
BOARD OF ADJUSTMENT

June 13, 2006

Minutes

Members Present: Wayne Bradshaw
Scott Hay
Morton Langholtz
Rick Waldruff

Members Absent:

Alternates Present: Tim Cook

Staff Present: Jeff Armstrong, Development Services Manager
Gloria Brownell, Planner I
Rodney Fletcher, Permit Specialist
Thaddeus Iwuji, Assistant City Attorney

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

The minutes from the meeting on May 9, 2006 were unanimously approved.

Agenda Item BA-2006-34, Request for a 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. He stated that the item was tabled at the May meeting. He briefly informed the Board of all the new developments pertaining to the request that occurred throughout the month following the previous meeting. Mr. Armstrong indicated that he sent a letter to the applicants detailing the information requested by the Board in order to make a decision. The information received from the applicant was provided to the Board. The proposed addition would be in the setback. One corner of the existing house is at the edge of the setback and easement. The utility providers have been contacted, but the only utilities that responded indicated that there are no water or sewer lines in the easement. If this further information from other utilities is critical, the item could be tabled again until staff is able to obtain a response from all of the utilities. The neighboring house to the south obtained a 4' variance from the rear setback in 1998. Minutes and the staff report for that item do not mention the easement, nor does the building permit that was issued.

Staff recommended denial. Seven comment forms were returned in favor, 0 in opposition of the request.

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

Mr. Bradshaw closed the public hearing.

Mr. Langholtz asked why the applicants were not present and Mr. Armstrong stated the he had spoken with them and that they were aware of the meeting. Mr. Hay commented that he did not feel that the easement was really the Board's issue to consider, but that he still thought of it as a negative effect on public health, safety, and welfare to build so close to existing utilities.

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

Unique Conditions of the Property: There are no peculiar conditions for this lot. The lot is a typical lot for patio home development.

Hardship From Strict Interpretation: There is no hardship in this case. The fact that the existing house is currently set back little more than the minimum ten feet leaving little or no space for additions is typical in patio home development.

Effect on Public Health, Safety, and Welfare: There will be a negative effect on public health, safety, or welfare if the structure is built over part of an easement.

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

Agenda Item BA-2006-35, Request for a Special Exception to locate a carport in the front yard setback on property located at 3325 Melinda Lane.

Mr. Armstrong presented the staff report. There are other carports in the area. The request meets the required criteria.

Staff recommended approval of the Special Exception. 2 comment forms were returned in favor of the request and 0 in opposition.

Mr. Bradshaw opened the public hearing. Francisco Buenroostro, applicant, spoke in favor of the request. He stated that he and his girlfriend own two vehicles and the existing home has only a one-car garage. Mr. Langholtz asked if he would be building it himself. Mr. Buenroostro stated that his stepfather would be helping with the construction. Mr. Waldraff asked if it would be custom-built and the applicant confirmed that it would.

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-2006-36, Request for a Special Exception to locate a carport in the front yard setback on property located at 2157 Ivanhoe Lane.

Mr. Armstrong presented the staff report. There are 3 carports more than 500 feet from this property and not on Ivanhoe Lane, and there are none in the notification area. Staff suggests that the proposed carport is not compatible with the area.

Staff recommended denial of the Special Exception. Three comment forms were returned in favor of the request and none in opposition. Mr. Langholtz asked if the responses in favor had any additional comments attached. Mr. Armstrong stated that only one included additional comments and the respondent was in favor as long as the improvement would not affect the taxes charged on his home near the request. Mr. Waldraff asked if the existing carport at 2101 Glenwood Drive was in the front or on the side of the property. Mr. Armstrong stated that according to the address it was technically located on the side of the structure, although it was still built close to the street.

Mr. Bradshaw opened the public hearing. Timothy Faulkner, agent, spoke in favor of the request. He stated that the applicants were both elderly and that he agreed with the City's assessment of the situation. He said that there was one other carport in the immediate area, but it was not built into the front yard setback. He added that the Board of Adjustment approved a similar request on Meadowbrook Drive the previous year even though there were no other carports in the immediate area. At the time, the Board called the lack of carports in the request area an "anomaly" because there were several located in the surrounding neighborhoods. Mr. Langholtz asked if the applicant had a garage and Mr. Faulkner confirmed that there was an existing 2-car garage attached to the home. Mr. Bradshaw commented that he was concerned about creating an opportunity for carports in an area that does not currently have them.

Mr. Bradshaw closed the public hearing. Mr. Armstrong clarified that he had seen the other carport mentioned by Mr. Faulkner but had not considered it as a similar use since it was not built into the front yard setback. Mr. Langholtz asked if the carports shown on the map had received Special Exceptions. Mr. Armstrong stated that the one at 2049 N. Willis Street appeared to meet the setback requirement and the one at 2100 Glendale Drive was in the setback but he was unable to find any record of a Variance or Special Exception. Mr. Langholtz commented that he saw no overwhelming reason to approve the request since it would help justify more carports in the future.

Mr. Langholtz 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 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 no other front carports and is, therefore, not 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-2006-37, Request for a one-year extension of a Temporary Permit for a Subdivision Sales Office on property located at 6610 Hampton Hills Street.

Mr. Armstrong presented the staff report and explained the provisions of a Temporary Permit for a Subdivision Sales Office. This request does not require any formal findings.

Staff recommended approval of the Special Exception. Within the notification area 2 comment forms were returned in favor, plus a comment form from the applicant who owns a number of parcels in the area of the request and 2 in opposition. Outside of the notification area 2 comments were returned in favor and 3 in opposition. Mr. Langholtz asked if there were any comments included with the responses that were opposed to the request. Mr. Armstrong stated that they included concerns about having a commercial use in a residential area, that the applicant owned commercial property nearby that could be used for this purpose instead, and general complaints about trash and traffic associated with ongoing construction within the neighborhood.

Mr. Bradshaw opened the public hearing. Trey Thornton, agent, spoke in favor of the request. He stated that the goal of the applicant was to cater to military families stationed at nearby Dyess Air Force Base. Their policies allow families to move into homes for approximately \$1500 and they use the model home to help people decide if they want to locate in the neighborhood. He stated that some of the opposition was likely related to a rezoning request currently under consideration. He explained that the majority of the traffic mentioned in the comments was a result of 9 new homes under construction on Hampton Hills Street.

Mr. Bradshaw closed the public hearing.

Mr. Langholtz made a motion to approve the request. Mr. Cook seconded the motion, which passed by a vote of 5 in favor and 0 opposed.

Agenda Item BA-2006-38, Request for a 15' variance from the 20' exterior side setback for a carport on property located at 1033 Pardoner's Road.

Mr. Armstrong presented the staff report and explained why this is a variance request and not a special exception. Mr. Armstrong described the nature of other carports in the Canterbury Trales subdivision and reviewed the staff's findings.

Staff recommended denial of the variance. 2 comment forms were returned in favor of the request and 2 in opposition.

Mr. Bradshaw opened the public hearing. Ray Young of Abilene Portable Buildings, agent, spoke in favor of the request. He stated that the applicant was currently in surgery and was unable to attend the meeting. He said that the hardship associated with the request was that the applicant was an 80% disabled veteran and his wife was also disabled. He provided photographs to the Board that showed other carports along Weaver's Way. He stated that the carport would not extend past the existing privacy fence on the property, which would reduce its visibility. He added that there was no other place to construct a carport since the design of the house and the placement of the existing driveway did not allow alley access. He said that he had been contacted by other homeowners in the neighborhood who also would like carports, but were waiting for the outcome of the current request. Mr. Young pointed out that the only reason they were asking for a variance was because the carport would be on the side instead of the front of the home. Mr. Hay asked staff if their recommendation would have been different if the request had been for a Special Exception. Mr. Armstrong stated that staff would have recommended denial of a Special Exception due to the lack of other carports in the immediate area.

Clare Nickel, 1033 Reeves Road, spoke in opposition to the request. She stated that the property was near the main entrance to the neighborhood and the carport would be very visible to other residents. She said that the applicant already had 3 accessory buildings and a gazebo in the backyard of the property and that the carport would just add to the problem. She stated that the 2-car garage should be used to protect the vehicles instead of building an additional carport.

Billie Johnson, 1025 Reeves Road, spoke in opposition to the request. She stated that she agreed with Ms. Nickel and that the building would be very visible to residents and visitors in the neighborhood. She was concerned that if it were permitted, other residents would build carports as well.

Mr. Bradshaw closed the public hearing. Mr. Armstrong stated that there was a carport along Weavers Way, but that it was outside the notification area and did not appear to be built into the front setback. He also stated that staff policy was to view hardships only from a land use perspective, which did not include physical hardships of the property owners. The Board, however, has the authority and discretion to include that type of hardship if it felt it was appropriate.

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

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Unique Conditions of the Property: There are no peculiar conditions for this lot. It is a typical corner lot and at over 10,000 square feet is much larger than many RS-6 lots. Not all subdivisions have platted building lines, but many do and it is not unusual for the building line to be 20 feet along both streets of a corner lot in a residential area.

Hardship From Strict Interpretation: There is no hardship in this case. The applicant provided information that the owner/occupant of the home is handicapped and not able to get in and out of his vehicle when it is in the garage and the carport would provide some shelter to do so outside of the garage.

Effect on Public Health, Safety, and Welfare: Staff could not find any effects on the public health or safety from an open carport.

Mr. Cook 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 9:30 A.M.

Approved: _____, Chairman