
BOARD OF ADJUSTMENT

March 14, 2006

Minutes

Members Present: Wayne Bradshaw
Scott Hay
Morton Langholtz
Rick Waldruff

Members Absent: Jim Salisbury

Alternates Present: David Hejl

Staff Present: Justin Fortney, Planner I
Gloria Brownell, Planner I
Jeff Armstrong, Development Services Manager
Theresa James, 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 from the meeting on February 14, 2006 were unanimously approved.

Agenda Item BA-2006-14, Request for a Special Exception to locate a carport in the front yard setback on property located at 1733 Bob White Court.

Mr. Fortney presented the staff report. The intent of the regulation is to allow carports in front yards only in areas where such structures already exist. This provides 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 improvement to their properties. In addition, there must not be any negative effects on public facilities from a carport at the proposed location. The Board of Adjustment can approve a Special Exception for a front yard carport up to 5 feet from the front property line. The applicant's home has recently had the garage enclosed and converted to living space. There are no permits on file for this enclosure and staff will be looking in to this matter. The applicant proposes constructing a 20' by 20' carport up to the enclosed garage, which is over an existing driveway. The proposed carport would be 3 feet from the front property line and 15 feet from Bob White Court. The most the Board of Adjustment could approve with the Special Exception is a minimum of 5 feet from the front property line and 17 feet from the curb. There are two carports across Corsicana Avenue, which is a collector street thereby, separating the neighborhood. There is also one a good distance down Quail Run Road. Since this proposed carport is in an area with no other carports, the proposal is not consistent with the intent of the regulation.

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

Mr. Bradshaw opened the public hearing. Diane Sims, applicant, spoke in favor of the request. She stated that her husband was in the Marine Corps and was currently deployed so she would represent the request. They recently purchased the house and needed a carport to protect their vehicles since the previous owners had enclosed the garage. Mr. Bradshaw asked how long she had lived there and she replied that they moved in December 2005. Mr. Hay asked her if the 2-foot reduction in depth would be a problem and she stated that her husband could adjust the measurements to make it 18 feet instead of 20 feet deep. Mr. Bradshaw asked if she understood that the construction of her carport would make it easier for additional carports to be built in her neighborhood. She said that they would not have purchased the home if they had known they would not be able to protect their vehicles. They had chosen the neighborhood because it was close to Clack Middle School for her sons and they planned to retire there.

Mr. Bradshaw closed the public hearing. Mr. Waldraff noted that the main issue was how large of an area to consider for compatibility since there were no other carports within the 200-foot notification area. Mr. Langholtz stated that there were no unhappy neighbors and that two had written in favor of the request.

Mr. Langholtz made a motion to approve the request, with the dimensions as shown in the staff report, based on the following findings:

Compatibility With Surrounding Land Uses: There are other front yard carports in the general area 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 the general area of some front carports and is, therefore, consistent with the intent of the regulation.

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

Agenda Item BA-2006-15, Request for a Special Exception to locate a carport in the front yard setback on property located at 1418 Burger Street.

Mr. Fortney presented the staff report. The applicant proposes to construct a 20' by 20' carport in the front of his home. The proposed carport would be 10 feet from the front property line and 25 feet from the curb on Burger Street. Since this proposed carport is in an area with other carports, the proposal is consistent with the intent of the regulation.

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

Mr. Bradshaw opened the public hearing. Carl Linder, applicant, spoke in favor of the request. He stated that he wanted the carport to improve his home and to protect his vehicles from rain and hail. Mr. Bradshaw asked how long he had lived there and he replied that it had been one year. Mr. Bradshaw asked if the garage was enclosed when he purchased the home and Mr. Linder confirmed that it was. Mr. Waldruff asked if he was going to attach it to the house and he said that he would. Mr. Langholtz asked if he would be constructing it himself and Mr. Linder stated that he and his father-in-law would be building it together.

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

Agenda Item BA-2006-16, Request for a Special Exception to locate a carport in the front yard setback on property located at 1234 South San Jose Drive.

Mr. Fortney presented the staff report. The applicant bought several homes that needed to be moved to make way for commercial development at the corner of S. 14th and Ballinger Streets. He is in the process of moving them to vacant lots throughout the city. To make them more appealing to homebuyers, he is proposing to build carports onto them. The small size of most vacant lots in established neighborhoods requires him to obtain Special Exceptions for two properties. The applicant proposes constructing a 19' x 10' carport extending from the home. The proposed carport would be 5 feet from the front property line and 20 feet from South San Jose Drive. Since this proposed carport is in an area with other carports, the proposal is consistent with the intent of the regulation.

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

Mr. Bradshaw opened the public hearing. Tommy Milliorn, applicant, spoke in favor of the request. He stated that he was moving a home on to the property and wanted to convert the existing garage into a third bedroom and add the carport.

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

Agenda Item BA-2006-17, Request for a Special Exception to locate a carport in the front yard setback on property located at 1510 Sewell Street.

Mr. Fortney presented the staff report. This is another home that the applicant bought and relocated. He proposes to construct a 20' x 10' carport extending from the home. The proposed carport would be 14 feet from the front property line and 29 feet from Sewell Street. Since this proposed carport is in an area with other carports, the proposal is consistent with the intent of the regulation.

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

Mr. Bradshaw opened the public hearing. Tommy Milliorn, applicant, spoke in favor of the request. He stated that this situation was the same as the previous one and he would be converting the existing garage of the home they were moving into a third bedroom. He added that the carport would be placed on the opposite end of the home from where the garage had been.

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

Agenda Item BA-2006-18, Request for (1) a 7' variance from the 10' side setback requirement and (2) a 27' variance from the 30' rear setback requirement for an addition to a single-family residence on property located at 4641 Catclaw Drive.

Mr. Fortney presented the staff report. The applicant wishes to construct an additional garage to his home. His present garage is too short to accommodate his pick-up truck. It is also difficult to maneuver in and out of the garage because it has a side entry. If the proposed garage were detached from the main structure he would be able to build it without a variance. Since a detached structure must be at least 6 feet from another structure, the garage would be too short to accommodate the length of his truck. The applicant also would like the garage attached to the main structure. Staff has learned in recent discussions with the applicant that he is unable to park his vehicle in a garage built in any other practical layout, which may constitute a hardship. The lot meets the minimum size requirements but it may be peculiar that the house was built so close to the side property line that it is difficult to maneuver into a side entry garage. The applicant's current garage is 20 feet from the side property line and Mr. Fortney measured many others and found almost all to be over 25 feet. Commercial parking lots require no less than 24 feet of maneuvering area for just this reason. Staff does not believe that this variance would pose any negative effects on the health, safety or welfare of the public. Staff is now recommending approval of the request because we feel that the applicant's hardship and peculiarity are valid.

Staff recommended approval of the request. Three comment forms were returned in favor of the request and one in opposition with no attached comments.

Mr. Bradshaw opened the public hearing. Tommy Milliorn, applicant, spoke in favor of the request. He stated that his existing garage had a side entrance that was difficult to access with his large vehicle. His farm and ranch operations required a larger pick-up truck that he wanted to keep in his garage. He planned to convert the existing garage into a family room and construct a new 2-car garage with additional storage space near the corner of his property. He stated that he would use the same building materials and roofline as the primary structure. Mr. Bradshaw asked if he planned to build the brick 2-car garage next to the metal building shown in the photographs included in the staff presentation. Mr. Milliorn stated that the metal building belonged to his neighbor.

Mr. Bradshaw closed the public hearing.

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

Unique Conditions of the Property: The house was built so close to the side property line that it is difficult to maneuver into a side entry garage. The applicant's current garage is 20 feet from the side property line, while many others throughout the City are over 25 feet.

Hardship From Strict Interpretation: The applicant is unable to park his vehicle in a garage built in any other practical layout.

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

Agenda Item BA-2006-19, Request for (1) a 5' variance from the 5' front setback requirement for monument signage adjacent to a streetside boundary and (2) a 3' variance from the 10' side setback requirement for monument signage adjacent to residentially zoned property on property located at 2026 Sayles Boulevard.

Ms. Brownell presented the staff report. The property was developed as a residence in 1928. The parcel was rezoned from RS6 zoning in 1987 and converted to a business soon thereafter. Because the property was originally designed for single-family use, the applicant was required to designate and pave sufficient parking and maneuvering areas as part of the conversion to commercial development. The size and design standards for these requirements severely limited the possible locations for signage that would still be visible from Sayles Boulevard.

Planning and Development Services received a complaint regarding the lack of visibility created by the sign in its previous location. After researching the issue, staff discovered that no permit had been obtained for the sign when it was built in the late 1980s. The sign did not comply with the 10-foot separation requirement from residential zoning, although it appeared to conform to all other regulations. Staff presented several options to the property owner, including relocation of the sign or a variance request to leave it in its current location. Ms. Mercer chose to relocate the sign, but was unhappy with the lack of visibility resulting from the surrounding development. The variances would allow the monument sign to be visible to passing traffic on Sayles Boulevard while still providing sufficient visibility for vehicles leaving the subject parcel and neighboring properties.

Staff recommended approval of the variances. Two comment forms were returned in favor of the request and two in opposition.

Mr. Bradshaw opened the public hearing. Mary Mercer, applicant, spoke in favor of the request. She stated that she purchased the property in 1987 and constructed the sign in 1988. She designed it with its current "V" shape to help with visibility of the sign for passing traffic and to avoid blocking the visibility of vehicles maneuvering in her parking lot. She stated that the current location of the sign had a negative effect on the walk-in traffic in her salon because it was hidden behind signage on neighboring properties.

Lynn Martin spoke in opposition of the request. She stated that she owns the property directly south of the subject parcel and that her tenants had complained about visibility when backing out of the driveway. She explained that the speed and amount of traffic on Sayles Boulevard posed a safety concern for her tenants if the sign blocked their visibility. She stated that Ms. Mercer had repaved her parking lot a few years ago and it had adversely affected the amount of drainage coming on to her property from the north. She and her husband spent \$2,000 constructing curbs

on their property to channel the water away from the home. She also stated that Ms. Mercer had removed a fence and vegetation from her property without her permission.

Mr. Bradshaw stated that they seemed to be straying from the request before them. He stated that the City had measured the proposed location of the sign and that it did not reduce visibility of traffic along Sayles Boulevard. Ms. Martin said that backing onto Sayles was unsafe if the sign was placed in the proposed location. Mr. Waldraff stated that the sign would need to be at least 15 feet from the street to be located off the right-of-way and that there would be enough space to see around it. Mr. Bradshaw asked her how long she had owned the house and she replied that she purchased it two years ago. Mr. Hay asked her if she thought 15 feet was too short and she stated that her tenants drive large vehicles that may be longer than that. Mr. Bradshaw asked her where she would prefer to see the sign and Ms. Martin said that they could put it higher to allow visibility. Mr. Bradshaw asked if that was possible and Ms. Brownell explained that the zoning district allowed pole signs up to 36 feet tall and 100 square feet in area. Mr. Hay asked if she thought a pole sign would affect her property value. Ms. Martin said that she wasn't sure and that she would not prefer a pole sign, but that she was concerned about safety with the monument sign.

Mr. Bradshaw closed the public hearing. Mr. Hay stated that he agreed that backing on to Sayles Boulevard was dangerous, but it was because of the traffic, not the sign. The 15 feet of parkway allowed an adequate safety margin for visibility along the busy street.

Mr. Hay made a motion to approve the request, with the condition that the variances apply only to the sign with its current dimensions and that the sign cannot be illuminated, based on the following findings:

Unique Conditions of the Property: The property was developed as a residence in 1928. The parcel was rezoned from RS6 zoning in 1987 and converted to a business soon thereafter. The configuration of the existing building and the requirements for parking and ADA access limited the possible locations for signage where it would still be visible from the right-of-way.

Hardship From Strict Interpretation:

- (1) Existing development on neighboring properties and the limited space available on the subject parcel create a hardship for locating a monument sign that is still visible for customers trying to find the property.
- (2) The 10' setback requirement would place the sign directly adjacent to the rear of one of the parking spaces and the only driveway used to access the parcel. The 3' variance would allow sufficient visibility for vehicles entering the parcel and for a vehicle backing out of the parking area.

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

Agenda Item BA-2006-20, Request for a Special Exception to locate a wireless communication tower in GC (General Commercial) zoning on property located at 1458 Woodard Street.

Mr. Fortney presented the staff report. The agent said that Vanguard Wireless was contacted by Pegasus Wireless because they needed to locate an antenna in the S. 14th and Barrow area to provide adequate service. Vanguard Wireless is a company that builds towers and leases space on them for antennas. There is an existing 80' tower on the adjoining tract to the west, but they say the tower does not have sufficient ground space to accommodate any additional equipment. There is an existing tower across the street to the east (approximately 100' tall), but it does not have the structural capacity to support additional loading. There is really no industrial or approved City-owned land in this immediate vicinity for the location of a communication tower. The proposed antenna tower labeled as Abilene Central in the map attached to the staff report will provide wireless internet to all of the areas colored in red on the map.

The City has no building permit or record of the existing 80' tower having gone to the Board of Adjustment for a Special Exception. To locate a new tower in the City of Abilene the applicant must meet several requirements, the first is that there can be no other existing towers to on which to co-locate. The agent told us that there is no more room on the existing towers. They have not studied the possibility of this because they say that it is obvious this cannot be done. Since this is a Special Exception, the request must be compatible with the surrounding land uses. Although there are existing towers in the area, this tower is not compatible with the residential neighborhood directly to the south.

Staff recommended denial of the Special Exception. One comment form was returned in favor of the request and two in opposition because there are already too many towers in the area and there are better areas for them.

Mr. Bradshaw asked if the existing tower was in compliance with the conditions placed on the approval of the Special Exception. Mr. Fortney stated that the stealth appearance had been compromised when they added an antenna structure on the outside of the monopole. He added that Mr. Armstrong had contacted the company to remedy the situation. Mr. Langholtz asked for the reasoning behind the staff recommendation of denial and Mr. Fortney stated that the addition of another antenna tower would be incompatible with the surrounding residential area. Mr. Langholtz commented that he was unsure about the lack of compatibility since there were already others in the area. Mr. Bradshaw asked what the harm was in placing one more in an area that already had some. Mr. Armstrong explained that the staff recommendation was consistent with past recommendations in the area. Staff recommended denial of the Special Exception for the other tower as well. He said that they would conduct further research to determine exactly what appearance standards the Board had required for the other tower. He added that Special Exceptions for carports considered if there were other similar uses in the immediate vicinity of the request. That standard would not necessarily apply to antenna towers. Mr. Langholtz asked if density was an issue and Mr. Armstrong replied that it could be considered. Mr. Armstrong added that towers were required to accommodate three antenna structures to comply with the co-location condition in the Zoning Ordinance. Mr. Langholtz said

that he felt they needed additional information before they should consider approving the request.

Mr. Bradshaw opened the public hearing. Laddie Galloway, agent, spoke in favor of the request. He stated that Pegasus Wireless had already co-located on three other tower structures in town and that building a new tower structure was a last resort. He said that the existing tower in the area only had space for two antenna structures and that they were both currently occupied. He stated that the tower had originally been designed to be 90 feet tall, but was reduced to comply with the separation requirements from residentially zoned property. The tower would have better broadcasting range and coverage if no stealth treatment was required and they had chosen the monopole design to be more compatible. He stated that the proposed tower was designed to accommodate two additional opportunities for co-location.

Jesse Goodyear spoke in opposition of the request. He stated that his wife owns the property located at 1501 Barrow Street. He provided research regarding the health effects and reduction of market value for property located near antenna structures. He stated that the Telecommunication Act of 1996 provides cities with the authority to regulate antenna towers within their corporate limits. He explained that he spent several years in the military working with "antenna farms" as they called them. He said that the property values in the area were already negatively affected by the two existing towers and satellite dishes. He asserted that the tower companies targeted low-income areas to reduce opposition to the request. Mr. Bradshaw asked him where he lived and he stated that he lives at 2302 Moore Street, but his wife owns property at 1501 Barrow Street and 3101 S. 14th Street. Mr. Hay asked where he obtained the information he presented and Mr. Goodyear replied that it had mostly come from the internet.

Mr. Armstrong stated that the Telecommunications Act of 1996 stated that cities could not consider R.F. emissions and they could not be included in the findings for their decision.

Mr. Bradshaw closed the public hearing. Mr. Armstrong stated that he would conduct further research on the compliance of the two existing towers. Mr. Langholtz asked if a different company built them and Mr. Armstrong confirmed that they were. Mr. Langholtz commented that he hated to punish the current applicants, but that the existing towers affected the new tower and he felt it would be more appropriate to table the case to allow further research. Mr. Hay asked for an explanation of the enforcement process and Mr. Armstrong stated that the situation was subject to the standard citation process for any violations of the Zoning Ordinance or the Building Code. Mr. Bradshaw noted that they would have needed a building permit to receive electrical service to the tower.

Mr. Bradshaw reopened the public hearing. Mr. Hay asked Mr. Galloway if he knew about the existing tower in question. Mr. Galloway stated that Sprint performed the zoning work for the tower and contracted the construction out to another company. Titan Towers constructed the tower according to the design they were given that only accommodated two antenna structures. Mr. Hay asked him to explain the difference between accommodating two or three structures on the same tower. Mr. Galloway explained that the base size on the stealth tower could not support the weight of an additional antenna.

Mr. Bradshaw closed the public hearing. Mr. Armstrong stated that staff would conduct further research. Mr. Bradshaw commented that the existing tower could not accommodate another antenna whether it was required to or not.

Mr. Hay made a motion to table the request to allow additional time for staff to research the case.

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

Agenda Item BA-2006-21, Request for (1) a 6' variance from the 9' side setback requirement, (2) a 1,000 sq. ft. variance from the maximum 1,200 sq. ft. requirement, and (3) a 3% variance from the 30% lot coverage for an accessory building on property located at 1801 River Oaks Road.

Mr. Fortney presented the staff report. The applicant wishes to build a storage building that is large enough to store his recreational vehicle. The proposed height of 18 feet requires a 9' setback from the side property line. The applicant stated that this would not allow him to pull the vehicle into the garage. The proposed and existing accessory buildings would be approximately 2,200 square feet, which is 1,000 square feet over the 1,200 square feet allowed for accessory structures. This building, when combined with the square footage of the applicant's house, would also exceed the 30% maximum building coverage requirement for a residential lot by 3%. Staff is unable to determine a hardship. Staff is also unable to find anything peculiar about the property. Staff does not believe that this variance would pose any negative effects on the health, safety or welfare of the public.

Staff recommended denial of the variance. Six comment forms were returned in favor of the request and none in opposition. Mr. Bradshaw asked if the existing metal building would be removed and Mr. Fortney confirmed that it would.

Mr. Bradshaw opened the public hearing. David Compton, agent for Jeff Luther Construction, spoke in favor of the request. He provided photographs of the large motor home that would be stored inside the proposed structure. He stated that the roof height had already been reduced to comply with the 18-foot maximum for accessory structures. He said that off-site storage of the vehicle would constitute a hardship because of the protection and the amount of maintenance necessary. He stated that the lot was unusually large for the RS12 zoning district and the 30% lot coverage limitation renders over 20,000 square feet ineligible for development. He stated that the applicant was willing to utilize similar building materials to the existing home. Mr. Bradshaw asked if there was any other feasible location that would be in compliance with the setback regulations. Mr. Compton explained that maneuvering the large vehicle limited the possible locations for the structure.

Mr. Bradshaw closed the public hearing. Mr. Bradshaw stated that it would have a better appearance than the existing building. Mr. Hay commented that he agreed with the request, but that the conditions for approval of a variance were very strict. He noted that the lot coverage percentage was not dependent on the minimum size of the lot and that the hardship appeared to be financial. Mr. Bradshaw said that he thought it would be good for the neighborhood but it may not meet the requirements for a variance.

Mr. Bradshaw reopened the public hearing. Jeff Luther, agent, spoke in favor of the request. He stated that there were no major differences between this request and the previous request from Tommy Milliorn. He explained that it was a hardship to service and maintain the vehicle at an off-site location because of the time and inconvenience involved. He stated that the lot was three times the minimum lot size for the zoning district and that it required much more open space than a smaller lot because the regulation is based on percentage. He added that RVs require quite a bit of maintenance and that packing and unpacking would be a problem if it were stored off-site. Mr. Waldruff stated that Mr. Milliorn's approval was based on the fact that he already had insufficient maneuvering area into his side garage. Mr. Luther said that the 24-foot minimum maneuvering area applied to commercial parking areas, not residential development. He added that the lack of possible locations that could be accessed by the RV constituted a hardship.

Mr. Bradshaw closed the public hearing. Mr. Langholtz commented that he was shocked there was no opposition from any of the neighbors. Mr. Hejl stated that the hardship could be related to the maintenance of the vehicle. Mr. Hay said that he agreed with Mr. Luther's assessment of the peculiarity of the property.

Mr. Hejl made a motion to approve the variances, with the condition that the proposed structure would be constructed with the same building materials as the existing home, based on the following findings:

Unique Conditions of the Property: The large size of the parcel leaves a substantially large area of undevelopable land due to the regulation's basis on a percentage of lot area.

Hardship From Strict Interpretation: Off-site storage of the applicant's vehicle would pose an unreasonable inconvenience and no other possible configurations could accommodate the structure while still providing sufficient access for the vehicle.

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-2006-22, Request for (1) a 7'6" variance from the 8' maximum height requirement and (2) a 35 sq. ft. variance from the 25 sq. ft. maximum area requirement, for proposed pole signage in the Corridor Overlay on property located at 6097 Buffalo Gap Road.

Mr. Armstrong presented the staff report. The proposed sign exceeds the height and area limitations of the Corridor Overlay. This came to light when the agent visited City Hall in early February 2006 to obtain a sign permit for the sign, which they had already assembled and were ready to install. The sign permit could not be approved because it does not meet the regulations. The applicant felt that staff should approve the permit because of the information that the agent

said they were provided with in the September conversation. Staff indicated that the only option for approval of the proposed sign permit is if variances are approved. In 2004, Wylie Church of Christ, which is located across Buffalo Gap Road, requested two variances for a sign. One variance request was to increase the height of a monument sign from 3 ½ feet to 5 feet and the other was to eliminate the 10 foot setback requirement. Those variances were denied.

In 2003, Wylie Independent School District requested variances from the 8 feet height maximum, 25 square feet of area maximum, and to allow illumination (an electronic message center). The height and area variances were denied. The illumination variance was approved and the sign was eventually attached to a building as a wall sign. Much of the discussion regarding the height and area centered on the sign being located so close to the intersection of Buffalo Gap and Antilley Roads and safety concerns with the heavy traffic volumes before and after school.

Staff recommended denial of the variances. Two comment forms were returned in favor of the request and none in opposition. Mr Waldruff asked if a monument sign could be placed closer to the street to help with the visibility. Mr. Armstrong explained that all signs were subject to a 10-foot setback requirement in the Corridor Overlay zoning district.

Mr. Bradshaw opened the public hearing. Tim Cook of Day Sign Company, agent, spoke in favor of the request. He stated that he had verbally checked with Mr. Armstrong prior to constructing the sign to verify the size and placement limitations on the property. He said that a truck had damaged the previous sign and that the new sign would be smaller and placed further from the curb on Buffalo Gap Road. He said that he usually waits to obtain permits until the sign has been constructed and he is ready to install it on the property. He said that a hardship was created by the 8-foot height limit because vehicles in the parking lot would block the sign from view. He said that the proposed locations for the sign were limited by the required setback, and that the parking lot was the only feasible alternative. He stated that the sign would improve the public health, safety, and welfare in the area because of the extra illumination it would provide.

Lee Fuller, pastor of Wylie Baptist Church, applicant, spoke in favor of the request. He stated that the new sign would be placed very close to the previous location and that the lack of ability to identify the church from the Buffalo Gap Road right-of-way constituted a hardship. He said that it would be smaller than the old sign, but that the 8-foot height limit would eliminate visibility completely.

Mr. Bradshaw closed the public hearing. Mr. Waldruff asked if they could replace their old sign in its previous location. Mr. Armstrong explained that new signs were required to meet the regulations in place at the time the permit is issued. Existing signs are allowed to remain as legal non-conforming uses until they are removed or damaged by more than 50% of their value. He stated that Day Sign Company requests many permits and that they have always been a good company to work with from the City's standpoint. He said that in his opinion Day Sign Company had no malicious intentions, the discrepancy was just a misunderstanding. Mr. Langholtz stated that he saw no reason to deviate from the regulations.

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

Unique Conditions of the Property: There was previously a sign approved, prior to the existence of the COR Overlay, that was larger and taller than the proposed sign. That sign was recently removed from the site. However, all new signs must meet current zoning and signage regulations.

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

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

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 sign is subject to a substantial setback requirement and the small height permitted by the regulations would not allow it to be visible due to its location in the middle of the existing parking lot.

Hardship From Strict Interpretation: The placement and the 8-foot height requirement would not allow visibility of the sign when it is surrounded by vehicles parked in the parking lot.

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

Discussion Item: Presentation for City University

Mr. Armstrong explained that the City would be hosting a Boards and Commissions Fair in conjunction with the ongoing City University Program. Mr. Bradshaw volunteered to represent the Board of Adjustment at the Fair.

There being no further business, the meeting was adjourned at 11:25 A.M.

Approved: _____, Chairman