
BOARD OF ADJUSTMENT

March 9, 2010

Minutes

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

Staff Present: Kelley Messer, Assistant City Attorney
Ben Bryner, Planning Services Manager
Zack Rainbow, Planner I
JoAnn Sczech, Executive Secretary, Recording

Others Present: Mike & Wende Moyer
Mackie Crossan
Grady Waddell
Angela Childress

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

Col. Morton Langholtz moved to approve the minutes of the February 9, 2010, meeting. Mr. Carter 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.

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

Item Three: Special Exception/Variance Requests:

a. BA-2010-05

A public hearing to consider a request from Dakota Springs, LLC, agent Sela Builders, LLC, for a Temporary Permit to locate a temporary sales office in RS-6 zoning. Legal description being Dakota Springs Addition, Block A, Lot 2, Acres .177 and located at 718 Swift Water Drive.

Mr. Rainbow presented the staff report for this case. The applicant developed the subdivision and is currently selling numerous lots to various homebuilders for development. The agent intends to build several homes and is requesting to locate a Subdivision Sales Office in the neighborhood to oversee construction and facilitate sales of finished homes. They propose to place a temporary building on the property and use it as an office to market and sell the homes they are building within the subdivision.

The parcel and most of the nearby lots are vacant. The subdivision was platted in January of this year and several building permits have been issued for new homes in the area. This subdivision is surrounded entirely by residentially zoned properties.

A Temporary Permit does not require formal findings. However, historically these have been considered in terms of compatibility or appropriateness in an area and the need for the facility. If granted, the timeframe for a Temporary Permit is one (1) year. The proponent may apply to the Board of Adjustment for up to two six (6) month extensions if active construction by the agent continues within the subdivision or until the subdivision is 90% complete.

Property owners within 200 feet of the request were notified. One (1) comment form was returned in favor and one (1) in opposition of the request.

Planning staff recommends approval as the request meets the criteria necessary to grant a Temporary Permit.

Mr. Bradshaw opened the public hearing.

Mr. Mike Moyer stated that the structure will serve as a sales and design office for this subdivision. Mr. Moyer provided the Board with an illustration of the proposed structure with landscaping.

Mr. Bradshaw closed the public hearing.

Col. Langholtz moved to approve BA-2010-05 based on the findings in the staff report. Mr. Huber 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-2010-06

A public hearing to consider a request from Angela Childress for an 8' variance to the 10' front setback for an on site sign in a PDD (Planned Development District) zoning district. Legal description being Jones & Leggett, Block 8, Lot south 100' of Lot 2 and located at 3226 Buffalo Gap Road.

Mr. Rainbow presented the staff report for this case. This property was converted from a single-family home to Absolute Perfection Day Spa. The applicant was issued a permit to construct a monument sign approximately two (2) years ago. The zoning of the property is PDD-68 which requires the placement of new signs to be setback a minimum of 10 feet from the front property line. The permit was written with the required 10 foot setback listed on the permit. When the building inspector checked the setbacks, he mistakenly thought the 10 foot setback was measured from the curb. Therefore, the sign was built in the current location - 10 feet from the curb on Buffalo Gap Road.

During the recent ice storm the sign was hit by a car and damaged. When the applicant applied for a permit to construct a new sign, it was discovered that the current location of the sign did not meet the 10 foot minimum front setback. The applicant wishes to construct a new sign in the same location as the existing damaged sign - thus the reason for the eight (8) foot variance request to the 10 foot front setback. The parkway on Buffalo Gap Road is eight (8) feet and the current placement of the sign is two (2) feet from the front property line.

The subject property has a circle drive in the front of the business. The applicant states that if the sign had to be moved back eight (8) feet in order to meet the 10 foot front setback, it would put the sign in the middle of the parking spaces and impede the flow of the driveway. The applicant also states that there is

nowhere else to locate the sign on the property due to the driveway entrances on both ends and the landscaping on both sides.

Property owners within 200 feet of the request were notified. No comment forms were returned either in favor or in opposition of the request.

From strict interpretation of the ordinance, Planning staff could not determine a peculiarity or hardship in this case and, therefore, staff recommends denial of the request.

Mr. Bradshaw opened the public hearing.

Ms. Angela Childress, proponent, stated that current plans are to install a new driveway and repositioning the sign to meet the setbacks would impact the driveway, traffic flow and parking.

Mr. Bradshaw closed the public hearing.

Mr. Brad Carter moved to approve BA-2010-06 based on the findings in the staff report with the exception that a peculiarity is that the preexisting structure (residential structure) was converted into a business and therefore insufficient space is available for a sign; and, a hardship would be created if the sign is not allowed to be constructed in the same location as the current sign and would not be conducive to good business practices. 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.

c. BA-2010-07

A public hearing to consider a request from Waddell Enterprises, agents Grady Waddell and Mackie Crossan for a 10' variance to the required 25' rear building setback in a GC (General Commercial) zoning district. Legal description being Southwest Plaza Section 1, Block A, Lot 102 Replat & Part of Lot 2, Continuation, Acres 1.47 and located at 3106 South Clack Street.

The applicant requests a 10 foot variance to the required 25 foot rear setback to build an addition onto the side of the existing building. The proposed addition would be 15 feet from the rear property line. The proposed addition would be used for storage. There is an existing carport/patio cover that would be enclosed, but the addition would also expand beyond the existing limits of the carport/patio cover. The applicant is requesting the variance because the property to the south received a 10 foot variance, and they want to match that setback.

Property owners within 200 feet of the request were notified. No (0) comment forms was returned either in favor or in opposition of the request.

Staff recommendation is denial as the applicant has not submitted any information to staff to justify granting a variance. Staff was unable to determine a peculiarity or a hardship in this case.

Mr. Bradshaw opened the public hearing.

Mr. Grady Waddell stated that the reason for this request to obtain additional warehouse and storage space. The manufacturer is changing the manner in which motorcycles are shipped, requiring the additional space. Also, the fence would be removed and storage would not be visible from Catclaw Drive.

Mr. Bradshaw asked if area was available on the property to expand without obtaining a variance.

Mr. Waddell stated that this is the only area in which this structure could be expanded.

Mr. Bradshaw asked how much space will be lost if the variance is not granted.

Mr. Mackie Crossan stated that the loss would be approximately 700 square feet. Mr. Crossan stated that the dealership is required to meet the specifications set by Harley-Davidson. Mr. Crossan stated that there is no alley to be considered and the proposed addition will consist of a metal finish that will match the current building.

Mr. Bradshaw closed the public hearing

Mr. Hay moved to approve BA-2010-07 based on the findings in the staff report with the following exceptions:

- ⇒ **Conditions peculiar to the land: Odd-shaped commercial lot and adjacent businesses have been granted variance**
- ⇒ **Nonfinancial Hardship: Due to the orientation of property and existing building there is no other option for expansion except in manner proposed**

Col. Langholtz 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.

Item Four: Adjourn

Mr. Carter moved to adjourn the meeting. Mr. Huber seconded the motion and the motion carried unanimously.

Mr. Bradshaw adjourned the meeting at approximately 8:55 a.m.

Approved:  _____, Chairman