
BOARD OF ADJUSTMENT

January 9, 2007

Minutes

Members Present: Morton Langholtz
Brenda Coleman
Wayne Bradshaw
Scott Hay

Members Absent: David Hejl

Alternates Present: Brad Carter

Staff Present: Ed McRoy, Assistant Director of Planning and Development Services
Dan Santee, Interim City Attorney
Jeff Armstrong, Development Services Manager
Justin Fortney, Planner II
Rodney Fletcher, Residential Plans Examiner
Trish Aldridge, Assistant City Attorney
JoAnn Szech, Executive Secretary, Recording

Mr. Bradshaw called the meeting to order at 8:35 AM and declared a quorum present.

The minutes of the December 12, 2006, meeting were unanimously approved.

Agenda Item BA-2007-1, Request for a Special Exception to locate a carport in the front setback on property located at 1217 Glenhaven Drive.

Justin Fortney presented the staff report. In order for carports to be built in front of the 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 it is compatible. Generally, we look to see if there are other front carports in the area to determine compatibility. This provides for uniform and consistent development. There also can't be a detrimental effect on public facilities. The Board of Adjustment can approve a special exception to allow a carport up to 5' from the front property line. The applicant wishes to construct a 20' by 12' carport up to an existing carport, which was built with their home. The proposed carport would be 5 feet from the front property line and 17 feet from Glenhaven Drive. Staff recommends approval of the Special Exception. Two comment forms were returned in favor and none in opposition.

Mr. Bradshaw opened the public hearing. Mr. Eugene Campbell, applicant, spoke in favor of the request. He stated that he cannot park his vehicle (truck) under the current carport as the height is not sufficient. 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. Bradshaw closed the public hearing. Board members agreed that the request appears to be consistent with the other carports in the area.

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. Hay seconded the motion, which passed by a vote of five (5) in favor to none (0) opposed.

Agenda Item BA-2007-02, Request for a Special Exception to locate a carport in the front yard setback on property located at 1373 Sammons Street.

Mr. Fortney presented the staff report. The applicant wishes to construct an 18' by 18' carport up to their home over an existing driveway that must be widened. The proposed carport would be 5 feet from the front property line and 12.5 feet from Sammons Street.

Staff recommended approval since it meets the criteria for a Special Exception. Two (2) comment forms were received in favor and none (0) in opposition.

Mr. Bradshaw opened the public hearing. Mr. Wilbert Vance, applicant, spoke in favor of the request. He stated that his due to the height of his truck, it will not fit into the existing garage.

Mr. Bradshaw closed the public hearing. Board members agreed that the request appears to be consistent with the other carports in the area

Mr. Hay made a motion to approve the request, 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. Langholtz seconded the motion, which passed by a vote of five (5) in favor to none (0) opposed.

Agenda Item BA-2007-3, Request for a 15' variance from the 25' rear setback requirement for property located at 5009, 5017, and 5025 Canyon Rock Road.

Mr. Fortney presented the staff report. The subject parcels and the parcels to the east are vacant. All other parcels are developed with single-family homes. These three lots have easements on them, which take-up a great portion of the property. Under the current setback regulations, standard sized homes cannot be built on these lots because of the abnormally large easements. These lots were platted in the late 1970's and have remained vacant since that time, while most of the other lots were developed with homes in the 1980's. Over the years numerous people have considered building on the lots, until they learned of the restrictive easement on them. There is a 100' wide electrical transmission line easement that runs along the front property lines of these lots. The applicant wishes to build homes on the lots. He asserts that homes can only be built if they are allowed to be closer to the rear of the lots because the homes must be setback 50' from the front property lines. The front setback for these lots would be 20' if there were no easements on the properties.

Staff recommended approval of the request. One (1) comment form was returned in favor of the request and none (0) in opposition.

Mr. Bradshaw opened the public hearing. Mr. John Thompson, agent for JGT Custom Homes and Mark Ferry, spoke in favor of the request. Mr. Thompson stated that he would like to build structures in this area that would complete this subdivision. Mr. Thompson stated that this variance is required due to the minimum square footage requirement for the homes and the width of the easement that runs along the front of the property. Moving the houses more toward the rear of the property would allow development and meet the setback and easement requirements.

Mr. Langholtz asked if the structures would be spec houses. Mr. Thompson responded that this request involves one customer; however, the other homes would be spec houses.

Mr. Bradshaw closed the public hearing.

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

1. THERE ARE CONDITIONS PECULIAR TO THE LAND:

These three lots have easements on them, which take-up a great portion of the property.

2. STRICT APPLICATION OF THE REGULATION WOULD RESULT IN A NON-FINANCIAL HARDSHIP:

Under the current setback regulations, standard sized homes cannot be built on these lots because of the abnormally large easements.

3. APPROVAL OF THE REQUEST WOULD NOT HAVE A NEGATIVE EFFECT ON THE PUBLIC HEALTH, SAFETY, OR WELFARE:

Staff foresees no negative effects on public health, safety, or welfare from variances at these locations.

Mr. Langholtz seconded the motion and the motion carried by a vote of five (5) in favor to none (0) opposed.

Agenda Item BA-2007-4, Request for an 8' variance from the required 25' front setback requirement for property located at 1417 Pecan.

Mr. Armstrong presented the staff report. The applicant has removed the front portion of the home with the intention of rebuilding it. However, a permit can not be approved for a structure that does not meet the setback requirement. In this case, the parkway is 22 feet and the front setback requirement is 25 feet which means any new structure must be a minimum of 47 feet from the curb. The applicants are rebuilding part of a structure that they removed. The proposed construction would be 39 feet from the curb, which is the same location as the demolished portion of the house.

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

Mr. Bradshaw opened the public hearing. Mr. Antonio Pena, applicant, spoke in favor of the request. Mr. Pena stated that originally the only work to be completed was reroofing of the structure; however, during this process structural damage occurred and extensive construction was required.

Mr. Bradshaw closed the public hearing.

Mr. Langholtz moved to approve the variance request based on the following:

1. THERE ARE CONDITIONS PECULIAR TO THE LAND:

The applicant has removed a portion of an existing structure and is planning to rebuild in approximately the same location. The other homes on the same side of the street are setback approximately the same distance that the applicant's home would be setback if this variance is approved. None of the homes on either side of the street in this block of Pecan St. meet the front setback requirement.

2. STRICT APPLICATION OF THE REGULATION WOULD RESULT IN A NON-FINANCIAL HARDSHIP:

There are numerous structure elements in place, such as the foundation, electrical wiring, etc. that makes this the logical location for this addition. Also, this is simply replacing a part of the home that was previously in this same location, with no additional encroachment on the front setback.

3. APPROVAL OF THE REQUEST WOULD NOT HAVE A NEGATIVE EFFECT ON THE PUBLIC HEALTH, SAFETY, OR WELFARE:

Staff foresees no negative effects on public health, safety, or welfare from this variance. The proposed structure would not affect the general public any differently than the previous structure which was in place for many decades with no known problems.

Mr. Hay seconded the motion and the motion carried by a vote of five (5) in favor to none (0) opposed.

Agenda Item BA-2007-5, Request for a 10' variance from the required 30' front setback requirement on property located at 3501 Chimney Rock Road.

Mr. Armstrong presented the staff report. The subject lot has been replatted from a 4.5 acre tract that has been a church property for many years. The applicant is proposing to construct a house on the property. Surrounding properties are developed with single family homes. The PDD to the east is zoned for and developed with patio homes in the area closest to the subject property and offices at the corner of Buffalo Gap Rd and Chimney Rock Rd. The adjacent homes in the PDD to the east that front on Chimney Rock Rd were permitted by the PDD to be setback 15 feet from the property line. The Board of Adjustment approved a 2' variance from the front setback for three of those four lots, which allows them to be 13 feet from the front setback, which is 23 feet from the curb.

The applicant separated a lot from the larger parcel that contains a church in order to build a house. A permit was obtained showing the required 30' front setback. The applicant began construction on the foundation, but upon inspection, it was discovered that the foundation for the house was 30 feet from the street not 30 feet from the front property line. There is a 10' parkway along Chimney Rock Rd. After considering various options, the applicant has requested a variance.

Staff recommends denial of the variance request. Three (3) comment forms were received in favor of the request and two (2) in opposition.

Mr. Armstrong informed the Board members that the Planning and Zoning Commission considered changes to setback requirements in their meeting on January 2, 2007. The changes affect RS-6 and RS-8 zoning districts and would change the side and front setback requirements to 20 feet. The Planning and Zoning Commission approved this change and forwarded the information to the City Council for consideration. If approved by the Council on February 8, 2007, the variance being requested for this case would not be required. Mr. Armstrong stated that an option for this Board is to table this item until after the City Council meeting.

Mr. Bradshaw opened the public hearing.

Mr. Scott Hay asked the proponent to address the financial hardship criteria that might be encountered if this item was not approved at this meeting or tabled until after the Council meeting in February.

Rev. Philip Spitzbergen stated that a delay will ruin this project. Rev. Spitzbergen stated that the project requires a lot 110 feet wide and 130 feet deep. There is a 10 foot easement on the rear of the property for future uses. Rev. Spitzbergen stated that they could attempt to square the building with the street but this would require eliminating 10 feet of the garage,

Mr. Langholtz asked the impact of a one month delay – until after the Council meeting.

Rev. Spitzbergen stated that the foundation forms and steel for the foundation are in place – a great deal of money has been spent on this project.

Mr. Hay asked how this situation happened.

Mr. Armstrong stated that a permit for the house was obtained and the permit was written correctly. The misunderstanding was that the setback for the house was 30 feet from the front property line – not 30 feet from the street. Mr. Armstrong stated that there was some confusion regarding setbacks. There are different zoning districts in the area (Patio Homes and Residential Single Family Structures) and these districts require different setbacks.

Rev. Spitzbergen stated that the church would like to sell the vacant land in front of the church and if approval for the house is not obtained, the project may have to be abandoned and the entire parcel of land sold.

Mr. Hay stated that it appears that this request is in line with what is being proposed to the City Council; therefore, he stated he is hesitant to set a precedence before this Council meeting. Mr. Hay stated that he would recommend that this case be delayed for one (1) month. If the Council votes in favor of the setback changes, this variance request will be a moot point and the proponent would not have to come back before this Board.

Mr. Bradshaw explained to Rev. Spitzbergen that if the Board of Adjustment tables this item and the City Council does not approve the revised setbacks, then you can come back to this Board with this variance request.

Mr. Greg Braxton asked if the request would be granted if this was an existing garage or carport in the front of the structure.

Mr. Bradshaw stated that the situation would not be altered and the setbacks would apply.

Ms. Brenda Coleman stated that a deciding factor would be the number of other carports existing in the area.

Mr. Bradshaw stated that this would be the same situation – a variance would be required.

Mr. Bradshaw closed the public hearing.

Mr. Hay moved to table this item for one month to allow the City Council to consider the setback changes proposed by the Planning and Zoning Commission and staff. Mr. Langholtz seconded the motion and the motion carried by a vote of five (5) in favor to none (0) opposed.

Agenda Item BA-2007-6, Request for a variance to allow illumination and motion on a sign on property located at 4010 Beltway South.

Mr. Armstrong presented the staff report. Section 23-161 of the Sign Regulations states that illuminated signage is not permitted in RS zoning districts. The property is the location of Wylie Junior High School. The surrounding properties on the north side of FM-707 (Beltway South) are developed with single family residences in the Mesquite Forest Subdivision. South of FM 707 is vacant land in a PDD that is intended single-family and multi-family residential uses and institutional uses. The AO zoned area to the south is a church property that currently has a similar illuminated sign.

The Wylie ISD is proposing to mount a scrolling message center on the front of their building primarily to provide information to students and parents in the parking area. Illuminated signs are not permitted in RS zoning districts. However, given the size and location of the proposed sign (40 square feet mounted on wall), it is not likely to alter the residential character of the surrounding area.

Staff recommended approval of the variance request. One (1) comment form was returned in opposition (potential for light problems) and none (0) in opposition.

Mr. Bradshaw opened the public hearing.

Mr. Joey Light stated that the illuminated sign is needed to provide information to parents and students. Mr. Light stated that the houses to the east would have a difficult time viewing the sign and that the parking lot lights produce much more illumination than this sign will.

Mr. Tim Cook stated that storage buildings cover the back side of homes in the area and the sign would not be visible as the sign is small and is intended to be viewed from the parking lot area.

Mr. Don Harrison stated that the sign will be utilized to encourage communication with the public. The Wylie ISD has received favorable comments from parents.

Mr. Bradshaw closed the public hearing.

Mr. Hay moved to approve the variance request based on the following criteria:

1. THERE ARE CONDITIONS PECULIAR TO THE LAND:

This is a large tract (nearly 28 acres). The school building faces FM-707. Across FM-707 is a church with an illuminated sign. The proposed sign would be on the front of the building and face the school parking lot and FM-707. It will not likely be visible from any residence in the surrounding RS-6 district.

2. STRICT APPLICATION OF THE REGULATION WOULD RESULT IN A NON-FINANCIAL HARDSHIP:

Strict application of the regulations would prohibit the illuminated sign. In this instance the sign would not be visible from any residences and is only 40 square feet in area. The church across the street has an illuminated sign that is much more visible to the surrounding area. The proposed sign is primarily intended to provide information to students and parents on the property and in the parking lot.

3. APPROVAL OF THE REQUEST WOULD NOT HAVE A NEGATIVE EFFECT ON THE PUBLIC HEALTH, SAFETY, OR WELFARE:

Since this will not be visible from residential areas, the illumination is unlikely to have any negative affect on the area.

Ms. Coleman seconded the motion and the motion carried by a vote of five (5) in favor to none (0) opposed.

There being no further business, the meeting was adjourned at 9:40 A.M.

Approved: _____, Chairman