
BOARD OF ADJUSTMENT

April 12th, 2011

Minutes

Members Present: Roger Huber
Col. Morton Langholtz
Scott Hay
Brad Carter
Wayne Bradshaw
Bob Beerman

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

Others Present: Royce G. Peterson #6 Turnberry Abilene Tx 79606
Gary Peterson

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

Col. Langholtz moved to approve the minutes of the March 8, 2011 meeting. Mr. Huber seconded the motion and the motion carried by a vote of six (6) in favor (Carter, Hay, Langholtz, Bradshaw, Beerman and Huber) to none (0) opposed.

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

Item Three: Special Exception:

- a. BA-2011-04
A public hearing to consider a request from R.G.P. Enterprises, agent Royce G. Peterson., for a variance to the landscaping requirements in a LI (Light Industrial) zoning district. Legal description being ABILENE INDUSTRIAL DISTRICT SECTION 2, BLOCK J, LOT 203 REPLAT, ACRES 5.89. Located at 3318 South Treadaway.

Mr. Rainbow presented the staff report for this case. The subject parcel is developed with commercial businesses. The property to the west is a City owned regional detention facility with the rest of the surrounding properties being industrial and heavy commercial type uses.

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

1. THERE ARE CONDITIONS PECULIAR TO THE LAND:

Staff Position: The requested variance is on the required landscaping requirements along the street frontage. The Development Site is located behind already developed properties that are not being modified by the current development, and staff feels that this is a peculiarity to the property.

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

Staff Position: Staff could find no hardship in this case. The subject property has ample space to provide for the required landscaping. The applicant also has the option of presenting another alternative landscaping plan that could be approved by the Director of Planning and Development Services.

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.

REQUEST ANALYSIS:

The applicant had a site plan approved in December of 2009, with an Alternate Landscaping Plan showing 10 street trees and 22 shrubs along the front property line along South Treadaway. The applicant has since received a Temporary Certificate of Occupancy so that the business could open before certain requirements of the Site Plan were able to be completed. In this case the landscaping, approved through the alternate design process, had not been completed. Thus, the reason for the variance request. The applicant is requesting the variance to eliminate the required landscaping that is required along the street frontage.

The applicant states the reason for the request is because the property is a drainage ditch in the parkway, which belongs to TXDOT. The parking lot extends all the way to the drainage ditch. Therefore, they state that there is nowhere to put the required landscaping. The applicant also states that the tenants of the other businesses do not want the applicant to remove any of their other parking spaces.

The current location has more parking spaces provided than what is required. Therefore staff feels that some of these excess parking spaces could be removed in order to provide for the required landscaping.

Staff recommends denial. Although there is a peculiarity, staff was unable to determine a non-financial hardship. The applicant has enough property to provide for the required landscaping or provide an additional alternative landscaping plan without the need for a variance.

Col. Langholtz asked why the other occupants were not required any landscaping. Mr. Rainbow stated the existing buildings were built before the landscaping requirements were implemented. Mr. Rainbow added that the applicant also owns the adjacent properties. He added the applicant was granted an alternative landscaping requirement per the Director of Planning. Mr. Carter asked if the alternative landscaping was approved just for the site plan pertaining to the storage units. Mr. Rainbow stated yes, the alternate

landscaping was approved for the entrance located on each side of the bridge, doubling the amount of landscaping required. Mr. Rainbow stated the applicant has received a Temporary Certificate of Occupancy which is expiring soon, hence the variance application. Mr. Rainbow stated that TXDOT would not allow the applicant to place landscaping in the drainage ditch so the next alternative is to remove parking spaces for the required landscaping.

Mr. Carter asked if the original landscaping requirements had the trees and shrubs planted in the TXDOT drainage area. Mr. Bryner stated the original landscaping requirement is a ten foot landscaping strip and then one street tree per 40 linear feet. As per the alternative landscaping, the applicant was approved zero feet of the landscaping strip, doubling of the amount of trees and providing a continuous hedge row located on the property line. Mr. Bryner added that at the time of the site plan process, TXDOT had not improved the ditch area which led to the difficulty in providing the alternative landscaping requirements for the applicant. Staff recommended replacing parking places with the landscaping as another alternative.

Col. Langholtz asked if there have been any other developments in that area since the new landscaping requirements. Mr. Bryner stated that even before the landscaping requirements, many of the banks and other developments were implementing their own landscaping. He added that a lot of the developments were already in place and there hasn't been as much redevelopment in this area.

Mr. Bradshaw opened the public hearing.

Mr. Royce G. Peterson (applicant) spoke in favor of the request. Mr. Peterson clarified his ownership of the property in this request. He added that he had at one time owned the entire block but had sold several sections of this property. He stated that he was not opposed to landscaping but in this case it would be a hardship for him to landscape the entrance of the property. Mr. Peterson stated he would have to decrease the parking area by tearing up pavement and installing a watering system for the landscaping. He stated that the landscaping could possibly cause a visual obstruction to the businesses on each side of his property.

Mr. Bradshaw closed the public hearing.

Col. Langholtz questioned Mr. Peterson's original intent during the site plan process. He added he would like to see more landscaping along Treadaway and would not like for this request to set a precedence to other developers that landscaping could be averted. Mr. Bryner stated that the board could recommend an alternative plan for the landscaping in this request.

Col. Langholtz asked Mr. Peterson if he could recommend an alternative to this request. Mr. Peterson stated that he had recommended to staff that he could plant trees and crape myrtles on each side of the front of his storage units which are located away from the drainage ditch.

Mr. Hay questioned the limitations to parking for the medical buildings located in front of the property in this request. Mr. Rainbow stated there is excess parking and shouldn't negatively affect any parking.

Mr. Hay asked if there were water lines located in this area. Mr. Bryner stated the water lines are normally located in the ROW and stated this property is serviced with water.

Mr. Carter questioned the use of planters. Mr. Bryner stated that planters could be used on either side of the entrance. He added that the purpose of the Landscaping requirements was to improve the streetscapes and make it visually more aesthetic.

Mr. Hay asked why the applicant agreed to the requirements during the site plan process and now is asking for the variance. Mr. Peterson stated he was involved in several different projects and had another employee overseeing this process. He added that the employee had approved this alternative landscaping without his knowledge.

Gary Peterson (son of applicant) spoke in favor of this request. Mr. Peterson stated that the two businesses on each side of the property in this request are long term leases. He added that if the parking spaces were reduced it could cause a hardship for the elderly entering and exiting the buildings and also cause the relocation of those businesses, thus causing a financial hardship on the applicant.

Mr. Beerman stated that the trees would not be feasible in this area due to the power lines. He added that the electrical company could come in and cut down or trim the trees if they interfere with the power lines.

Col. Langholtz stated that he would like to see more landscaping in that area and believes it would set a good precedence for the other properties.

Mr. Rainbow suggested the other option is planters on each side of the entrance at the front of the property and as Mr. Peterson stated, planting trees along the front of his self-storage business.

Mr. Hay asked why the second alternative landscaping was not approved. Mr. Bryner stated that the landscaping requirement is for the street frontage and Mr. Peterson's alternative proposal was for the front of the business located off the street frontage.

Col. Langholtz asked if given more time could the applicant provide a suitable compromise to this request. Mr. Peterson stated that the only available locations have already been discussed.

Mr. Hay agreed the trees and other landscaping are not feasible in this area except for the planters on each side of the entrance to the property.

Mr. Hay moved to approve BA-2011-04 based on the findings in the staff report with the exception of Criteria 2 and the hardship to the elderly clientele entering and exiting the building. Col. Langholtz seconded the motion and the motion carried by a vote of five (5) in favor (Beerman, Hay, Langholtz, Bradshaw and Huber) to one (1) opposed.

Item Four: Adjourn

Mr. Bradshaw moved to adjourn the meeting.

Approved: _____, Chairman