

---

**BOARD OF ADJUSTMENT**  
**February 14, 2006**  
**Minutes**

---

Members Present: Wayne Bradshaw  
Scott Hay  
Jim Salisbury  
Rick Waldraff

Members Absent: Morton Langholtz

Alternates Present: Brenda Coleman

Staff Present: Justin Fortney, Planner I  
Gloria Brownell, Planner I  
Jeff Armstrong, Development Services Manager  
Daniel Santee, First Assistant City Attorney  
Rodney Fletcher, Permit Specialist  
Cassie Hughes, Administrative Manager  
Brad Fitzer, Fire Chief  
Jim Berry, Assistant Police Chief  
Larry Swanson, Communications

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

Mr. Salisbury identified a misprint on page 6 of the January 10, 2006 meeting minutes. The minutes were unanimously approved as amended.

**Agenda Item BA-2006-08, Request for a Special Exception to locate a carport in the front yard setback on property located at 1601 Mimosa Drive.**

Mr. Fortney presented the staff report. The applicant is proposing to build this carport in place of an existing carport. 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. This proposed carport would be 6 feet from the front property line and 18 feet from the curb. There are several carports in the front-yard setbacks in the general area and for this reason, the request would be compatible with the surrounding land uses and meet the intent of the regulation.

BOARD OF ADJUSTMENT

February 14, 2006

Page 2

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

Mr. Bradshaw opened the public hearing. Kevin Burton of T and K Enterprises spoke in favor of the request. He stated that the carport would be all steel in construction and would be larger than the existing carport.

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 several other 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: 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-2006-09, Request for a Special Exception to locate a carport in the front yard setback on property located at 4718 S 6<sup>th</sup> Street.**

Mr. Fortney presented the staff report. The applicant brought this case before the Board of Adjustment in December, but did not ask for the correct amount of setback due to a measuring error. The applicant is still proposing to construct a 20' by 20' carport in the front yard over an existing driveway. The original request was for the carport to be 15 feet from the front property line and 27 feet from S 6<sup>th</sup> Street. Now the proposed carport will actually be 5 feet from the front property line and 17 feet from S 6<sup>th</sup> Street. 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 one in opposition from a neighbor who was concerned with the possible appearance of the proposed carport.

Mr. Salisbury asked Mr. Fortney if the semi-portable carport in the picture was close enough to the road to require a special exception. Mr. Fortney said he would guess that it is well within the required front yard setback.

Mr. Bradshaw opened the public hearing. Stephen Moore, agent, spoke in favor of the request. Mr. Bradshaw asked if he was here representing his folks and Mr. Moore replied that he was. Mr. Bradshaw asked if this proposed carport was just going to be closer to the road with no other

BOARD OF ADJUSTMENT

February 14, 2006

Page 3

changes and Mr. Moore said that was correct. Mr. Moore provided a photograph to the board of an example of the carport's design.

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 several other front carports and is, therefore, 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-2006-10, Request for a 26' variance from the 30' front setback on property located at 834 Oak Street.**

Mr. Fortney presented the staff report. This property and all of the property around it have been zoned Heavy Commercial since the 1960's. The side setback requirement is 0', the rear setback is 25', and the front setback is 30'. The applicant is constructing an auto body shop and would like to build it 4' from the front property line. A small metal building that was built at some point without a permit at this location was demolished in May of last year. Most of the buildings in the area were built in the late 1970's and early 1980's. When the buildings were built, the front setback regulations ranged from 15' to 30'. However, many of the buildings were built on or near the front property lines. Despite the ordinance stating the setbacks, some permits were written allowing 0' setbacks. The two buildings on this block that were built with approved site plans were required to build behind the 30' front setback [802 & 826 Oak St]. Staff is not opposed to the building being built on the front property line, but we don't feel that the applicant has met the three necessary criteria to approve a variance.

Staff recommended denial of the variance. Three comment forms were returned in favor of the request and none in opposition.

Mr. Bradshaw asked if the applicants existing and proposed building is actually further back from the property line than other buildings on the block. Mr. Fortney confirmed that the applicant's buildings are four feet from the property line, while many other buildings are on the front property line. Mr. Santee asked if it would be better if the building were built closer to the street because of the close proximity of residential homes behind the property. Mr. Fortney said that the property directly to the west was not residential but the property on the next block to the west was residential. Mr. Fortney added that it would be better to have the building built closer

BOARD OF ADJUSTMENT

February 14, 2006

Page 4

to the street to allow storage of vehicles in the rear of the property as opposed to storing them near the street.

Mr. Bradshaw opened the public hearing. Eddie Chase, Agent, spoke in favor of granting the variance because he felt that the applicant's hardship is that the building would be so far back that they would not have any visibility and they wouldn't have any place to store cars except along the road.

Mr. Bradshaw closed the public hearing and mentioned that he would rather see storage in the rear of the property. Miss Coleman mentioned that the property would look better with the storage in the rear of the building. Mr. Santee mentioned that the current buildings predate the regulations by decades and added that the Comprehensive Plan calls for buildings to be built closer to the road. Mr. Santee asked Mr. Chase if the building would be separate or attached to each other. Mr. Chase said they would be separate because of building code issues.

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

Unique Conditions of the Property: The existing buildings predate the regulations in respect to the front setback.

Hardship From Strict Interpretation: The strict application of the current regulations causes the business to have visibility issues because of other buildings on the block being so close to the road. In addition, the imposed regulations would create unsightly conditions.

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

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

**Agenda Item BA-2006-11, Request for a 20' variance from the 400' separation requirement from a residentially-zoned lot for off-site signage along an interstate or primary highway on property located at 1002 North Clack Street.**

Ms. Brownell presented the staff report. The applicant was requesting to erect a new billboard in the northeast corner of the subject parcel. There is an RS6 district with existing homes approximately 380' from the proposed location. The billboard would be visible from these homes as well as a existing mobile home residence that is not protected by the separation requirements in the Sign Regulations. There are approximately 20 other billboards along the US 83/84 corridor between the proposed location and the interchange just south of Buffalo Gap Road. The abundance of billboards, in addition to a multitude of on-site signage, contradicts the Comprehensive Plan's goal for a reduction in sign clutter. The approval of another non-conforming location would only perpetuate the problem. Furthermore, staff could not determine a peculiarity of the property or a non-financial hardship associated with the request.

BOARD OF ADJUSTMENT

February 14, 2006

Page 5

Staff recommended denial of the variance. No comment forms were returned in favor or in opposition.

Mr. Bradshaw opened the public hearing. Craig Holmes, agent, spoke in favor of the request. Mr. Bradshaw asked if he would not need a variance if he moved the sign 20' to the north. Mr. Holmes stated that the move would place the sign on another property and that was not an option for him. Mr. Hay asked him what peculiarity of the property might justify the variance. Mr. Holmes explained that the north property line was not perpendicular to the curve in the highway at that location. If the property line were perpendicular there would be sufficient space to place the billboard without a variance. He added that his company offers lower rates than their main competitor, Lamar Outdoor Advertising, and that it supports small businesses within Abilene.

M. Bradshaw closed the public hearing. Mr. Waldraff commented that 20' was not very much, but that the community was very sensitive to the issue of signs.

Mr. Bradshaw reopened the public hearing. He asked the agent if he had visited with the property owner to the north and Mr. Holmes said that he had not. Mr. Bradshaw noted that a variance for signage was a touchy issue.

Mr. Bradshaw closed the public hearing.

Mr. Waldraff 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.

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

**Agenda Item BA-2006-12, Request for a 1.7' variance from the 30' side setback requirement on property located at 4782 South 14<sup>th</sup> Street.**

Ms. Brownell presented the staff report. The property was recently resurveyed as part of a refinancing process. The surveyor determined that the corner of one of the existing structures encroached on the platted 30' building line by 1.61'. The property is peculiar because the 30' platted building line is more restrictive than the 25' side setback required by the Zoning Ordinance. This poses a hardship due to the fact that development of the parcel must meet stricter standards than other similar properties throughout Abilene. Staff does not foresee any negative effects on public health, safety, or welfare from the request.

Staff recommended approval of the variance with the condition that it applied only to the existing structure. No comment forms were returned in favor or in opposition. Mr. Bradshaw

BOARD OF ADJUSTMENT

February 14, 2006

Page 6

asked what would happen if the request was denied and Mr. Armstrong explained that it would probably prevent the applicant from completing the refinancing process. Mr. Santee asked if the applicant could replat the property to change the setback requirement to meet current standards and Mr. Armstrong confirmed that he could.

Mr. Bradshaw opened the public hearing. Charles M. Walls, agent, spoke in favor of the request. He stated that he agreed with staff's assessment and emphasized the fact that the structure was in excess of the 25' setback required of other properties.

Mr. Bradshaw closed the public hearing.

Ms. Coleman made a motion to approve the request with the condition that it applied only to the existing structure, based on the following findings:

Unique Conditions of the Property: Although the structure is in full compliance with the current 25' setback requirement as stated in the Zoning Ordinance, it is still subject to the more restrictive platted building line. Typically, platted building lines are less restrictive than current regulations.

Hardship From Strict Interpretation: Similar development on other parcels would be subject to a smaller setback of only 25 feet as required by the current regulations in the Zoning Ordinance.

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

**Agenda Item BA-2006-13, Request for a Special Exception to locate a radio communication tower in AO (Agricultural Open Space) zoning on property located at 5650 Maple Street.**

Ms. Brownell presented the staff report. The City recently received a substantial federal grant to upgrade the existing law enforcement and emergency response communication system. The proposed structure is one of two new towers designed to provide better coverage and eliminate the "dead spots" within the current system. After careful consideration, two sites were chosen for new tower structures. The Kirby Lake site will serve the southern areas and another tower east of East Lake Road outside the city limits will provide service from the north. The Kirby Lake tower will be 335' tall with guy wires extending in a 275' radius around the tower. The proposed tower will be consistent with the many aspects specifically addressed in the Zoning Ordinance. It will be equipped with an anti-climbing device and the tower structure and each of the guy wires will be surrounded by 8' security fencing. The structure will be designed to accommodate co-location of additional antennas, as long as there is no interference with frequencies used for emergency operations. Furthermore, with the safety and security concerns associated with co-location on an existing privately-owned tower, the proposed site meets the highest location preference feasible for such an important public use. The galvanized steel finish will blend in with the skyline to minimize the visual impact on the nearby recreational facilities.

BOARD OF ADJUSTMENT

February 14, 2006

Page 7

The use is compatible with the surrounding area and is imperative to the safety of the citizens of Abilene.

Staff recommended approval of the Special Exception. Two comment forms were returned in favor of the request and one in opposition. Mr. Waldraff asked if they had already begun construction after seeing some of the piles of dirt in a photograph of the proposed location. Ms. Brownell stated that they appeared to be part of another project happening at the site and that construction had not yet begun on the tower structure. Mr. Bradshaw asked who was opposed to the request. Mr. Santee stated that his name was Larry Norman and Ms. Brownell added that he had not offered any additional comments to explain his position. Mr. Salisbury asked how close the tower would be located to the existing power lines along Maple Street. Ms. Brownell referred to the aerial photograph in the presentation and determined that there would be a substantial distance between them.

Mr. Bradshaw opened the public hearing. Cassie Hughes, Administrative Manager, spoke in favor of the request. She explained that the Fire Chief, the Assistant Police Chief, and a representative from the Communication Department were present to answer any questions about the request.

Brad Fitzer, Fire Chief, spoke in favor of the request. He stated that the proposed tower was critical to radio coverage in the southeast corner of the City and to aid in building penetration.

Jim Berry, Assistant Police Chief, spoke in favor of the request. He explained that the new communication system would provide exceptionally better coverage than the existing network. He stated that in some instances the current system did not allow communication between officers even when they could see each other.

Tommy Parkinson, Field Project Manager for agent Dailey-Wells, spoke in favor of the request. Mr. Salisbury asked if 335' was enough to provide coverage as the City expands in the future. Mr. Parkinson stated that the tower would provide good coverage with plenty of room for growth.

Mr. Bradshaw closed the public hearing. He commented that he would feel he was doing an injustice to the citizens of Abilene if they did not approve the request.

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

Compatibility With Surrounding Land Uses: The metallic color will help blend into the skyline and reduce the visual impact on the surrounding area. Use of paint or other camouflage techniques would add to the cost of construction and maintenance and would only serve to draw more attention to a structure of such magnitude.

Effect on Public Facilities: There are no effects on public facilities from a radio communication tower at this location. The tower structure will be over 200' from the proposed baseball field expansion site and separated from all recreational areas with security fencing.

BOARD OF ADJUSTMENT

February 14, 2006

Page 8

Relationship to the Intent of the Regulation: This request meets the many criteria specifically addressed in the Zoning Ordinance. The efforts to minimize the visual impact and the provisions for safety and security of the structure are consistent with the intent of the regulation.

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

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

Approved: \_\_\_\_\_, Chairman