
BOARD OF ADJUSTMENT

December 12, 2006

Minutes

Members Present: Morton Langholtz
Brenda Coleman
David Hejl

Members Absent: Wayne Bradshaw
Scott Hay

Alternates Present: Rick Waldraff

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

Mr. Santee explained to the Board that both the Chair and the Chair Pro Tem were absent and that they needed to nominate a member of the Board to chair the meeting. Mr. Hejl made a motion to nominate Mr. Langholtz. Ms. Coleman seconded the motion, which passed unanimously in favor.

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

The minutes from the meeting on November 14, 2006 were unanimously approved.

Agenda Item BA-2006-67, Request for a Special Exception to locate a carport in the front setback on property located at 2502 Bennett Drive.

Justin Fortney presented the staff report. The applicant wishes to construct a 22' by 12' carport up to their home over an existing driveway. The proposed carport would be 8' feet from the front property line and 20 feet from Bennett Drive. 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. Staff recommended approval of the Special Exception. Five comment forms were returned in favor and none in opposition.

Mr. Langholtz opened the public hearing. Ray Young of Abilene Portable Buildings, agent, spoke in favor of the request. He stated that the request appeared to meet the criteria for the Special Exception and the applicant wanted the carport to protect his vehicles from the elements.

Mr. Langholtz closed the public hearing. Mr. Waldraff commented that it seemed to be consistent with the other carports in the area.

Mr. Waldraff 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 4 in favor and 0 opposed.

Agenda Item BA-2006-68, Request for a Special Exception to locate a carport in the front yard setback on property located at 757 Huckleberry Lane.

Mr. Fortney presented the staff report. The applicant wishes to construct a 17' by 14'7" carport up to their home over an existing driveway. The proposed carport would be 5' from the front property line and 15' from Huckleberry Lane. The applicant's home is in a neighborhood with a limited number of homes and is adjacent to a Heavy Industrial District. Directly across the street from the applicant's home is a metal scrap yard. For this reason, staff believes that a carport in this location is compatible with the surrounding area. Staff foresees no negative effects on public facilities and feels that the request is consistent with the intent of the regulation. Staff recommended approval since it meets the criteria for a Special Exception. No comment forms were received in favor or in opposition.

Mr. Langholtz opened the public hearing. John Large, applicant, spoke in favor of the request. He stated that he was finishing a roofing project on his home and wanted to use some of the excess materials to construct the carport. He plans to build over an existing slab and wants to protect another vehicle that will not fit in his single garage. Mr. Waldraff asked if he planned to do the work himself and Mr. Large confirmed that he would.

Mr. Langholtz closed the public hearing. Mr. Waldraff asked staff if the structure would be inspected to ensure compliance with building codes. Mr. Santee explained that it would be reviewed and inspected by the Building Inspections staff.

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

Compatibility With Surrounding Land Uses: There are other components of a neighborhood that one could look at to determine compatibility like how close existing homes are to the front property lines. In this case, the applicant's home is in a neighborhood with a limited number of homes and is adjacent to a heavy Industrial District. Directly across the street from the applicant's home is a metal scrap yard. For

this reason, staff believes that a carport in this location is compatible with the surrounding area.

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

Relationship to the Intent of the Regulation: Since this proposed carport is in an area with unsightly heavy industrial uses, this request is consistent with the intent of the regulation.

Mr. Waldraff seconded the motion, which passed by a vote of 4 in favor and 0 opposed.

Agenda Item BA-2006-69, Request for a Special Exception to locate a residence in a Heavy Industrial zoning district on property located at 909 Lane Avenue.

Mr. Fortney presented the staff report. The homes on this street were built from 1916 to the 1950s. These homes were not inside the City limits when they were built, and even if they were, zoning didn't begin until 1946. This general area was zoned HI when it was annexed by the City in 1951. Someone is attempting to buy this home, but their lender is requiring the present owner to obtain a Special Exception before they will lend the money. If the home were destroyed by more than 50% of its value, the City could not permit the home to be rebuilt without receiving a Special Exception prior to issuance of a building permit. Another way this situation could have been resolved would be to rezone the area that is developed with homes. This option would have been inappropriate because a residential district would not be compatible with the surrounding HI zoning. The parties involved are closing soon on the house and a rezoning process would also take much longer to finalize. Furthermore, an identical Special Exception was requested for 933 Lane Avenue in December 2005. That case was approved by the Board. Staff foresees no negative effects on public facilities from this request.

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

Mr. Langholtz opened the public hearing. Justin Walker, applicant, spoke in favor of the request. He stated that he has worked to improve the property since he purchased it and that his request was identical to the other one from last year.

Lisa Boyce spoke in favor of the request. She stated that federal regulations require the home to be rebuildable in order to receive a loan and that this was a good little neighborhood of moderately priced homes.

Mr. Langholtz closed the public hearing.

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

Compatibility With Surrounding Land Uses: Residential uses are not appropriate in industrial areas. However, most of this block is developed with residential homes, making this a compatible land use.

Effect on Public Facilities: The continuance of this home in the area would not negatively impact public facilities.

Relationship to the Intent of the Regulation: Residential uses are not allowed in HI zoning districts because they are not generally compatible with the uses permitted in those districts. The most basic intent of the regulation is to have an individual review of a property to determine if a single-family home would be compatible with the surrounding land uses. In this case, the home appears to be compatible and consistent with the intent of the regulation.

Mr. Waldruff seconded the motion, which passed by a vote of 4 in favor and 0 opposed.

Agenda Item BA-2006-70, Request for a Special Exception to locate an electric substation in an Agricultural Open Space zoning district on property located at the southeast corner of East Lake Road and CR 306.

Mr. Fortney presented the staff report. Electric substations are found at locations throughout Abilene and they are allowed as a permitted use in HC, LI, and HI zones. A substation in any other zone requires a Special Exception to determine if it is compatible with the surrounding land uses. The applicants have stated that this is an ideal location for an electrical substation because it has two high voltage distribution lines that currently pass over it. They also said they chose this land because of its remote location, which may be less controversial than other locations. The use appears to be compatible with the undeveloped area and staff does not foresee any negative effects on public facilities due to its remote location. The request is consistent with the intent of the regulation to locate substations in areas where they will not have a negative effect on nearby development.

Staff recommended approval of the Special Exception with two conditions: (1) The Special Exception should only apply to the subject tract and (2) The substation must be located a minimum of 100 feet from the property line adjacent to East Lake Road and 50' from the property line adjacent to CR 306. No comment forms were received in favor or in opposition.

Mr. Langholtz opened the public hearing. Terry Franklin of Franklin Real Estate, LP, agent, spoke in favor of the request. He stated that his firm had been engaged to conduct a site selection process for a new substation to serve the recent development growth on the north side of Abilene near Highway 351. He looked for a site with a willing seller, proximity to transmission lines, and would be compatible with surrounding uses. The subject tract met all of those criteria and is large enough to allow flexibility during the design process. He said that he agreed with the conditions recommended by staff. Mr. Langholtz asked who the prospective owner was and Mr. Franklin declined to provide their identity.

Mr. Langholtz closed the public hearing. Mr. Hejl stated that everyone in the area seemed to be willing. Mr. Waldraff agreed that the remote nature of the site was good.

Mr. Waldraff made a motion to approve the request, with the conditions that (1) the Special Exception applies only to the portion of subject tract included in the request and (2) the substation must be located a minimum of 100 feet from the property line adjacent to East Lake Road and 50 feet from the property line adjacent to CR 306, based on the following findings:

Compatibility With Surrounding Land Uses: This location is not near homes, businesses or a community enhancement corridor. The Comprehensive Plan's Future Land use Map shows this area to be restricted open space, thereby reducing the likelihood of it being rezoned and developed.

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

Relationship to the Intent of the Regulation: The intent of the regulation is to assure that electric substations are located in areas that are appropriate and safe. In this situation, there are no apparent safety concerns and the request is compatible with the area.

Mr. Hejl seconded the motion, which passed by a vote of 4 in favor and 0 opposed.

There being no further business, the meeting was adjourned at 8:55 A.M.

Approved: _____, Chairman