
BOARD OF ADJUSTMENT
January 10, 2006
Minutes

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

Members Absent:

Alternates Present: David Hejl

Staff Present: Justin Fortney, Planner I
Gloria Brownell, Planner I
Megan Santee, Assistant 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 December 13, 2005 meeting were unanimously approved.

Agenda Item BA-2006-01, Request for a Special Exception to locate a carport in the front yard setback at 1018 Meander Street.

Mr. Fortney presented the staff report. The City requires that structures, including carports must be built behind the front yard-building setback, which is 20' to 25' back from the front property line, depending on the zoning district. There also must be other carports in front yard setbacks in the area to provide for uniform and consistent development in areas with no front carports while providing an opportunity for property owners in areas with carports to make similar improvements to their properties. This makes granting the request inline with the intent of the regulation. There also cannot be any effects on public facilities from granting the special exception. The Board of Adjustment can grant a special exception to allow a carport up to 5 feet from the front property line. Some homeowners who request a Special Exception for a front carport have an alley along the back of their property. For many homeowners this may not be an acceptable alternative because the alley is poorly maintained and or they would have to drive a long distance on the alley before they could get to their property. Often times people do not feel safe entering their property from the rear. In this case, the home has side and rear alleys that are well maintained just off of the street. This proposed carport would be 5 feet from the front property line and 20 feet from the curb. There are no Carports in the Front-Yard setbacks in the general area and for this reason, the request would not be compatible with the surrounding land uses or meet the intent of the regulation.

Staff recommended denial of the variance. No comment forms were returned in favor of the request and 3 in opposition, one property owner said they would prefer it in the rear or side yard.

Mr. Bradshaw opened the public hearing. Ray Young of Abilene Portable Buildings spoke in favor of the request. He stated that he was representing the applicant and that she needed it to provide cover between the home and the driveway for her elderly father. Mr. Bradshaw asked if her father lived with her and Mr. Young confirmed that he did. Mr. Langholtz asked why it had not been proposed for the side or the rear of the house since both property lines were adjacent to well-maintained alleys. Mr. Young stated that he was not certain of the applicant's reasoning, but that it may be based on the existing driveway in the front of the home and the difficulty of removing the existing privacy fence at another location on the property. Mr. Bradshaw asked if the applicant was present and Mr. Young explained that she could not attend because she was at work. Mr. Waldraff asked if he concurred with staff's observation that there were no other front carports in the area and Mr. Young confirmed that he did.

Mr. Bradshaw closed the public hearing. Mr. Langholtz stated that reducing costs by not removing the existing fence was not a good reason to allow the use. Mr. Hay stated that the carport did not appear to be compatible with the surrounding area.

Mr. Salisbury made a motion to deny the request based on the following findings:

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

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

Relationship to the Intent of the Regulation: Since this proposed carport is in an area with no other front carports, the proposal is not consistent with the intent of the regulation.

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

Agenda Item BA-2006-02, Request for a Special Exception to locate a carport in the front yard setback at 5231 Durango Drive.

Mr. Fortney presented the staff report. The applicant proposes constructing a carport in the front yard over an existing driveway. There is an existing carport that will be replaced by the proposed carport. The existing driveway is being replaced by a driveway that will accommodate 2 cars, side by side. The proposed carport would be 10 feet from the front property line and 22 feet from Durango Drive. There are several carports in the general area of the request.

Staff recommended approval of the Special Exception. 3 comment forms were returned in favor of the request and none in opposition to the request.

Mr. Bradshaw opened the public hearing. Andrew Vasquez, agent, spoke in favor of the request. He stated that he is the applicant's half-brother and that she bought the house next to her brother's and father's homes. Mr. Bradshaw asked how long she had lived there and Mr.

Vasquez replied that she had purchased the property within the last year. He added that there was an existing carport on the property and she proposed to replace it with a larger new one. He stated that her father recently built one that was 20' x 20' and she wanted one that was similar.

Mr. Bradshaw closed the public hearing.

Mr. Langholtz made a motion to approve the request based on the following findings:

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

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

Relationship to the Intent of the Regulation: This request is in an area with several other front carports and is, therefore, 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-2006-03, Request for a Special Exception to locate a carport in the front yard setback at 1800 Collins Avenue.

Mr. Fortney presented the staff report. The applicant proposes constructing a carport in the front yard over an existing driveway. The proposed carport would be 15 feet from the front property line and 27 feet from Collins Avenue. The proposed carport will be 24' wide by 24' long, over an existing driveway. There are several carports in the general area of the request.

Staff recommended approval of the Special Exception. 4 comment forms were returned in favor of the request and none in opposition.

Mr. Bradshaw opened the public hearing. Huston Jones, applicant, spoke in favor of the request. Mr. Bradshaw asked him if he lived alone and Mr. Jones replied that he had for several years. He added that there were several other carports on his street.

Merlin Jones spoke in favor of the request. He stated that the applicant's wife was in a rest home and that they needed the carport for shelter when she came home to visit. He explained that she had an electric wheelchair that gets damaged if it is exposed to rain.

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 other front carports in the vicinity of the request.

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

Relationship to the Intent of the Regulation: This request is in an area with other front carports and is, therefore, consistent with the intent of the regulation.

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

Agenda Item BA-2006-04, Request for a Special Exception to locate a carport in the front yard setback at 5343 Encino Road.

Mr. Fortney presented the staff report. The proposed carport will be 15' wide by 15' long, over an existing driveway. This carport will be 5 feet from the front property line and 17 feet from the curb. There are several carports in the general area of the request.

Staff recommended approval of the Special Exception. 5 comment forms were returned in favor of the request and none in opposition.

Mr. Langholtz asked if one of the properties used for compatibility had a carport on the side or front since it was a corner lot. Mr. Fortney confirmed that the carport was in the front yard setback.

Mr. Bradshaw opened the public hearing. Betty Smith, applicant, spoke in favor of the request. She requested that the Board consider a 15' x 20' carport instead of the 15' x 15' one she originally requested. Mr. Fortney asked her to clarify whether she was asking for additional width or length. She stated that she wanted 5' of additional length. Mr. Fortney could not determine if she had sufficient space to accommodate the additional length while still complying with the minimum setback requirement of 5' from the front property line. He assured the Board that there was no problem with the request if it was determined at the time of permitting that there was sufficient space.

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 other front carports in the immediate vicinity of the request.

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

Relationship to the Intent of the Regulation: This request is in an area with other front carports and is, therefore, consistent with the intent of the regulation.

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

Agenda Item BA-2006-05, Request for a 14' variance from the 10' maximum height restriction for a sign in Corridor Overlay zoning on property located at 3250 Rebecca Lane.

Mr. Fortney presented the staff report. This property is zoned Shopping Center and is in the corridor overlay along with all of the properties within 600' of the centerline of Buffalo Gap Road. In 1995 the City Council adopted the corridor overlay zone with the recommendation of the Planning and Zoning Commission. This was due to property owners in this area requesting that the aesthetics and integrity of the area be protected. The following signs are found less than a mile from the applicants parcel. The first group of signs could be considered sign clutter and the corridor overlay is trying to prevent and eliminate this. The second group of signs is an example of what would be allowed in the corridor overlay. The current sign is 30 feet tall, and if they just replace the face of the sign they would not be required to comply with the current regulations. Since they are replacing the sign by more than 50% of the sign's value, they must comply with the 10' tall requirement. The proposed sign is 14 feet taller than is allowed in the corridor overlay district. When this corridor overlay was adopted, it was with the intent that when a sign was replaced or a site was developed, it must be done to the regulations of the corridor overlay zone. If properties are not required to abide by the overlay regulations, this somewhat developed area will never materialize into what the citizen, Planning Commission and the City Council had envisioned. Furthermore, the Corridor Overlay is in the process of being applied between Buffalo Gap Road and I-20 along Rebecca Ln, Dub Wright Blvd, and Arnold Blvd at the request of Dyess Air force Base. The purpose of this is to duplicate the beautification of Buffalo Gap Road to the main corridor entering the Base. Staff is unable to determine a hardship or a peculiarity to the land associated with this variance request

Staff recommended denial of the variance. No comment forms were returned in favor of the request and none in opposition.

Mr. Hejl asked about the status of the City Council's recent changes to the Sign Regulations. Mr. Fortney explained that the Council had approved additional height and reduced setback requirements for monument signs. He added that the Corridor Overlay regulations would still apply in this situation.

Mr. Bradshaw opened the public hearing. David McMeekan, agent, spoke in favor of the request. He explained that the proposed sign would be 6' shorter and 20 square feet smaller than the existing sign. He stated that there are several other pole signs in the immediate vicinity. He said that if the request for additional height were denied he would replace the faces in the existing 30' pole sign instead of providing a sign that complied with the 10' height restriction. Mr. Hay asked if he saw any peculiarity or hardship associated with the property in question. Mr. McMeekan stated that the majority of nearby businesses had pole signs and the bank would not be as competitive with a smaller sign. Mr. Langholtz asked if he thought people would miss seeing the bank if it was required to have the smaller sign. Mr. McMeekan stated that people could be coming from out of town and may have difficulty seeing a smaller sign.

Mr. Bradshaw closed the public hearing. Mr. Salisbury stated that the proposed sign was an improvement over the existing sign. Mr. Bradshaw said that the applicant would reface the existing sign if they did not receive the variance. Mr. Langholtz stated that this was an opportunity to reverse a trend for larger signage in the Corridor Overlay. He added that there was no compelling reason to disregard the current regulations except the threat of them re-facing the existing sign. Mr. Bradshaw commented that the proposed sign was still an improvement over existing conditions. Mr. Langholtz stated that they should be required to comply with current regulations unless there was a good reason to allow something else. Mr. Salisbury stated that he would rather see the proposed sign in the location set several feet back from the property line rather than a smaller sign closer to the front property line. Mr. Langholtz stated that the proposed sign was still contrary to the direction the Corridor Overlay regulations intended. Mr. Hay stated that the reduction in height and the design were in line with the intention of the Corridor Overlay regulations, even if they weren't in full compliance. The sign would be closer to compliance than the existing pole sign.

Mr. Bradshaw reopened the public hearing. Mr. Salisbury asked Mr. McMeekan for the height of the proposed sign. He provided a photograph with a superimposed image of the proposed sign and stated that it would be 24' tall, 6' shorter than the current sign. Mr. Hay asked if he had an idea of the ramifications of a smaller sign at the property in question. Mr. McMeekan stated that he would need to consult with his client and that they used a similar design for all of their locations. Mr. Salisbury asked for the height of the building and Mr. McMeekan estimated it to be 20'-22' tall. Mr. Hay asked for his professional opinion regarding the difference between the proposed sign and a sign that would comply with current regulations. Mr. McMeekan replied that there was 14 feet of difference.

Mr. Bradshaw closed the public hearing. Mr. Hay commented that he would rather see the proposed sign than a smaller one closer to the street.

Mr. Langholtz made a motion to deny the request based on the following findings:

Unique Conditions of the Property: There are no conditions peculiar to the land.

Hardship From Strict Interpretation: There is no hardship for this request.

Effect on Public Health, Safety, and Welfare: There will be no negative effect.

The motion failed for lack of a second.

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

Unique Conditions of the Property: The property already has an existing business with an existing nonconforming sign.

Hardship From Strict Interpretation: The strict application of the current regulations causes the business to be at a disadvantage to nearby businesses that have kept their nonconforming pole

signs. The proposed sign is an improvement on existing conditions and moves the property closer to the intent of the Corridor Overlay Regulations.

Effect on Public Health, Safety, and Welfare: There will be no negative effect.

Mr. Salisbury seconded the motion, which passed by a vote of 4 in favor and 1 opposed.

Agenda Item BA-2006-06, Request for a 45' variance to the 135' minimum separation of off-site advertising from a Residential district at the northwest corner of South 27th Street and Palm Street.

Mr. Fortney presented the staff report. The property is zoned Heavy Industrial with historic overlay so the Landmarks Commission is scheduled to consider this request on January 31st, to determine whether or not the sign will detract from the historical integrity of the property. The sign regulations specify that offsite signage must be 135' from RS and RM3 zoning districts. The proposed sign will be 45' too close to the residential homes to the south to comply with the regulations. The proposed off- site sign will be 16' tall over-all with a sign area of 16' wide by 8' feet tall with 8' clearance from the ground. The 135' setback from RS and RM3 zoning districts was adopted to protect homeowners from having obtrusive and lit signs obstructing their view. This proposed sign would clearly be visible from the residential neighborhood. The Comprehensive Plan calls for a reduction of sign clutter throughout Abilene and citizens have repeatedly mentioned the Treadaway Boulevard area as one of the worst examples. The approval of a new nonconforming location along that corridor will only perpetuate the problem. Staff is unable to determine a hardship or a peculiarity to the land associated with this variance request. Staff foresees no negative effects on health or safety, but believes that this variance could adversely affect the welfare of the residents in the neighborhood to the south. The intent of the regulation for separation from residential zoning is to protect neighborhoods from the visual encroachment of off-site signage. For these 3 reasons staff is recommending denial of the request.

Staff recommended denial of the variance. One comment form was returned in favor of the request and 3 in opposition. Mr. Bradshaw asked if there were any existing billboards near the proposed location. Mr. Fortney confirmed that there was, but that it was not subject to the separation requirement because it was located facing a different street.

Billy Olson, agent, spoke in favor of the request. Mr. Bradshaw asked why he was not proposing the billboard to face South Treadaway where more people would see it. Mr. Olson explained that he leases the property with the existing house and that he will eventually move his business, Billy Olson Bail Bonds, to the site when the current tenant moves out. The site has had a portable sign for several years and he removed it when he discovered that it was not in compliance with current regulations. He stated that the proposed location was ideal because of the proximity to the prison and the traffic along S. 27th Street, the main road used to access the prison. He stated that all lighting on the sign would be shielded away from the nearby residences and that he did not want to cause a distraction for traffic. He explained that the required

separation would place the sign in the center of a dirt road used to access the existing house and it would be difficult to see from the roadway. He stated that the proposed sign would be only 8' x 16' or 8' x 12'. Mr. Langholtz asked how far the site was from his existing business and Mr. Olson replied that it was very far.

Mr. Bradshaw closed the public hearing. Mr. Bradshaw noted that the existing portable sign had been removed. Mr. Waldraff commented that the proposed sign would not meet current regulations and he did not see any reason to allow it. Mr. Bradshaw stated that they could move their sign when they moved their business.

Mr. Salisbury made a motion to deny the request based on the following findings:

Unique Conditions of the Property: There are no conditions peculiar to the land.

Hardship From Strict Interpretation: There is no hardship for the request.

Effect on Public Health, Safety, and Welfare: There will be no negative effect on public health, safety, or welfare from a variance at this location.

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

Agenda Item BA-2006-07, Request for two 3' variances from the 100' minimum lot depth requirement for residential zoning at 101 and 102 Sugarberry Avenue.

Mr. Fortney presented the staff report. The City annexed this property in early 2005 and the applicant attempted to rezone the subject parcels to RM3. Staff, the Planning and Zoning Commission, the City Council, and neighboring property owners felt that RM3 was not compatible with the large lot homes to the north and south. Subsequently, the subject parcels were zoned to RS12. During the platting process, staff told the applicant that if they layout the property with Sugarberry passing between the two tracts of land, they will not be able to front homes onto Sugarberry Avenue. Staff explained that the lots would not meet the minimum lot depth of 100'. The applicant told staff that they would be applying for variances to accommodate their desired layout. Last month, the applicant applied to rezone the subject parcels from RS12 to RS6 with Patio Home Overlay and the Planning and Zoning Commission denied the request. The applicant has since appealed the decision to the City Council. If they are granted the rezoning and this variance, they could build up to 32 houses with driveways on Sugarberry Avenue. Having a large number of vehicles backing out on this busy road could be a nuisance if not a safety hazard, as this is currently the only entrance and exit to the development. The applicant is proposing to design the homes facing Sugarberry with rear entry and only having several driveways onto sugarberry, which could alleviate the hazard. Staff is unable to determine a hardship or a peculiarity to the land associated with this variance request. Staff foresees no negative effects on health or safety, if the number of driveways were limited.

Staff recommended denial of the variance. No comment forms were returned in favor of the request and one in opposition.

Mr. Langholtz asked why the request was coming before them prior to the City Council's final decision on a rezoning request at the same location. Mr. Fortney explained that the only issue under consideration was whether lots would be allowed to face Sugarberry Avenue and the Council would make the determination through zoning of the number of lots permitted. Mr. Waldraff stated that the adjacent lots along Maple Street were very deep compared to the smaller lots proposed by the applicant.

Mr. Bradshaw opened the public hearing. Tal Fillingim of Jacob & Martin, Ltd., agent, spoke in favor of the request. He stated that the applicant had submitted a letter to the Council asking for them to table the pending rezoning request. The applicant does not plan to pursue the request after further discussion with the Planning staff the previous day. He stated that they were requesting the variance in order to develop standard lots in the current RS12 zoning. The proposed design would include a fence along the rear boundary of the lots to provide a buffer for adjacent properties and would limit the number of driveways to reduce the opportunity for traffic hazards along Sugarberry Avenue, which is a collector street. He explained that the hardship associated with the request was that the collector street required to serve the development created the smallest negative impact if homes were placed on both sides to provide a buffer for adjacent properties. Mr. Salisbury asked about the size of the homes planned for the proposed lots. Mr. Fillingim stated that they would be approximately 2400 square feet and the homes on the RS6 portion of the development would be closer to 1200 square feet. Mr. Langholtz asked if the roads had been built yet and Mr. Fillingim replied that they were currently under construction.

Gerald King spoke in opposition. He stated that his family moved to Abilene in 1922 and had established several businesses that had served the economy and community. He said that he had dedicated property out to the current centerline of Maple Street for the construction of the road. He sold the property to Mr. Waldrop with the agreement that nice homes would be built there. Mr. Salisbury asked if he was opposed to the larger homes proposed for the request area. Mr. King stated that he was opposed to the entire development because he told Mr. Waldrop at the time of the sale that he did not want to see a new development similar to the smaller lots and homes in the South Lytle development. He said that he was concerned that the additional driveways would cause problems similar to Sayles Boulevard and Barrow Street where property owners back out onto a busy street.

Mr. Bradshaw closed the public hearing. Mr. Salisbury asked if the City required a minimum square footage for homes and Ms. Brownell stated that the Zoning Ordinance only required minimum square footage for lots, not for the structures built on them. Mr. Waldraff asked if Sugarberry Avenue provided the only access to the development and Ms. Brownell explained that additional access would be provided as the area develops based on the requirements in the Subdivision Regulations. Mr. Langholtz stated that he did not see a big difference between 4 lots or the 12 that the variance would allow. Mr. Bradshaw stated that they should ensure compatibility with existing homes along Maple Street. Mr. Hay asked if the Board members saw any rationale for the variance. Mr. Salisbury stated that the subject parcels were narrower than others with frontage on Maple Street. Mr. Langholtz stated that their decision was contingent upon the zoning and suggested tabling the request until the Council makes a final decision.

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Mr. Waldruff made a motion to deny the request based on the following findings:

Unique Conditions of the Property: There are no conditions peculiar to the land.

Hardship From Strict Interpretation: There is no hardship for the request.

Effect on Public Health, Safety, and Welfare: There will be no negative effect on public health, safety, or welfare from a variance at this location.

Mr. Hay seconded the motion, which passed by a vote of 4 in favor and 1 opposed.

There being no further business, the meeting was adjourned at 9:55 A.M.

Approved: _____, Chairman
