
BOARD OF ADJUSTMENT
November 14, 2006
Minutes

Members Present: Wayne Bradshaw
Scott Hay
Morton Langholtz
David Hejl

Members Absent: Rick Waldraff

Alternates Present: Brenda Coleman

Staff Present: Justin Fortney, Planner II
Gloria Brownell, Planner I
Jeff Armstrong, Development Services Manager
Rodney Fletcher, Permit Specialist
Dan Santee, Assistant City Attorney

Mr. Bradshaw, Chair, called the meeting to order at 8:32 AM and declared a quorum present.

The minutes from the meeting on October 10, 2006 were unanimously approved.

Agenda Item BA-2006-55, Request for (1) a Special Exception to locate a carport in the front setback and (2) a 1.5' variance from the 3' side setback requirement on property located at 325 Westview Dr.

Mr. Langholtz made a motion to remove the item from the table. Mr. Hay seconded the motion, which passed by a unanimous vote.

Gloria Brownell presented the staff report. The applicant intends to construct a 24' x 19' carport extending from the existing one-car garage. The proposed carport would be 7'6" from the front property line and only 19'6" from the curb on Westview Drive. The improved surface over which the carport would be constructed extends to 1.5' from the side property line, and the applicant would like to extend the carport to that setback as well. There are several front carports in the area, so the use would be compatible and consistent with the intent of the regulation. Staff does not foresee any negative effects on public facilities or on public health safety and welfare. Staff could not determine a sufficient peculiarity or hardship to justify the variance request. Staff recommended approval of the Special Exception and denial of the variance. Five comment forms were returned in favor and none in opposition.

Mr. Bradshaw opened the public hearing. Harold Butler, applicant, spoke in favor of the request. He stated that the edge of the current paving for the driveway was located 18 from the existing fence line and he would like for the carport to extend that same distance. The required setback would not allow enough space for two vehicles to fit

under the carport. He stated that they would need to break the concrete in order to sink the posts for the proposed structure.

Mr. Bradshaw closed the public hearing. He commented that there was not much difference between the 1.5' setback and the required 3' setback. Mr. Hejl noted that the difference affected the location of the posts. Mr. Hay expressed concern regarding the width being sufficient to accommodate two vehicles.

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

Compatibility With Surrounding Land Uses: There are several other front carports in the area surrounding the request.

Effect on Public Facilities: There are no negative effects on public facilities.

Relationship to the Intent of the Regulation: The proposal is consistent due to other similar improvements in the area.

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

Ms. Coleman made a motion to approve the variance based on the following findings:

Unique Conditions of the Property: The existing concrete driveway is built into the required setback and would need to be broken to allow construction of the carport.

Hardship From Strict Interpretation: Sinking the posts in compliance with the required setback would necessitate the destruction of a portion of the existing concrete driveway.

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

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

Agenda Item BA-2006-59, Request for a Special Exception to locate a carport in the front yard setback on property located at 2525 Minter Lane.

Justin Fortney presented the staff report. The applicant wishes to construct a 20' x 12' carport up to their home over an existing driveway. The proposed carport would be 5' from the front property line and 17' from Minter Lane. There are other front carports in the area so the use is compatible and consistent with the intent of the regulation. Staff foresees no negative effects on public facilities from the request.

Staff recommended approval since it meets the criteria for a special exception. Four comment forms were received in favor of the request and none in opposition. .

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 if the owner was aware of the meeting and Mr. Fortney stated that he met with him personally and sent the applicant written notice.

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 area surrounding the request.

Effect on Public Facilities: There are no negative effects on public facilities.

Relationship to the Intent of the Regulation: The proposal is consistent due to other similar improvements in the area.

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

Agenda Item BA-2006-60, Request for a Special Exception to locate a carport in the front yard setback on property located at 3209 Amarillo Street.

Mr. Fortney presented the staff report. The applicant wishes to construct a 23' x 17' carport up to their home over an existing driveway. The proposed carport would be 0' from the front property line and 12' from Amarillo Street. However, the closest the Board of Adjustment can approve to the property line is 5', which would put the carport a minimum of 17' from Amarillo Street. There are no other carports in the area so the use is not compatible or consistent with the intent of the regulation. Staff foresees no negative effects on public facilities from this request.

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

Mr. Bradshaw opened the public hearing. Jimmy Pickens, applicant, spoke in favor of the request. He stated that he owns a 1957 Chevy that he bought when it was new. He said he still drives it, but he has also acquired another vehicle. He wants a safe place to park the Chevy to protect it from the sun since his driveway faces west. He stated that he has lived in the neighborhood for 20 years and wants the carport to be of quality construction. Mr. Bradshaw commented that he was concerned about opening an opportunity for other carport of lesser quality in the area. Mr. Hay asked if the garage was usable and Mr. Pickens stated that it is used for his wife's car and the newer vehicle they recently purchased. He added that there was no access to the back because of an existing detention pond behind the home and no alley to provide alternate access.

Mr. Bradshaw closed the public hearing. Mr. Hay commented that one of the principle concern for carports is compatibility and that this request did not appear meet that

requirement. He added that there seemed to be neighborhood support for the request but that it would still detract from the value. Mr. Bradshaw commented that he agreed with Mr. Hay.

Mr. Hay 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 area surrounding the request.

Effect on Public Facilities: There are no negative effects on public facilities.

Relationship to the Intent of the Regulation: The proposal is not consistent due to the lack of other similar improvements in the area.

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

Agenda Item BA-2006-61, Request for a Special Exception to locate a carport in the front yard setback on property located at 2125 Barrow Street.

Ms. Brownell presented the staff report. The applicant intends to construct a 20' x 20' carport extending from the existing one-car garage. The proposed carport would be 9.4' from the front property line and 17.4' feet from the curb on Barrow Street. The surface has already been improved to accommodate two vehicles. There are several other front carports in the area so the use is compatible and consistent with the intent of the regulation. Staff foresees no negative effects on public facilities from this request.

Staff recommended approval of the Special Exception. Two comment forms were received in favor and one in opposition.

Mr. Bradshaw opened the public hearing. Shannon Boyd, applicant, spoke in favor of the request. She stated that she owned three vehicles to protect and her garage had been converted to living space before she purchased the home.

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 area surrounding the request.

Effect on Public Facilities: There are no negative effects on public facilities.

Relationship to the Intent of the Regulation: The proposal is consistent due to other similar improvements in the area.

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

Agenda Item BA-2006-62, Request for (1) a Special Exception to locate a carport in the front setback (2) a 4.5% variance from the 10% lot coverage maximum and (3) a 1.7% variance from the 40% total lot coverage maximum on property located at 1841 Jameson Street.

Ms. Brownell presented the staff report. The applicant intends to construct a 25' x 16' carport extending from the front of the home. The proposed carport would be 5' from the front property line and 17' from the curb on Jameson Street. The current driveway will only accommodate one car, but the applicant plans to widen it as part of the construction process if the carport is approved. There are several other front carports in the area so the request is compatible and consistent with the intent of the regulation. Staff foresees no negative effects on public facilities.

The applicant also intends to construct a 16' x 20' patio cover attached to the existing detached garage in the rear yard. The applicant received a variance from the maximum accessory building square footage in 2003 that allowed the structure to be 700 square feet. The regulations at the time allowed only 600 square feet, but they were amended in September 2004 to allow 10% of the lot area. The subject parcel is 7,076 square feet, which makes the accessory building limitation approximately 707 square feet. The current request for a patio cover would create 1,020 total square feet of accessory buildings. The only thing peculiar about the subject parcel is that it has a width of 58 feet, which is substandard when compared to the current requirement of 60 feet. However, the lot area is approximately 7,076 square feet, which is over the 6,000 square foot minimum for RS-6 zoning. Staff could not determine a non-financial hardship associated with this request. The patio could be attached to the home, which would eliminate the need for a variance from the maximum square footage for accessory buildings. Staff does not expect any negative effects on public health, safety, or welfare from the request. The proposal is toward the interior of the lot and would only be visible from the alley adjacent to the rear property line.

After further research, staff determined that there was insufficient space to construct the 25' x 25' carport originally requested on the application. The applicant has amended his request to 16' x 25', which would not exceed the maximum lot coverage requirement if approved.

Staff recommended approval of the Special Exception and denial of the variance. Three comment forms were received in favor and none in opposition.

Mr. Bradshaw opened the public hearing. Mrs. Gonzalez, applicant, spoke in favor of the request. She stated that they own two large trucks that her husband would like to park off the street. She stated that her original request asked for a carport that would be only 11 feet from the street instead of 17 as the staff report indicated. Ms. Brownell stated that she would address the question after the public hearing. Mrs. Gonzalez explained that the patio cover was for her own use. Ms. Coleman asked if she could attach it to the house to

avoid needing the variance. Mrs. Gonzalez stated that there were water and sewer lines under the area in the backyard where she could attach the patio cover to the house. She added that they already had a concrete slab adjacent to the existing accessory building.

Mr. Bradshaw closed the public hearing. Ms. Brownell explained that the original request indicated a 25' x 25' carport, but that the Board could not approve one of that size. The 12' parkway and the minimum 5' setback required a reduction in the depth from the original request. Mr. Santee asked if the accessory building could be attached to the primary structure to eliminate the need for a variance for the patio cover. Ms. Brownell explained that the detached garage was built to accessory building setbacks and would require a variance for its current location if it was to be considered part of the primary structure. Mr. Hay asked about the placement of utility lines in the area and Ms. Brownell stated that she would need to check with the Water Department to determine the exact placement of the water and sewer lines.

Mr. Bradshaw reopened the public hearing to ask Mrs. Gonzalez where the utilities were located. She stated that the sewer line was approximately 3 feet from the proposed patio cover.

Mr. Bradshaw closed the public hearing.

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

Compatibility With Surrounding Land Uses: There are several other front carports in the area surrounding the request.

Effect on Public Facilities: There are no negative effects on public facilities.

Relationship to the Intent of the Regulation: The proposal is consistent due to other similar improvements in the area.

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

Mr. Langholtz made a motion to approve the 4.5% variance from the maximum 10% lot coverage for accessory buildings based on the following findings:

Unique Conditions of the Property: The location of underground utility lines limits the possible locations for the patio cover.

Hardship From Strict Interpretation: The construction of the patio cover over existing utility lines may cause a hardship in the future if the structure had to be removed to service the lines.

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

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

Agenda Item BA-2006-63, Request for a 4' variance from the 20' rear setback requirement on property located at 533 Sayles Boulevard.

Mr. Fortney presented the staff report. The applicant has recently converted the existing rear one-car garage into an art studio. She now would like to build an attached a two-car garage onto the rear of that. The addition would be 16' from the alley. If this was a detached garage it could be built about one foot from the alley, but would also have to be at least 6' from the existing house. This is for fire protection and to avoid the neighbor's rear yard from having an obtrusive structure built along the entirety of one side. Staff believes if the applicant wishes to attach the new structure, it could be accomplished by adding onto the side of existing garage rather than the end of it. Staff could not determine anything peculiar about the property or any non-financial hardship. Staff does not foresee and negative effects on public health, safety, or welfare from the request.

Staff recommended denial of the variance. Four comment forms were received in favor and none in opposition. Mr. Bradshaw asked if the structure could be detached. Mr. Fortney stated that it could, but that the applicant preferred not to walk outside.

Mr. Bradshaw opened the public hearing. Martha Kiel, applicant, spoke in favor of the request. Mr. Bradshaw asked her if she thought about detaching the garage. Ms. Kiel explained that the existing garage was built in 1949 and was very small. She had recently converted it into an art studio and storage area. She lives alone and her children are worried about her walking in from a detached garage for security purposes. She added that there was no parking in the front because of the amount of traffic on Sayles Boulevard. She said that the structure would be very nice and would add to the value of her property and her neighbors'. Mr. Santee asked her if she considered removing the existing garage and building a new structure. Ms. Kiel said that she had, but that the existing structure was so sturdy and well-built that she wanted to keep it, but that it just wasn't useable as a garage.

Mr. Bradshaw closed the public hearing. Mr. Santee stated that it was common in the neighborhood to have rear garages. He said that a peculiarity may occur in the entire neighborhood, as opposed to just one parcel as the Board usually considers. Ms. Coleman commented that a peculiarity may be the lack of 2-car garages and the prohibition on parking along Sayles Boulevard. Mr. Hay stated that he felt there were still sufficient peculiarities on the subject parcel, but that he agreed with Mr. Santee as well.

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

Unique Conditions of the Property: The subject parcel is unique because of the difficulties in reusing the existing structure and the neighborhood is peculiar due to the lack of available on-street parking.

Hardship From Strict Interpretation: The applicant's age and the fact that she lives alone cause a hardship for her to construct a detached garage. An attached structure would be safer and more appropriate.

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

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

Agenda Item BA-2006-65, Request for a 4.5' variance from the 2.5' and variable maximum fence height on property located at 4617 Sierra Sunset.

Mr. Armstrong presented the staff report. The applicants propose to construct a 7' tall privacy fence that would extend beyond the front building line to the street right-of-way along approximately the western 60 feet of the lot frontage. The total lot frontage is 224 feet. They would like to include the narrow portion of their lot (the west end) within the fenced area to utilize as part of their yard. The lot is 111 feet in depth on the east end and only 50 feet deep on the west end. Although this is a new lot, it is substandard in lot depth. The lot depth is defined as the average depth of a lot – in this case approximately 81 feet. The minimum lot depth is 100 feet. In addition, with the pipeline easement to the rear, Sierra Sunset as it extends eastward, and the configuration of adjacent land, there is little likelihood that any structures will be located near this fence on the adjacent property. To set the fence back far enough to have a typical residential fence height, the west end of the lot would be left with two slivers of land on each side of the fence. The variance would allow better use of the yard area. Staff does not anticipate any negative effects on the public.

Staff recommended approval of the variance. No comment forms were received in favor or in opposition. Mr. Santee commented that the either the house or the fence would have needed a variance to get full use of the lot. Mr. Armstrong replied that the house was built without any variances and that this was a much better solution to the problem.

Mr. Bradshaw opened the public hearing. Earl Garrett, applicant, spoke in favor of the request. Mr. Hay asked if he had any information to add to the staff report. Mr. Garrett stated that he would not have purchased the lot if he had known it was substandard, but that the variance would make it much more useable.

Mr. Bradshaw closed the public hearing.

Ms. Coleman made a motion to approve variance, with the condition that it would apply only to the proposed fence, based on the following findings:

Unique Conditions of the Property: The lot is unusually shaped. It is 111 feet in depth on the east end and only 50 feet deep on the west end. Although this is a new lot, it is substandard in lot depth. The lot depth is defined as the average depth of a lot – in this

case approximately 81 feet. The minimum lot depth is 100 feet. In addition, with the pipeline easement to the rear, Sierra Sunset as it extend eastward, and the configuration of adjacent land, there is little likelihood that any structures will be located near this fence on the adjacent property.

Hardship From Strict Interpretation: The shape combined with the depth of the lot leaves minimal area for a home to meet the setback requirements. The home under construction was placed to meet all setbacks, but much of the yard that is left is located at the west end of the lot where the fence is proposed to be near the street. To set the fence back far enough to have a typical residential fence height, the west end of the lot would be left with two slivers of land on each side of the fence. The variance would allow better use of the yard area.

Effect on Public Health, Safety, and Welfare: Staff does not anticipate any negative effects on the public. With the adjacent easement, the curvature of Sierra Sunset to the west, and the land available between the street and easement, staff does not feel that there will be any visibility issues in the right-of-way. The applicant's driveway is at the east end of the lot, well over 100 feet away from the portion of the fence that would be in front of the front building line.

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

Agenda Item BA-2006-66, Request for a Special Exception to locate a carport in the front yard setback on property located at 2533 S. 35th Street.

Mr. Fortney presented the staff report. The applicant wishes to construct a 20' x 25' carport up to their home over an existing driveway. The proposed carport would be 5' from the front property line and 20' from S 35th Street. There are other front carports in the area so the use is compatible and consistent with the intent of the regulation. Staff does not foresee any negative effects on public facilities.

Staff recommended approval of the Special Exception. Two comment forms were received in favor and one in opposition.

Mr. Bradshaw opened the public hearing. James Adams, applicant, spoke in favor of the request. Mr. Langholtz asked if he planned to construct it himself. Mr. Adams explained that he would have a contractor construct it completely from metal. Mr. Hay asked if he had visited with the neighbor who submitted the comment form in opposition. Mr. James stated that he was unaware that anyone was opposed prior to the staff presentation. Mr. Bradshaw asked if there was an alternate location in the rear and Mr. Adams said that it would require additional concrete paving and a new door to provide access from the home.

Mr. Bradshaw closed the public hearing. Mr. Hay commented that he agreed with the findings in the staff report.

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 area surrounding the request.

Effect on Public Facilities: There are no negative effects on public facilities.

Relationship to the Intent of the Regulation: The proposal is consistent due to other similar improvements in the area.

Mr. Langholtz 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
