
BOARD OF ADJUSTMENT

February 8, 2011

Minutes

Members Present: Roger Huber
Col. Morton Langholtz
Wayne Bradshaw
Brad Carter
Bob Beerman
Rick Waldraff

Staff Present: Kelley Messer, Assistant City Attorney
Ben Bryner, Planning Services Manager
Zack Rainbow, Planner II
Debra Hill, Secretary II

Others Present: Nhanh Lee
Lavon Jaramillo
Bill Young
Mike Fowler
Benjamin Garza
Robert E Wilson

Item One: Call the Meeting to Order:

Mr. Bradshaw called the meeting to order at 8:32 AM and declared a quorum present.

Item Two: Approval of the Minutes

Mr. Huber moved to approve the minutes of the meeting. Mr. Carter seconded the motion and the motion carried by a vote of five (5) in favor (Carter, Bradshaw, Huber, Beerman and Waldraff) to none (0) opposed.

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

Item Three: Special Exception/Variance Requests:

a. BA-2011-01

A public hearing to consider a request from Darrel Modrall, agent Payless Siding and Windows, for a Special Exception to locate a carport in the front yard building setback in a RS-8 (Residential Single Family) zoning district. Legal description being STONEGATE ADDN SEC 1, BLOCK 1, LOT 12. Located at 2909 Arrowhead Drive.

Mr. Rainbow presented the staff report for this case.

The applicant proposes to construct a 24' x 20' carport extending from the existing garage. The applicant states the reason for the request is to provide cover for his wife getting out of her car in bad weather. The proposed carport would extend to within 11 feet of the front property line, and would be about 21 feet from the curb on Arrowhead Drive. The Board of Adjustment has the authority to grant a carport in the front no closer than 5 feet from the front property line. Therefore, if the special exception is granted the carport must be a minimum of 15' from the curb.

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

1. THE PROPOSED USE IS COMPATIBLE WITH THE AREA:

There were no other front carports located on Arrowhead Drive, Caprock Road, Mary Lou Lane, or any other surrounding streets.

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

Staff anticipates no negative effects on public facilities from a carport at this location.

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

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 without any front carports, the proposal is not consistent with the intent of the regulation.

STAFF RECOMMENDATION:

Denial, the request does not meet the criteria necessary to approve a special exception.

Mr. Bradshaw opened the public hearing.

Mr. Mike Fowler, contractor, explained the carport would have a gable design with lattice to accent the house and the cul-de-sac area.

Mr. Bradshaw asked about the usage of the garage.

Mr. Fowler explained the garage was being used for storage of other vehicles.

Mr. Bill Young spoke in opposition of the carport, he stated there were no other carports in the neighborhood.

Mr. Robert E Wilson also spoke in opposition, he states the neighborhood is a nice area and he doesn't want the see the value of the homes to depreciate because of a carport.

Mr. Morton Langholtz spoke in opposition also, and states there are no front carports in this area and believe this is not a necessary addition.

Mr. Bradshaw closed the public hearing.

Mr. Carter moved to deny BA-2011-01 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 (Carter, Bradshaw, Beerman, Waldraff and Huber) to none (0) opposed.

Mr. Langholtz took his spot with the Board. Mr. Waldraff excused himself and left the meeting.

b. BA-2011-02

A public hearing to consider a request from Nhanh Lee, for a 2 foot variance to the maximum fence height of 4 feet at the front property line on property zoned MD (Medium Density) zoning district. Legal description being SCOTT HIGHWAY PLACE, BLOCK 3, LOT 1. Located at 2701 Russell Avenue.

Mr. Rainbow presented the staff report for this case.

The applicant is requesting the 2' height variance in order to keep a 6' chain link fence along the front of her property. The applicant states that the reasons for the request are to ensure safety of the children that live in the home. The front of the property is along Russell Avenue, but the front of the house is oriented along Sewell Street. The applicant had a 7 foot solid metal fence constructed all the way around the property except for the frontage along Russell Avenue. The fencing along Russell Avenue is a 6 foot chain link fence. The maximum height for opaque fencing in the front yard building setback is 4 feet. Therefore, the reason for the variance request.

Mr. Huber asked "How did you become aware of this?"

Mr. Rainbow stated it was a complaint issue, and was originally brought to their attention in April or May of 2010, at that time the owner was notified of the four foot height regulation. Mr. Rainbow stated another complaint was filed and they contacted the owner again which lead to this request.

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

1. THERE ARE CONDITIONS PECULIAR TO THE LAND:

Staff could determine no conditions peculiar to the land.

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

Staff was unable to determine a non-financial hardship in this case.

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

While staff does not anticipate any immediate or significant negative effects, neighborhood appearance is a public welfare issue specifically addressed by the relevant ordinance requirements.

STAFF RECOMMENDATION:

Denial, Staff was unable to determine peculiarities or a non-financial hardship in this case.

Mr. Bradshaw opened the public hearing.

Ms. Lavon Jaramillo spoke for Ms. Lee; she stated the purpose of the fence was for the protection of the children.

Mr. Bradshaw asked the age of the children.

Ms. Jaramillo stated the children are five and six years old. She also stated the fence does not obstruct vision areas.

Mr. Langholtz asked if a four foot fence would serve the same purpose.

Ms. Jaramillo stated the concern was for the children in the yard. She stated anyone could reach over a four foot fence and take the children.

Ms. Lee stated her husband passed away in September 2, 2010, she stated her husband insured her that the fence was okay and was inside their property line. Ms. Lee also stated two other houses in the same neighborhood have their fence line extending to the curb.

Mr. Bradshaw asked who was living there now.

Ms. Lee stated it was a rental property.

Mr. Benjamin Garza stated he didn't have a problem with the fence. He stated it was done in a professional manner. Mr. Garza also spoke for his father who had responded in favor of the fence via a letter.

Mr. Langholtz questioned the letter, from Mr. David Garza, Benjamin Garzas' father, stating it was confusing if he was in favor or opposition of the fence.

Mr. Garza explained his father's first language is Spanish; he went on to clarify the letter as to be in approval of keeping the six foot fence.

Mr. Bradshaw closed the public hearing.

Mr. Rainbow stated the original fence was built and the post were actually in the sidewalk and was asked to remove them and a hand out was giving to the owner explaining the four foot height requirement at that time. The fence was built at the six foot height.

Mr. Langholtz moved to deny BA-2011-02 based on the findings in the staff report. Mr. Beerman seconded the motion and the motion carried by a vote of five (5) in favor (Carter, Bradshaw, Beerman, Langholtz and Huber) to none (0) opposed.

Item Four: Adjourn

Mr. Bradshaw moved to adjourn the meeting. Mr. Langholtz seconded the motion and the motion carried unanimously.

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

Approved: _____, Chairman