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**BOARD OF ADJUSTMENT**

**May 8, 2007**

**Minutes**

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Members Present: David Hejl  
Morton Langholtz  
Wayne Bradshaw  
Scott Hay

Members Absent: Brenda Coleman

Alternates Present: Dani Ramsay

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

Mr. Bradshaw called the meeting to order at 8:37 AM and declared a quorum present.

The minutes of the April 10, 2007, meeting were unanimously approved.

**Tabled Item: Agenda Item BA-2007-16, Request for a Special Exception to allow a carport in the front yard setback on property located at 1526 Roanoak Drive.**

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

Mr. Armstrong presented the staff report. The applicant wishes to construct a 24' by 21' carport up to their home over an existing driveway. The proposed carport would be 14 feet from the front property line and 26 feet from the curb. Staff foresees no negative effects on public facilities from the request. There are no other carports in the immediate area, which makes the request incompatible and inconsistent with the intent of the regulation. Staff recommended denial of the request. At the April 2007 Board of Adjustment meeting, the Board tabled case BA-2007-16 and instructed the applicant to get input from area property owners regarding their preferences for having or not having carports in front yard setbacks in the area.

Including the applicant, 7 area property owners support placing carports in front yards, while one is opposed. Mr. Langholtz asked if there were any additional comments attached to the responses. Mr. Armstrong read one comment form from 1538 Roanoak Drive that said "This is the beginning of more requests for carports which are unsightly and detract from the neighborhood." Mr. Bradshaw asked if they had considered a carport

in that area in the past and Mr. Armstrong confirmed that the Board denied a request on property near the intersection of N. 18<sup>th</sup> Street and Richland Drive the previous year.

Mr. Bradshaw opened the public hearing. Harvey Zimpel, applicant, spoke in favor of the request. He stated that there are numerous carports in the area that staff did not reference. He said that there were several side carports that were very close to the street. Most are not in the 200' notification area, but they are within the same neighborhood. He stated that he didn't understand why the request was not approved at the previous meeting because there were other carports approved without existing ones in the 200' notification area. He said that he had not received any opposition from his neighbors and that at the time there were three in favor and none opposed.

Mr. Armstrong explained that the 32' front setback requirement from the curb is typical in most RS6 and RS8 neighborhoods. For corner lots with an exterior side, the setback is only 5' from the property line, which typically translates to 17' from the curb. Additionally, interior side and rear setbacks can be much smaller. When staff surveys the area for similar uses to determine compatibility, only front carports built in the front setback area are included. The two carports noted on Westwood are the only two in the immediate area. Mr. Armstrong stated that he did not survey the area north of N. 18<sup>th</sup> Street because it is designated as a collector street and the Board has used that as a boundary to the area of consideration on past cases. In addition, the 200' notification area has been used as a general area of consideration, but it is not absolute and each request can be looked at on a case by case basis.

Mr. Zimpel stated that he could legally construct a carport of 18' depth, but not the 24' depth he is requesting. Mr. Hay explained that the problem was not the carport itself, but its size and proximity to the street. He stated that there were no others in the area that were built into the front setback area as staff has shown. Mr. Zimpel said that most of his neighbors were in favor of the carport and that the only one in opposition hadn't lived in the neighborhood as long as he had. He assured that Board that the carport would not detract from surrounding property values.

Mr. Bradshaw closed the public hearing. Mr. Armstrong explained that all properties have setback requirements and that front setbacks are typically the strictest for a variety of reasons. They provide consistency to the character of the neighborhood and safety for vehicles backing out of typical residential driveways.

Mr. Langholtz requested to ask the applicant one more question and Mr. Bradshaw reopened the public hearing. Mr. Langholtz asked him why he needed the additional 6 feet and Mr. Zimpel stated that he owned a large vehicle that would not be completely covered by the 18 feet.

Mr. Bradshaw closed the public hearing. Ms. Ramsay asked if there was a garage on the property and Mr. Armstrong confirmed that there was a two-car garage.

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

Compatibility With Surrounding Land Uses: The carport could still be constructed in front of the house and the applicant is only requesting an addition 6 feet.

Effect on Public Facilities: There will be no negative effects on public facilities from a carport at this location.

Relationship to the Intent of the Regulation: The protection of the vehicle is necessary and the single carport will not change the character of the area.

The motion failed for lack of a second.

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 area of the request.

Effect on Public Facilities: There will be no negative effects on public facilities from a carport at this location.

Relationship to the Intent of the Regulation: Since this proposed carport is in an area with no other front carports, the proposal is not consistent with the intent of the regulation.

Mr. Hay seconded the motion, which carried by a vote of four (4) in favor and one (1) opposed.

**Agenda Item BA-2007-19, Request for a Special Exception to allow a carport in the front yard setback on property located at 1326 Ross Avenue.**

Mr. Armstrong presented the staff report. Although the request was considered at the April 10, 2007 meeting, there was a concern that the neighborhood was not properly notified. Staff is presenting the case again after doing a new mail-out notification to the property owners in the 200' notification area. The applicant wishes to construct a 20' by 10' carport up to their home over an existing driveway. The proposed carport would be 5 feet from the front property line and 17 feet from the curb. Staff foresees no negative effects on public facilities from the request. There are other carports in the area, which makes the request compatible and consistent with the intent of the regulation. Staff recommended approval of the request. Three comment forms were returned in favor and none in opposition. Mr. Hay asked if there were any additional comments attached to the responses and Mr. Armstrong stated that there were not.

Mr. Bradshaw opened the public hearing. Bobby Johnson, agent spoke in favor of the request. He presented photos of the home showing the homeowner's difficulty with parking her large vehicle in the small garage that is original to her older home. He said that she needed protection for her vehicle and that the carport would be conservatively sized and constructed of steel.

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 other front carports in the immediate area of the request.

Effect on Public Facilities: There will be no negative effects on public facilities from a carport at this location.

Relationship to the Intent of the Regulation: Since this proposed carport is in an area with other front carports, the proposal is consistent with the intent of the regulation.

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

**Agenda Item BA-2007-25, Request for a Special Exception to allow a carport in the front yard setback on property located at 1925 Rosewood Drive.**

Mr. Armstrong presented the staff report. The applicant proposes construction of a 20' by 18' carport up to their home over an existing driveway. The proposed carport would be 5½ feet from the front property line and 17½ feet from the curb. This carport would be inconsistent with the long portion of Rosewood Drive from N. 18<sup>th</sup> Street to Ambler Avenue. Staff foresees no negative effects on public facilities from the request. There are no other carports in the immediate area, which does not make the request compatible or consistent with the intent of the regulation. One block to the west on Westwood Drive there are two carports just outside of the notification area. Staff recommended denial of the request. Four comment forms were returned in favor and none in opposition. Mr. Langholtz asked if there were carports that did not encroach into the setback or if there were none at all in the immediate area. Mr. Armstrong stated that he did not see any that protruded from the front of the houses, whether they were in the front setback or not.

Mr. Bradshaw opened the public hearing. No one spoke and Mr. Bradshaw closed the public hearing. Mr. Bradshaw commented that if there were none on Rosewood Avenue he wouldn't want to create the opportunity. Mr. Hay asked why staff did not consider the ones on Westwood Avenue as compatible. Mr. Armstrong explained that they were borderline because they are in the same neighborhood. Staff looked up and down Rosewood Avenue, which is a very long block, and determined that the character of that

street did not include front carports. The ones on Westwood were not visible from the subject area. Mr. Santee suggested that staff could look at the carports referenced in the staff report for the other nearby case on Meadowbrook that was considered in 2005. The request could be tabled until the end of the meeting to allow a staff member to retrieve the information.

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

**Agenda Item BA-2007-26, Request for a Special Exception to allow a carport in the front yard setback on property located at 2901 San Miguel Drive.**

Mr. Armstrong presented the staff report. The applicant wishes to construct a 24' by 22' carport up to their home over an existing driveway. The proposed carport would be 12 feet from the front property line and 24 feet from the curb. Staff foresees no negative effects on public facilities from the request. There are no other carports in the area, which does not make the request compatible or consistent with the intent of the regulation. Staff recommended denial of the request. Two comment forms were returned in favor and one in opposition. Mr. Armstrong read the comments attached to the opposition, which expressed concerns regarding appearance and the effect on the surrounding neighborhood, and suggested rear entry as an alternative.

Mr. Bradshaw opened the public hearing. Curtis Mark Brown, applicant, spoke in favor of the request. He stated that he was requesting only an additional 8 feet beyond the requirement and that the garage had been enclosed in 1991. He said that the alley is not good for rear access because it is not wide enough. He said that his vehicles are too long to fit under a carport without the additional 8 feet. Mr. Bradshaw asked if he understood his neighbor's position in opposition. Mr. Brown stated that there was a side carport on the corner at Caton Place and that this carport would not be a disadvantage to his neighbors.

Mr. Bradshaw closed the public hearing. Mr. Hay commented that when there are no other front carports it is only fair when there is unanimous neighborhood support. He said that when they are done well they can enhance a neighborhood, but that not everyone thinks the same way about what looks good.

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

Compatibility With Surrounding Land Uses: There are no other front carports in the immediate area of the request.

Effect on Public Facilities: There will be no negative effects on public facilities from a carport at this location.

Relationship to the Intent of the Regulation: Since this proposed carport is in an area with no other front carports, the proposal is not consistent with the intent of the regulation.

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

**Agenda Item BA-2007-27, Request for a Special Exception to allow a carport in the front yard setback on property located at 4417 State Street.**

Mr. Armstrong presented the staff report. The applicant wishes to construct a 22' by 20' carport up to their home over an existing driveway. The proposed carport would be 5 feet from the front property line and 17 feet from the curb. Staff foresees no negative effects on public facilities from the request. There are other carports in the area, which makes the request compatible and consistent with the intent of the regulation. Staff recommended approval of the request. Two comment forms were returned in favor and none in opposition.

Mr. Bradshaw opened the public hearing. Tim Falkner, agent, spoke in favor of the request. He stated that the applicant owns three full-size vehicles and there is only a single-car garage on the property.

Mr. Bradshaw closed the public hearing.

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

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

Effect on Public Facilities: There will be no negative effects on public facilities from a carport at this location.

Relationship to the Intent of the Regulation: Since this proposed carport is in an area with other front carports, the proposal is consistent with the intent of the regulation.

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

**Agenda Item BA-2007-28, Request for a Special Exception to allow a carport in the front yard setback on property located at 3181 Columbia Drive.**

Mr. Armstrong presented the staff report. The applicant wishes to construct a 20' by 12' carport up to their home over an existing driveway. The proposed carport would be 5

feet from the front property line and 17 feet from the curb. Staff foresees no negative effects on public facilities from the request. There are other carports in the area, which makes the request compatible and consistent with the intent of the regulation. Staff recommended approval of the request. Five comment forms were returned in favor and one in opposition.

Mr. Bradshaw opened the public hearing. Bill Garner, 3149 Columbia Drive, spoke in opposition of the request. He stated that the aesthetics of carports are unappealing and that it would hurt the property values in the neighborhood. He said that it wouldn't fit the architecture of the home and that allowing one would open the opportunity for others. He stated that he would be fine with a rear carport and that the city should impose a temporary ban and conduct a study on carports before allowing any more. Mr. Bradshaw asked if he lived in the home and he stated that it had been his parents' home and it was now used as a rental. Mr. Bradshaw commented that there is already one in the area and asked if it made a difference to him if there was one or two. Mr. Garner replied that the cumulative effect would be worse than having just one individual carport. He added that there were duplexes nearby that had carports constructed of the same materials as the homes and that they looked much better. Mr. Santee asked if he would be ok if the proposed carport was constructed with brick or wood and tied into the structure. Mr. Garner said that he would not oppose it. Mr. Bradshaw asked if the existing carport was constructed of metal and Mr. Armstrong confirmed that it was. Mr. Langholtz asked if there was any reasoning in the records when the other carport was approved in 1997. Mr. Armstrong explained that a variance process was applied at that time instead of a Special Exception. Compatibility is not a consideration with variances and there may have been a hardship at the time. He stated that the decision today does not need to be bound by the previous decision.

Mr. Bradshaw closed the public hearing.

Mr. Hejl made a motion to deny the Special Exception based on the following findings:

Compatibility With Surrounding Land Uses: The request is not compatible with the surrounding area.

Effect on Public Facilities: There will be no negative effects on public facilities from a carport at this location.

Relationship to the Intent of the Regulation: Since this proposed carport is not compatible with the surrounding area, the proposal is not consistent with the intent of the regulation.

Mr. Langholtz seconded the motion, which carried by a vote of four (4) in favor and one (1) opposed.

**Agenda Item BA-2007-29, Request for (1) a 21' variance from the 25' platted exterior side setback and (2) a Special Exception to allow a carport in the front yard setback on property located at 2500 S. 25<sup>th</sup> Street.**

Jeff Armstrong presented the staff report. The applicant has made two requests to allow carports, but only intends to construct one. The applicant prefers the carport on the exterior side that requires a variance. However, if the variance is denied then, he would like the Board to consider a Special Exception for a carport in the front. There are existing driveways in both locations.

The preferred carport would be an extension of an existing carport along the exterior side of the house. Because it is along the exterior side and not in front a variance is required. The ordinance would normally allow a carport on an exterior side to be 5 feet from the property line. However, since there is a platted building line of 25 feet along that side, the carport must be a minimum of 25 feet from the property line by ordinance. As proposed the carport extension would add 11 feet to the carport toward the street. It would be 16 feet from the curb of Ross Avenue, which is 4 feet from the property line. In the front, the Board cannot approve a carport closer than 5 feet from the property line; however, the 5' provision does not apply on exterior sides. The existing carport, which is built into the roof-line of the house, is only 15 feet from the property line – 10 feet into the required setback. The carport was added to the house in 1961 at its current setback.

If the variance for the carport on the exterior side is denied, the applicant proposes to construct a new 20' by 16' carport in the front yard as an alternative. The proposed front carport would be 9 feet from the front property line and 21½ feet from the curb of S. 25<sup>th</sup> Street. Staff recommends that the Board approve only one of the two requests. Staff recommends approval of the variance. The request meets the required criteria. Staff would prefer that the variance only be approved as a 20' variance instead of 21'. This would be consistent with carport placement allowed in front yards and on exterior sides where there is no building line. If the Board denies the variance request for this property, then staff recommends approval of the special exception since it meets the required criteria. If the variance is approved by the Board, then staff recommends that the special exception be denied. Five comment forms were returned in favor and none in opposition.

Mr. Bradshaw opened the public hearing. Bobbie Pyburn, applicant, spoke in favor of the request. She stated that she wanted to reduce her variance request slightly so that the carport would be only 6 feet deep instead of 11 feet. She felt that the added distance from the curb would look better. She stated that she recently purchased a new Prius and it had quite a bit of glass on the back that she wants to protect. She said that her husband would also like the front carport for another vehicle.

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 two carports in the 2500 block of S. 25<sup>th</sup> St. and others nearby on Portland Ave. Therefore, the proposed front carport is compatible with the area.

Effect on Public Facilities: One residence at this location will have no noticeable effect on public facilities.

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.

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

Mr. Hay made a motion to approve a 16' variance from the 25' exterior side setback based on the following findings:

Unique Conditions of the Property: There is currently a carport that encroaches into the exterior side setback. The proposed carport would be one foot closer to the street than would be allowed if the plat did not indicate a building line. Other carports in the area come to within a similar distance of the street.

Hardship From Strict Interpretation: Although there is some space in the rear yard to place a carport that could be accessed from Ross Ave. without a variance, it would require a much larger structure to be built to be functional. This is an addition that would extend a maximum of 11 feet out from the existing carport. A new carport would create substantially more impervious surface, not just for the larger structure, but also for the improved surface that would be required to access it. The proposed carport would go over an existing driveway. The only other option for a carport is the front yard as proposed in the accompanying special exception. The exterior side carport would be less new construction and fit in with the aesthetics of the property better than the front carport.

Effect on Public Health, Safety, and Welfare: The addition is not likely to have any adverse effects on the public.

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

**TABLED ITEM: Agenda Item BA-2007-25, Request for a Special Exception to allow a carport in the front yard setback on property located at 1925 Rosewood Drive.**

Mr. Langholtz made a motion to remove the item from the table. Mr. Hejl seconded the motion, which passed unanimously.

Mr. Armstrong stated that there were several front carports surrounding the case on Meadowbrook that they had asked about. The larger neighborhood has lots of carports, but this request is in a pocket with no others.

Mr. Bradshaw opened the public hearing. Tim Hill, applicant, spoke in favor of the request. He stated that his truck was too big and his SUV was barely small enough to fit in the existing garage. He said that the carport would be a nice looking steel structure. Ms. Ramsay asked if it would be tied into the house and Mr. Hill confirmed that it would. Mr. Hill stated that he had spoken with several of his neighbors and they appeared to be supportive of the request and that some of them were considering the same thing. Mr. Langholtz mentioned that there were four comment forms returned in favor.

Mr. Bradshaw closed the public hearing. Mr. Langholtz commented that he respected staff's position for protecting the small area along Rosewood.

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

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

Effect on Public Facilities: There will be no negative effects on public facilities from a carport at this location.

Relationship to the Intent of the Regulation: Since this proposed carport is in an area with other front carports, the proposal is consistent with the intent of the regulation.

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

There being no further business, the meeting was adjourned at 10:30 A.M.

Approved: \_\_\_\_\_, Chairman