request for a Special Exception to locate a carport in the front yard setback at 1833 Delwood Drive.

Ms. Brownell presented the staff report. The applicant wanted to construct an open carport over an existing driveway that would be 8 feet from the front property line and 20 feet from the curb on Delwood Drive. There are three other front carports in the immediate area so the request

meets the criteria of compatibility. Staff recommended approval of the Special Exception. Three comment forms were returned in favor and none in opposition.

Mr. Bradshaw opened the public hearing. Gerald Campbell, applicant, spoke in favor of the request. He stated that both he and his wife were partially handicapped and that the carport would be a benefit to them. Mr. Salisbury asked if there was an existing garage. Mr. Campbell said that half of the two-car garage was used for storage and the other half housed his wife's vehicle.

Mr. Bradshaw closed the public hearing. Mr. Waldraff made a motion to approve the request based on the following findings:

Compatibility With Surrounding Land Uses: There are three other front carports in the immediate vicinity of the request.

Effect on Public Facilities: There are no negative effects on public facilities from an open carport in this location.

Relationship to the Intent of the Regulation: This request is in an area with three other front carports so it is consistent with the intent of the regulation.

Mr. Hay seconded the motion, which passed by a vote of 5 in favor and 0 opposed.

Agenda Item BA-2005-29, Request for a Special Exception to locate a carport in the front yard setback at 2025 Fannin Street.

Ms. Brownell presented the staff report. The applicant wanted to construct an open carport over an existing driveway that would be 5 feet from the front property line and 17 feet from the curb on Fannin Street. The applicant was previously granted a special exception for the same request in November 2003 but failed to obtain a building permit within the specified amount of time. There are several other front carports in the immediate area so the request meets the criteria of compatibility. Staff recommended approval of the Special Exception. Two comment forms were returned in favor and none in opposition.

Mr. Bradshaw opened the public hearing. A friend of the applicant spoke in favor of the request. She stated that it would provide shade for the house and protect their vehicles from the weather. Mr. Hay asked why a building permit had not been obtained the first time. She explained that the applicant was not aware of the time limitations and would obtain the permits in the proper time period if granted approval.

Mr. Bradshaw closed the public hearing. Ms. Coleman made a motion to approve the request based on the following findings:

Compatibility With Surrounding Land Uses: There are several other front carports in the immediate vicinity of the request.

Effect on Public Facilities: There are no negative effects on public facilities from an open carport in this location.

Relationship to the Intent of the Regulation: This request is in an area with several other front carports so it is consistent with the intent of the regulation.

Mr. Waldruff seconded the motion, which passed by a vote of 5 in favor and 0 opposed.

Agenda Item BA-2005-30, Request for a 180-day extension to a variance granted on November 9, 2004.

Ms. Brownell gave the staff report. The applicant proposed to demolish the existing store and construct a new, modern convenience store at 4600 Pine Street. He wanted to provide more space for larger vehicles to maneuver around the fuel pumps. To accommodate this, he requested a 20' variance to the 25' rear setback requirement. The variance request (BA-6504) was approved on November 9, 2004. The applicant was unable to prepare plans during the 180-day time period before the variance expired due to logistical complications. The corporate office located in Clovis, New Mexico must approve all building plans. He made several trips there but was unable to obtain final approval. The plans are almost complete and the applicant feels that a 180-day extension should provide a sufficient amount of time to obtain the necessary permits. Staff recommended approval of the request.

Mr. Bradshaw opened the public hearing. Len Hitch, applicant, spoke in favor of the request. He explained that it was a very slow process to have building plans approved by the corporate office.

Mr. Bradshaw closed the public hearing. Mr. Hay made a motion to approve the request. Ms. Coleman seconded the motion, which passed by a vote of 5 in favor and 0 opposed.

Agenda Item BA-2005-31, Request for a Special Exception to locate a bed and breakfast in an RS6 zoning district at 833 Grove Street.

Ms. Brownell presented the staff report. The applicant wanted to convert an existing detached apartment into a single-unit bed and breakfast. The home is on a very quiet residential street near to the Old Elmwood residential area. The applicant would provide off-street parking for any guests. Staff considered the use similar to a garage apartment, which is a common feature of many of the older homes in the area. The use was compatible under these standards and imposed no negative effects on public facilities. Staff recommended approval of the request with the condition that the use be limited to a single-unit to reduce the impact on the surrounding neighborhood. No comment forms were returned in favor and thirteen were returned in opposition. Ms. Brownell read all the additional comments at Ms. Coleman's request.

Mr. Bradshaw opened the public hearing. Louann Bates, applicant, spoke in favor of the request. She stated that she treasured the quiet neighborhood just as much as her neighbors. She said that she had an existing detached one-bedroom apartment that was hard to see from the street and that

she had enough room for one off-street parking space. She stated that there would be no corresponding signage and that bed and breakfasts do not, as a rule, promote commercialism.

Lorraine Bonney, 809 Grove Street, spoke in opposition. She stated that she did not want strangers in their quiet neighborhood. Mr. Bradshaw asked if she would rather see Ms. Bates rent the space as an apartment. Ms. Bonney said that she did not think Ms. Bates was allowed to rent the space because it was originally built for the previous owner's mother. She stated that the driveway only allowed room for one vehicle and that it could not accommodate guest parking as Ms. Bates had stated.

Jim Grohman, 826 and 810 Grove Street and his father lives at 842 Grove Street, spoke in opposition. He said that when he purchased his property he was told that the apartment in question was granted an exception and that it must be occupied by an immediate family member. He stated that the parking was an issue and expressed concern over the possibility of an RV parking on the narrow street. He stated that he did not want to live across from a commercial business.

Vicki Brady, 857 Grove Street, spoke in opposition. She said that she purchased her property because of the quiet character of the street and the surrounding residential area. She stated that Ms. Bates had only lived there for a short period of time and that the apartment was only allowed to be occupied by an immediate family member. She said that it was important that thirteen neighbors were in opposition and none in favor of the request. Ms. Coleman asked if she would be opposed to a daycare facility on the property instead and Ms. Vick said that she would.

Ms. Bonney, spoke again in opposition. She expressed her concern over an RV or coach coming down the street from Elmwood Drive or South Willis Street. She stated that she opposed having them park on the street and that there was not enough room for a large vehicle to fit through the alley.

Mike Brady, 857 Grove Street spoke in opposition. He expressed concern for the safety of neighborhood children with the presence of strangers and the added traffic from a commercial business. He said that guests would not be familiar with the area and would not know to watch out for playing children.

Karen Vick, 874 Grove Street, spoke in opposition. She stated that she bought her property to retire and that she opposed the request.

Ms. Bates spoke again in favor of the request. She stated that the driveway expanded to accommodate two vehicles in the rear so there would be sufficient off-street parking. She said that bed and breakfasts are generally non-commercial and would create very little, if any, traffic in the neighborhood. She stated that it would only be open full-time in the summer and weekends during the school year. Mr. Salisbury asked her about the interior features of the apartment. Ms. Bates stated that it had a living room, kitchen, bedroom, and bathroom.

Mr. Bradshaw closed the public hearing. Mr. Hay made a motion to deny the request based on the following findings:

Compatibility With Surrounding Land Uses: The neighborhood response shows the lack of compatibility with surrounding land uses.

Effect on Public Facilities: There are no negative effects on public facilities from a bed and breakfast in this location.

Relationship to the Intent of the Regulation: This request is not compatible with surrounding land uses and is, therefore, not consistent with the intent of the regulation.

Mr. Salisbury seconded the motion, which passed by a vote of 5 in favor and 0 opposed.

Agenda Item BA-2005-32, Request for (1) a 5' variance from the 25' front setback and (2) an 18' variance from the 25' rear setback for a new commercial structure on unplatted land along Hi Tech Place and directly south of 3465 Curry Lane.

Mr. Armstrong stated that the request had been withdrawn by the applicant and suggested that the public hearing be opened in case anyone had appeared to speak.

Mr. Bradshaw opened the public hearing and, seeing none, closed the public hearing.

There being no further business, the meeting was adjourned at 12:45 P.M.

Approved: _____, Chairman