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**BOARD OF ADJUSTMENT**

**January 8, 2008**

**Minutes**

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Members Present:           Wayne Bradshaw  
                                  Brad Carter  
                                  Scott Hay  
                                  Morton Langholtz  
                                  Roger Huber

Staff Present:               Kyle Thomas, Assistant City Attorney  
                                  Matt Jones, Planner I  
                                  Zack Rainbow, Planner I  
                                  Rodney Fletcher, Residential Plans Examiner  
                                  JoAnn Sczech, Executive Secretary (Recording)

Others Present:             Lou Adams  
                                  Gillian Fisher  
                                  Bill Voelter  
                                  Jeff Luther  
                                  Bryan Helamen  
                                  Dan Harwell

**Item One:    Call the Meeting to Order:**

Mr. Bradshaw called the meeting to order at 8:30 AM and declared a quorum present.

**Item Two:    Approval of the Minutes**

The minutes of the December 11, 2007, meeting were unanimously approved.

Mr. Bradshaw read the opening statement for the Board of Adjustment.

**Item Three:  Special Exception/Variance Requests:**

a.       BA-2008-01

          A public hearing to consider a request from Gillian Fisher for a Special Exception to locate a Bed and Breakfast on property zoned RS-8 (Residential Single-Family). Legal description being High Meadows Section 4, Block 4, Lot 11, Abilene, Taylor County, Texas, and located at 3134 Ventura Street.

Mr. Zack Rainbow presented the staff report for this case. This property and most of the nearby properties are developed with single-family homes. The property to the south is Sears Methodist Center, which is an assisted living facility for the elderly. This home was built in 1966. The applicant wishes to use her home as a Bed and Breakfast to serve as an alternate location for visiting family members in town to see residents of the Sears Methodist Center. The existing home is 4796 sq. ft with 6 bedrooms. The applicant is wishing to start out renting 3 of the rooms at first, and possibly 4 in the

future. The maximum number of rooms a Bed and Breakfast can rent under the ordinance is 5; therefore, the applicant meets that criterion as well.

**THE FOLLOWING 3 CRITERIA MUST BE FOUND IN THE AFFIRMATIVE TO APPROVE THIS REQUEST:**

**COMPATIBILITY WITH SURROUNDING LAND USES:**

The area is a quiet, large lot single-family neighborhood with ample open space and natural vegetation. The home faces a low-traffic boulevard type street, and is adjacent to an assisted living facility.

**EFFECTS ON PUBLIC FACILITIES:**

Staff anticipates no negative effects on public facilities from a Bed and Breakfast at this location.

**RELATIONSHIP TO THE INTENT OF THE REGULATION:**

The intent of the regulation is to allow Bed and Breakfasts where they are compatible with surrounding land uses. The thick vegetation at the proposed location secludes the use to some extent from adjacent properties. Furthermore, the fact that the large property to the south is being used as a low intensity, multi-resident assisted living facility makes this property compatible with the surrounding uses.

**STAFF RECOMMENDATION:** Staff recommends approval as the request meets the criteria necessary to approve a Special Exception.

Property owners within 200 feet of the variance request were notified. Two (2) comment forms were returned in favor of the request and two (2) in opposition (one of which was from Sears Methodist Center).

Mr. Bradshaw opened the public hearing and asked if anyone wished to speak in favor of this request.

Ms. Gillian Fisher stated that she is requesting this special exception. Ms. Fisher stated that this is a six (6) bedroom home; however, only two or three rooms will be rented. Ms. Fisher stated that her prime goal is to provide lodging for individuals who have family members at the assisted living facility across the street from her residence (Sears). Another focus point is lodging for military personnel either in Abilene for temporary duty and as a temporary lodging facility until military personnel locate a home in Abilene.

Col. Langholtz asked Ms. Fisher what type of off-street parking is available for this home.

Ms. Fisher stated that there is a two-car garage and parking spaces for four (4) vehicles in the rear of the property. There is a circular drive in the front of the property that can accommodate four (4) vehicles.

Mr. Huber asked Ms. Fisher if she knows how the neighbors feel about this endeavor.

Ms. Fisher stated that she has spoken with two of her neighbors. Ms. Fisher stated that she also sent out letters to everyone in the area and received only one (1) telephone call. Ms. Fisher stated that the neighbors do not seem to be opposed to this bed and breakfast.

Mr. Bradshaw asked if anyone wished to speak in opposition of the request.

Ms. Lou Adams stated that she resides just outside the notification area. Ms. Adams stated that she has lived in her home since 1967. Ms. Adams stated that this is a residential area, primarily a neighborhood of senior citizens, and she would prefer to keep it that way. Ms. Adams stated that Sears Methodist Center has units available for families to rent while visiting relatives in the care facility. Ms. Adams stated that bringing in other people is not a good idea and could create problems. Also of concern is the swimming pool – this could be dangerous for children. Ms. Adams stated that she is strongly opposed to this request.

Mr. Bradshaw closed the public hearing.

**Col. Langholtz moved to approve Special Exception BA-2008-01 based on the finding in the staff report. Mr. Hay seconded the motion and the motion carried by a vote of five (5) in favor (Bradshaw, Carter, Hay, Huber, and Langholtz) to none (0) opposed.**

b. BA-2008-03

A public hearing to consider a request from Dr. Bill Voelter, agent Jeff Luther, for a 13' variance from the 15' interior side setback and a 14' variance to the 30' rear setback on property zoned RS-12. Legal description being River Oaks Section 1, Block D, Lot 12 Less 16.6X185.3 TRI & Part Lot 11, REP, Abilene, Taylor County, Texas. Located at 1601 River Oaks Road.

Mr. Rainbow presented the staff report for this case. Section 23-312 of the Zoning Ordinance states that in RS-12 districts, the minimum setback from rear lot boundaries adjacent to other lot boundaries shall be 30 feet. The interior side setback in RS-12 is a minimum of 10 feet with a total of 25 feet. The subject parcel and the surrounding properties are developed with large single-family residences. The applicant proposes to construct a 54 x 32 ft. addition to the rear of the house extending from the existing garage. The proposed addition would be 2 feet from the side property line, and 16 feet from the rear property line. Mr. Rainbow stated that variance requests have been received for other homes in the area and staff recommended denial of these requests also.

**THE FOLLOWING 3 CRITERIA MUST BE FOUND IN THE AFFIRMATIVE TO APPROVE THIS REQUEST:**

**1. THERE ARE CONDITIONS PECULIAR TO THE LAND:**

Staff Position: Staff could find no peculiarities to the subject property.

**2. HARDSHIP FROM STRICT INTERPRETATION:**

Staff Position: Staff could find could not find a non-financial hardship in this case.

**3. EFFECTS ON PUBLIC HEALTH, SAFETY, AND WELFARE:**

Staff Position: Staff foresees no negative effects on public health, safety, or welfare from variances at this location.

**STAFF RECOMMENDATION:** Since the applicant did not satisfy all of the conditions necessary for a variance, staff recommends denial. However, if the Board approves the request, staff recommends that the variance applies only to the proposed addition.

Property owners within 200 feet of the variance request were notified. Four (4) comment forms were returned in favor of the request and none (0) in opposition.

Mr. Bradshaw opened the public hearing and asked the proponent to come forward to speak.

Dr. William Voelter stated that this request is to allow for additional living and storage space.

Mr. Hay stated that the conditions under which a variance could be granted involves two issues:

1. Conditions peculiar to the land; and,
2. Non-financial hardship.

Mr. Hay asked Dr. Voelter if he could provide additional information regarding either or both of these issues.

Dr. Voelter stated that he will be undergoing three (3) orthopedic procedures in the near future and the space will be utilized as an exercise room to assist with his rehabilitation following these procedures. Dr. Voelter stated that he believed this to be a reasonable request.

Mr. Huber asked Dr. Voelter if he had discussed an alternate location for this addition that would meet the City requirements.

Mr. Jeff Luther, agent for Dr. Voelter, addressed Mr. Huber's question. Mr. Luther stated that they have considered the setback requirements; however, the driveway is on the north side of the house and the garage addition must also be on the north side. If the addition was placed elsewhere on the lot it would chop up the back yard and the lot.

Mr. Huber asked Mr. Luther if he was aware of the staff recommendation of denial and would he be willing to try to work it out to please everyone.

Mr. Luther stated that four (4) favorable responses were received from the neighbors and many of the homes in the area encroach onto the building line.

Mr. Bradshaw asked if anyone wished to speak in opposition of the variance request. No one came forward and the public hearing was closed.

Prior to the vote, Mr. Luther was asked if only one setback was granted which would be more disadvantageous to the plan or do both variances need to be granted. (The Board could elect to consider the variance requests separately or to consider both variances in their vote.)

Mr. Luther asked that both variance requests be considered in one vote.

**Mr. Hay moved to approve variance request BA-2008-03 based on the following:**

1. **Peculiarities to land:** a. number of similar circumstances in this neighborhood

- b. location of existing driveway and back yard arrangement necessitate that both setback variances are required
- Orthopedic issues reason for allowing variance

**2. Hardship:**

**3. Effects on Public:**

Agree with Staff findings

**Mr. Hay stated that the variance would only apply to this addition.**

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

**Item Four: Adjourn**

Mr. Bradshaw adjourned the meeting at approximately 8:50 a.m.

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