
BOARD OF ADJUSTMENT
November 8, 2005
Minutes

Members Present: Wayne Bradshaw
Scott Hay
Morton Langholtz
Rick Waldruff

Members Absent: Jim Salisbury

Alternates Present: Brenda Coleman
Tim Cook

Staff Present: Jeff Armstrong, Development Services Manager
Gloria Brownell, Planner I
Dan Santee, City Attorney
Rodney Fletcher, Permit Specialist

Mr. Bradshaw, Chair, called the meeting to order at 8:30 AM and declared a quorum present.

The minutes of the October 11, 2005 meeting were unanimously approved.

Agenda Item BA-2005-67, Request for a 40' variance from the 75' rear setback requirement at 1766 South Treadaway Boulevard.

Ms. Brownell presented the staff report. The applicant is proposing to construct a 40' x 100' commercial structure 35' from the rear property line. A large portion of the parcel is subject to a long-term lease with another company and is already occupied with a loading dock, gas pumps, and outdoor storage of vehicles and equipment. The applicant's portion of the parcel is already occupied by two large commercial structures, one of which received a similar variance in December 2003. The proposed site of the building is currently being used for outdoor storage of various supplies and equipment. Staff feels that the parcel is somewhat peculiar due to the substantial rear setback, which prohibits use of over half an acre along the rear property line. There are many situations along the Treadaway corridor where residential zoning is adjacent to industrial or heavy commercial uses. The impact on adjacent homes can be reduced through other means besides separation. Staff finds a hardship in that there is no alternative location on-site for expansion of the applicant's business. Staff foresees no negative effects on public health, safety, or welfare from the request, but recommends conditions to reduce the visual impact on the neighboring homes. Staff recommends approval with the conditions that the applicant provides 6' opaque screening along the entire rear property line and shields any security lighting that may spill over onto adjacent residential properties. Eight comment forms was returned in favor and one in opposition.

Mr. Bradshaw opened the public hearing. Kelly McCarty, applicant, spoke in favor of the request. Mr. Bradshaw asked if there were any alternate locations available for the structure.

Mr. McCarty explained that RAC had an existing lease agreement for a large portion of parcel when he purchased it. He stated that he would not have control of that portion for approximately eight more years. Mr. Bradshaw asked if he planned to increase the amount of on-site lighting. Mr. McCarty said that any additional lighting would be attached to the new building and that he was willing to shield it so it would not affect neighboring properties. Mr. Langholtz asked if he was agreeable to the screening requirement and he confirmed that he was. He stated that he thought about providing it whether the Board required it or not.

Mr. Bradshaw closed the public hearing. Mr. Hay made a motion to approve the request with the following conditions:

- a. The applicant provides privacy slats in the existing chain link fence or some other form of 6' opaque screening along the rear property line.
- b. The applicant shields the security lighting to illuminate only the subject parcel and avoid spillover onto neighboring residential properties.

Mr. Hay's motion was based on the following findings:

Unique Conditions of the Property: The 75' rear setback prohibits development of over half an acre of the subject parcel.

Hardship From Strict Interpretation: Due to the long-term lease and the existing structures on the site, there is no alternate location for the proposed structure.

Effect on Public Health, Safety, and Welfare: There will be no negative effects if the conditions are enforced.

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

Agenda Item 4: Workshop

Ms. Brownell gave a brief explanation of the findings worksheet and the copy of the Rules of Order provided for each Board member. She also provided information regarding the new process used to record, check, and enforce conditions placed by the Board. Staff developed a layer in the GIS mapping program that provides information for each Board of Adjustment case and refers to the database where exact conditions are recorded. A calendar was also developed to record time-dependent conditions for Special Exceptions and Temporary Permits.

Mr. Santee provided guidance for appropriate responses when applicants or other citizens contact Board members. He explained that while they have the right to speak to individuals if they choose, but that the recommended approach is to invite the person to provide their comments to the entire Board instead of one individual member. He advised the Board members to be cautious about communicating opinions and reasoning behind votes during the 10-day appeal period following each meeting, relying instead on the record of the meeting. He stated that they should use their judgment and respond however they feel is appropriate.

BOARD OF ADJUSTMENT

November 8, 2005

Page 3

Ms. Coleman asked if informal phone calls could be used in court and Mr. Santee explained that appeals from BOA are based almost entirely on the public record, however, they could be called as a witness and prior conversations could become an issue.

Mr. Santee also provided information regarding appropriate reasons to abstain from requests before the Board.

Mr. Langholtz requested an update on the swimming pool regulations. Mr. Armstrong that the fencing requirements had been changed in the Zoning Ordinance and that Building Inspections had recently requested amendments to the Swimming Pool Ordinance. Both the Board of Building Standards and the City Council had approved the recommended changes. Mr. Langholtz asked what the current regulations allow. Mr. Armstrong stated that they require 4' non-opaque, non-climbable fencing with self-closing and self-latching gates. He stated that the setbacks had also been reduced from 10' to 3' from property lines, unless easements required further separation.

There being no further business, the meeting was adjourned at 9:00 A.M.

Approved: _____, Chairman