
BOARD OF ADJUSTMENT
February 13, 2007
Minutes

Members Present: David Hejl
 Brenda Coleman
 Wayne Bradshaw
 Scott Hay

Members Absent: Morton Langholtz

Alternates Present: Brad Carter

Staff Present: Dan Santee, Interim City Attorney
 Jeff Armstrong, Development Services Manager
 Justin Fortney, Planner II
 Rodney Fletcher, Residential Plans Examiner
 Trish Aldridge, Assistant City Attorney

Mr. Bradshaw called the meeting to order at 8:40 AM and declared a quorum present.

The minutes of the January 9, 2007, meeting were unanimously approved.

The minutes of the January 16, 2007, meeting were unanimously approved.

Agenda Item BA-2007-7, Request for a 180-day extension of an approved Special Exception to construct a communications tower on property located at 1002 Elm St.

Justin Fortney presented the staff report. He stated that Staff had recommended denial of the request originally. No comment forms were returned.

Mr. Bradshaw opened the public hearing. Mr. Jason Hardin, agent, spoke in favor of the request. He stated that they were approved in July. When Sprint and Nextel merged all affiliates had to merge and Sprint's projects ended up in flux while this was taking place. Soon after the approval plans were submitted for review. They were given some new requirements such as sidewalks. No contract had been awarded due to the merger. Sprint is not a vertical property owner, but there was no where to co-locate. There are some homes in the area.

Mr. Bradshaw closed the public hearing. Mr. Bradshaw asked if 6 months would be enough. Mr. Hardin said yes. Mr. Armstrong reminded the Board that no findings were required for this extension.

Ms. Coleman made a motion to approve the 6-month extension

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

Agenda Item BA-2007-8, Request for a 180-day extension of an approved Special Exception to construct a communications tower on property located at 1042 Pine St.

Mr. Fortney presented the staff report. He indicated that the Board placed conditions on their approval including fencing and locations for parking of vehicles.

Three comment forms were received in opposition to the request. Reasons for opposition included concern about their own wireless communications including potential dropped calls and excessive height like this should be at the edge of the city.

Mr. Bradshaw opened the public hearing. Mr. Jason Hardin, agent, spoke in favor of the request. He stated that they could not find alternative sites. There is a 140' guyed tower just to the northwest but it is very small gauge and located in an RM-3 zoning district. He also said that they considered locating atop Hendrick Medical Center, but that it was too far north. He said they have already submitted plans and moved a number of vehicles. If the site were to be moved further east, the structure would have to be taller and would lose connection with the overall network. Mr. Hay asked him to discuss the concerns of the opposition. Mr. Hardin said that the FCC requires operation to stay within a certain spectrum and it is illegal to interfere with other communication devices. Health concerns are not something that can be addressed under the Telecommunications Act.

Dr. Joe Alexander, 1025 Cypress St., spoke in opposition. He is a forensic document examiner and he relies on his cell phone for communication with his clients. He can not afford dropped calls, which he said always happens when he can see a cell tower. Mr. Bradshaw asked if he has noticed the tower to the north. Mr. Alexander said that it looks more like a TV antenna, not the massive structure that a cell tower would be. He said he did not receive notice the first time.

Ms. Hindman, 1010 Pine St., spoke in favor saying that 140 feet is excessive and that the Treadaway area would be better for it. She is concerned about its affects on the PA system in her shop. She said they have been in business since 1957. She also pointed out that a large tower fell during the recent ice storm. Ms. Coleman asked if she had been notified. Ms. Hindman said no.

Mr. Bradshaw asked staff how they can consider 140 feet when 100 feet was originally asked for. Mr. Fortney said that the original request was 140 feet.

Mr. Hejl commented that he travels a lot and knows that the signal drops off when he is near a tower. Mr. Hardin explained how some of the technology works and that Sprint technology is different than most others. He said the two different types don't "talk". In outlying areas analog service is still used instead of digital. Digital is more clear, but it

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drops suddenly instead of gradually getting bad. Mr. Hejl asked why a call would be dropped when not moving next to a tower. Mr. Hardin said if the tower is the other technology you will not get coverage. I am not allowed to interfere with a different network. He also mentioned that their towers are designed to withstand the elements.

Mr. Bradshaw closed the public hearing. Mr. Hay asked why some property owners were not notified. Mr. Armstrong explained that the evidence that we have shows that the notification was done. Mr. Carter said if mailed, you can't prove that it got there. Mr. Hay asked if the previous meeting was posted. Mr. Armstrong said yes.

Ms. Coleman asked how tall the billboard in the photograph is. Mr. Fortney said 35 feet is the maximum and it appears to be about that.

Mr. Hay asked Mr. Santee about people not being notified. Mr. Santee said that he does not see a legal problem. He said if the request is denied today they would have to reapply. Mr. Hay said that the concerns of the opposition have been addressed and he sees no reason to deny.

Mr. Hejl made a motion to approve the request.

Ms. Coleman seconded the motion, which passed by a vote of four (4) in favor to one (1) opposed.

Agenda Item BA-2007-9, Request for a Special Exception to allow a carport/patio cover in the front yard setback for property located at 1514 S. Treadaway Blvd.

Mr. Fortney presented the staff report. He described the request and the staff's analysis of the criteria as was provided in the written staff report.

Staff recommended approval of the request. Three (3) comment forms were returned in favor of the request and none (0) in opposition.

Mr. Bradshaw asked if the sliding glass door is where the customers would be served. Mr. Fortney said that the applicant could provide the answer.

Mr. Bradshaw opened the public hearing. Lynn Ingram, applicant, spoke in favor. He said that he is expanding his business to this site. The City told him the setback is 30 feet so he has already built to that 30' line. He said the existing building is slightly into the 30 feet setback. He said that he contacted TxDOT and that they are not concerned about his request. He said that they have cleaned up the lot and that Treadaway carries a lot of traffic which makes it a good area, but it needs more appeal.

Mr. Bradshaw closed the public hearing.

Mr. Hay made a motion to approve the special exception request based on the following:

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Compatibility With Surrounding Land Uses: There is a gasoline pump canopy in the area that is closer to the street than the required building setback. In addition, most of the buildings in the area are within the required front setback.

Effect on Public Facilities: Staff anticipates no negative 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 carports, the proposal is consistent with the intent of the regulation.

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

There being no further business, the meeting was adjourned at 9:30 A.M.

Approved: _____, Chairman