
BOARD OF ADJUSTMENT

May 9, 2006

Minutes

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

Members Absent:

Alternates Present:

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 April 11, 2006 were unanimously approved.

Agenda Item BA-2006-29, Request for a Special Exception to locate a carport in the front yard setback on property located at 2425 Sylvan Drive.

Mr. Fortney presented the staff report. In order for carports to be built in front of the front building setback line, they must obtain a Special Exception from the Board of Adjustment. The intent of this regulation is to allow carports in front yards only in areas where such structures already exist. This provides for uniform and consistent development. There also can't be a detrimental effect on public facilities. The applicant has made a conceptual rendering of the carport he is proposing to build. There are a few front-yard carports in the area. The applicant has taken photographs of carports in the area for your review. The applicant would like to model his carport after this one that is made of wood and brick that is located on Leggett. The applicant proposes constructing a 20' by 24' carport in the front of their home. The proposed carport would be 10' feet from the front property line and 22 feet from Sylvan Drive.

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. William Joe Wilson, applicant, spoke in favor of the request. He stated that a large pecan tree had grown over the existing driveway and that birds and aphids were dropping residue on his vehicles.

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-2006-30, Request for a Special Exception to locate a carport in the front yard setback on property located at 5710 Chachalaca Lane.

Mr. Fortney presented the staff report. The proposed carport will be over the existing driveway and built up to the front of the house. There are several front-yard carports in the general area. To the southeast there was a front yard carport approved in March. The applicant took pictures of carports in the area. I have noted their locations on the area carport map. The applicant proposes constructing a 21' by 24' carport in the front of their home. The proposed carport would be 5 feet from the front property line and 17 feet from Chachalaca Lane.

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

Mr. Langholtz asked about the existing carport the Board recently approved on Bob White Court. Mr. Fortney explained that the Board had considered an area larger than the notification area for terms of compatibility with that request.

Mr. Bradshaw opened the public hearing. Jim Baker, agent, spoke in favor of the request. He stated that he would be constructing the carport for the property owner if the Special Exception were approved. He explained that the trailer shown in the photographs of the property was his and that it would be removed after completion of a patio cover he was building in the rear and the carport in the front. He added that the owner's vehicles were larger than what the garage was designed for and that he was having difficulty maneuvering them as he was aging. He stated that the carport would be similar in appearance to the patio cover that is currently under construction.

Mr. Bradshaw closed the public hearing. Mr. Langholtz stated that the general area in the neighborhood had carports so he felt it was compatible.

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 4 in favor and 1 opposed.

Agenda Item BA-2006-31, Request for a Special Exception to locate a carport in the front yard setback on property located at 2618 Gilmer Avenue.

Mr. Fortney presented the staff report. The applicant proposes constructing a 22' by 20' carport in the front of their home. The proposed carport would be 6' feet from the front property line and 15 feet from Gilmer Avenue. The nearest front-yard carport is over 1,000 feet north of the subject property. Two of the applicant's neighbors' properties have carports that are not in the front setback. The applicant's neighbor to the east has a carport on the side of the house, which is over 50' from the street. The property across the street has an exterior side carport, which meets the regulations for exterior side carports.

Staff recommended denial of the Special Exception because the request did not meet the intent of the regulation. Two comment forms were returned in favor of the request and two in opposition, one of which was in writing and the other was a message on the phone.

Mr. Langholtz asked if the other carport in the area had obtained a permit. Mr. Fortney stated that it had, and that the Board of Adjustment had granted a variance from the front setback since it predated the Special Exception policy.

Mr. Bradshaw opened the public hearing. Timothy Faulkner, agent, spoke in favor of the request. He stated that the applicant was elderly and his son was moving into the home to care for him. The applicant owned a vintage truck and a personal vehicle that he stores in the existing 2-car garage, but his son will have a third vehicle as well.

Mr. Bradshaw closed the public hearing. Mr. Langholtz stated that he saw no overriding reason to set a precedent for carports in this area. Mr. Waldraff commented that he felt it was incompatible.

Mr. Waldraff 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 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 no other front carports and is, therefore, inconsistent with the intent of the regulation.

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

Agenda Item BA-2006-32, Request for a Special Exception to locate a carport in the front yard setback on property located at 1025 S. San Jose Drive.

Mr. Fortney presented the staff report. The applicant was proposing to build the carport 21' long, but since the Board of Adjustment can only grant a Special Exception for up to 5 feet from the front property line, the carport can only be 18' long, setting it 20' back from the road.

Staff recommended approval of the Special Exception. No comment forms were returned in favor or in opposition.

Mr. Bradshaw opened the public hearing. David Ridgway, applicant, spoke in favor of the request. He stated the garage had been enclosed before he moved into the home and that they had no covered parking to protect their vehicles from hail.

Mr. Fortney stated that the proposed carport would extend further toward the street than a Special Exception allows. He explained that the length of the carport would need to be reduced from 21 feet to 18 feet in order to comply with the minimum 5-foot setback. Mr. Bradshaw asked the applicant if he could accommodate the reduction and he confirmed that he could.

Mr. Bradshaw closed the public hearing.

Mr. Langholtz made a motion to approve the request with the condition that the dimensions be reduced to 18' x 18' 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. Waldruff seconded the motion, which passed by a vote of 5 in favor and 0 opposed.

Agenda Item BA-2006-33, Request for a Special Exception to locate a carport in the front yard setback on property located at 5409 Congress Avenue.

Mr. Armstrong presented the staff report. The applicant plans to place a carport over the existing driveway 6 feet from the front property line and 18 feet from the curb. There are several other front carports in the area.

Staff recommended approval of the Special Exception. Five comment forms were returned in favor of the request and one in opposition.

Mr. Bradshaw opened the public hearing. David Castillo, applicant, spoke in favor of the request. He stated that he had nothing to add to the staff report.

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 several carports in the area of the request.

Effect on Public Facilities: Staff anticipates no effects on public facilities from a carport at this location.

Relationship to the Intent of the Regulation: The intent of this 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. Since this proposed carport is in an area with other front yard carports, the proposal 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-2006-34, Request for an 7' variance from the 10' rear setback requirement for a sunroom addition to a single-family residence on property located at 5109 Fairfield Place.

Mr. Armstrong presented the staff report and described the existing situation with the fence and drainage facility cutting through the easement. The applicant proposes adding a sunroom to the rear of the property, within 3 feet of the rear property line at the closest point. This will require an easement release if the variance is approved. Staff does not know which, if any, utilities are in the easement, however it is likely that there are utilities in it.

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

Mr. Bradshaw asked if the addition would be over the easement and Mr. Armstrong confirmed that it would at least partially encroach. Mr. Bradshaw stated that from the photograph it appeared that there was already an encroachment over the utility easement. Mr. Armstrong

explained that a concrete slab was located over the easement, and it appeared that the corner of the existing home may extend partially over it as well. It was difficult to make a conclusive determination without an official survey of the property with the buildings shown. Mr. Bradshaw commented that the Board had approved variance for oddly-shaped lots in the past. Mr. Armstrong explained that the subject parcel was not peculiar in size or shape since it was virtually rectangular and met all the minimum dimensions for a patio home lot. Mr. Salisbury asked if the lots south of the subject parcel were at lower elevations and if so, what would happen to the water in the existing drainage channel if it were blocked by the addition. Mr. Armstrong stated that it was a concern and that the water would likely collect someplace. Mr. Langholtz asked if the existing home was already built over a portion of the easement. Mr. Armstrong stated that he was not certain, but that it appeared that the corner may extend slightly into the easement and that the problem should not be perpetuated by adding to the structure.

Ms. James suggested that the Board table the request to allow the applicant to provide additional information regarding the placement of the structures in relation to the property lines and easement. Mr. Bradshaw commented that they were really only considering a roof and two walls to extending over an existing slab. Mr. Langholtz stated that he was surprised the concrete slab was allowed over the easement. Mr. Armstrong explained that the Zoning Ordinance includes no regulations pertaining to the percentage or placement of paving on a residential lot. Mr. Salisbury added that concrete was fairly easy to dig up, but structures over easements were much more problematic. Ms. James reminded the Board that the easement release process would still be required even if they approved the variance. Mr. Waldruff questioned the lot coverage requirements for patio home developments and Mr. Armstrong explained that there was no limit to coverage as long as all structures complied with the minimum setbacks.

Mr. Salisbury commented that it appeared the owner was not at the meeting. Mr. Armstrong stated that he had contacted the applicant to explain the complications and offered a refund for the application fee at that time. The applicant chose to move forward with the request anyway.

Mr. Hay stated that the existing structure already appeared to be a problem and that the Board should wait to consider the request until the applicant could provide a survey of some kind. Mr. Salisbury noted that he could not determine the exact location of the property lines based on the aerial photography. Mr. Hay said that he would like to know the purpose and utilities located within the easement and the amount of current and future encroachment. Mr. Armstrong noted that an easement release was a permanent alteration to the property, compared to variances that expire after six months if no building permits have been issued. Mr. Langholtz asked if there were any costs involved in their request for more information. Mr. Armstrong stated that the application fee for an easement release was \$50, and there may be additional costs if any utility providers charge fees for marking utility lines or hiring a surveyor to resurvey the property. Mr. Hay said that he would like to table the issue to obtain additional information.

Mr. Bradshaw opened the public hearing. No one spoke in favor or opposition of the request.

Mr. Bradshaw closed the public hearing.

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Mr. Langholtz made a motion to table the request. 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 9:20 A.M.

Approved: _____, Chairman