
BOARD OF ADJUSTMENT

July 10, 2007

Minutes

Members Present: David Hejl
Morton Langholtz
Wayne Bradshaw

Members Absent: Scott Hay

Alternates Present: Brad Carter
Rick Waldraff

Staff Present: Patricia Aldridge, Assistant City Attorney
Larry Abrigg, Senior Planner
Matt Jones, Planner I
Rodney Fletcher, Residential Plans Examiner
Kristy Mills, Plans Examiner
Jon James, Director of Planning & Development Services

Mr. Bradshaw called the meeting to order at 8:45 AM and declared a quorum present.

The minutes of the June 12, 2007, meeting were unanimously approved.

Agenda Item BA-2007-36, Request for a 25' variance to the side street setback to allow an addition to the rear of an existing restaurant on property located at 1902 Ambler Avenue.

Mr. Jones presented the staff report. The applicant proposes to construct an 18' x 72' addition to the restaurant. The addition would match the existing setback on the 1946 building which is about 20 feet. There are no peculiarities to the lot but the age of the building is a factor and a potential hardship. Approval of the request would not have a negative effect on the public health, safety, or welfare. Staff recommended approval of the request. No comment forms were returned in favor or in opposition.

Mr. Bradshaw opened the public hearing. Mr. Castro, applicant, spoke in favor of the request. He stated that the extension is exactly as Mr. Jones stated in the staff report. He said the plumbing would line up and they want to improve the restaurant. Ms. Castro came to the front of the room in support, but did not speak.

Mr. Bradshaw closed the public hearing.

Mr. Langholtz made a motion and Mr. Carter seconded the motion to approve the variance based on the findings as outlined in the staff report as follows:

1. THERE ARE CONDITIONS PECULIAR TO THE LAND:

Staff Position: There are no peculiarities to the lot. The building is closer to the street because of street improvements and it is an older building and apparently a smaller set back was permitted. The CAD has 1946 as a building date.

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

Staff Position: The applicant wants to build to the corner of the existing building and it allows them to match plumbing. If the new addition were to set back 25 feet it would not be as aesthetically pleasing. You may consider the age and placement of the building a hardship because those factors are peculiar to this lot.

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

Staff Position: Staff anticipates no effect on the general public from this request. This restaurant has been there for years and there is plenty of room for the addition. They are not adding seating so there will be no additional parking spaces needed because of the new addition.

REQUEST ANALYSIS:

The original building was built in 1946 and if the new addition is to match their needs they would need to bring the new addition to the corner of the existing building. The new addition is 18 feet X 72 feet across the back of the building and will be used for kitchen and restroom purposes.

The motion carried by a vote of four (5) in favor and none (0) opposed.

Agenda Item BA-2007-37, Request for a Special Exception to allow a Tattoo Parlor in a Shopping Center (SC) zoning district on property located at 3534 N. 6th Street.

Mr. Abrigg presented the staff report. Staff recommended approval of the special exception. One comment form was returned in favor and six were returned in opposition. Three responses in opposition were from the same owner. Mr. Langholtz ask if any of the opponents made comments. Mr. Abrigg stated the owner of the mini-warehouses did comment in writing that these types of stores do not promote the growth we would like to see in this area.

Mr. Bradshaw opened the public hearing. Mr. Worrell spoke for the applicant and said they wanted to provide a clean and nice environment for people. He provided a signature sheet with the signatures of three business owners next to the proposed location. Mr. Bradshaw asked if there was a tattoo parlor nearby. Mr. Worrell said there has been a tattoo parlor in this center and it is still operating. Mr. Waldraff asked if about the hours of operation. Mr. Worrell said the hours would be from 1 PM to 9 PM, Monday through

Saturday. Mr. Bradshaw asked if anyone wanted to speak in opposition to the request. No one was present.

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

1. THE PROPOSED USE IS COMPATIBLE WITH THE AREA:

Staff Position: The proposed use is compatible with the area due to the presence of adjacent Shopping Center (SC) and Office (O) zoning districts which provide a buffer from nearby residential zoning.

2. THERE WOULD BE NO SIGNIFICANT NEGATIVE EFFECT ON PUBLIC FACILITIES:

Staff Position: Staff anticipates no effects on public facilities from a tattoo parlor at this location.

3. THE REQUEST IS IN HARMONY WITH THE INTENT OF THE REGULATIONS:

Staff Position: The intent of this regulation is to allow tattoo parlors in areas where such usage would not affect in a negative way the health, safety or welfare of neighbors.

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

Agenda Item BA-2007-38, Request for a Special Exception to locate a communication tower in a General Commercial (GC) zoning district on property located at 3317 S. 2nd Street.

Mr. Abrigg presented the staff report. Staff does recommend approval of the special exception as long as the applicant can prove the proposed site is the best location.

One comment form was returned in favor and two in opposition. Mr. Langholtz asked if any comments were made on the form. Mr. Abrigg said that on the one return the opposed portion was underlined several times.

Mr. Bradshaw opened the public hearing. Mr. Galloway said he understood he had the burden of proof to prove this was the best location. He mentioned other nearby sites, but none would meet their needs and provide quality service to their customers. Mr. Galloway also passed out photographs of the area and how the tower would affect the area. Mr. Babington spoke in opposition to the request. He questioned the location of the tower being too close to the residences and people coming and going from the donut shop. He also said it could be a health risk. Mr. Bradshaw said the Board talked in length about the safety issue at past hearings.

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Mr. Bradshaw closed the public hearing but opened it again because they had another question for Mr. Galloway. They asked if his client could construct a stealth tower. Mr. Galloway said that was beyond his area of expertise, but said the quality of that type of tower was not as good as what they are proposing.

Mr. Hejl made a motion to approve a special exception for the communication tower based on the evidence that this is the best location as described by the applicant. Mr. Langholtz seconded the motion.

The motion carried to approve the special exception by a vote of four (4) and one (1) abstention by Mr. Waldraff.

Mr. Bradshaw adjourned the meeting at approximately 9:40 AM.

Approved: _____, Chairman