
BOARD OF ADJUSTMENT
September 13th, 2011
Minutes

Members Present: Scott Hay
 Bob Beerman
 Wayne Bradshaw
 Col. Morton Langholtz
 Rick Waldruff

Staff Present: Zack Rainbow, Planner II
 Matt Jones, Planner II
 Kelley Messer, Attorney
 Debra Hill, Secretary II (recording)

Others Present: Bobby Mize 4210 Sayles

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

Mr. Hay moved to approve the minutes of the August 9th, 2011 meeting. Col. Langholtz seconded the motion and the motion carried by a vote of five (5) in favor (Beerman, Hay, Bradshaw, Langholtz and Waldruff) to none (0) opposed.

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

Item Three: Special Exception:

a. BA-2011-11

A public hearing to consider a request from Raj Pandey, agent America's Carports for special exception to locate a carport in the front yard building setback in RS-8 (Residential Single Family) zoning. Legal description being ELM COVE, BLOCK 3, LOT 13, 3RD FILING. Located at 309 Saxon Street.

Mr. Zack Rainbow presented the staff report for this case. This property and the surrounding properties are developed with single family homes. The applicant is requesting a Special Exception to allow for a 20' x 24' carport extending from the existing garage. The carport would be 5' from the side property lines and 17' feet from the curb on Saxon Street. The parkway width on Saxon Street is 12'. The Board of Adjustment has the authority to grant a special exception for a front carport up to 5' from the front property line. Therefore, if the special exception is granted the carport must be a minimum of 17' 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 are multiple other front carports located in the surrounding area that appear to be within the front building setback.

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 with similar front carports, the proposal is consistent with the intent of the regulation.

Property owners within 200 feet of the request were notified. Three (3) comment forms were returned in favor and one (1) on opposition of the request.

Planning staff recommends approval as the request meets the criteria necessary to grant a Special Exception.

Col. Langholtz questioned the one opposition. Mr. Rainbow stated there were no comments regarding the one opposition of this request.

Mr. Bradshaw opened the public hearing.

Seeing no one wishing to speak, Mr. Bradshaw closed the public hearing.

Col. Langholtz moved to approve BA-2011-11. Mr. Hay seconded the motion and the motion carried by a vote of five (5) in favor (Hay, Bradshaw, Langholtz, Waldraff and Beerman) to none (0) opposed.

b. BA-2011-12

A public hearing to consider a request from Odie Taylor, agent Bobby Mize for 25 foot variance to the 25 foot interior side building setback and a 10 foot variance to the 25 foot rear building setback in LI (Light Industrial) zoning. Legal description being BUTTON WILLOW INDUSTRIAL SECTION, BLOCK 2, LOT 23-25. Located at 4210 Sayles Boulevard.

Mr. Rainbow presented the staff report for this case. The subject parcel is currently vacant with most of the surrounding properties being Light Industrial/warehousing type uses. The applicant requests the variance to the interior side and rear setbacks in order to construct a 15' x 115' building. The applicants are wishing to use the existing 10' x 57' cement loading ramp to load or unload materials into the proposed building. The applicant states that 75% of the material unloaded at the location would go into the proposed building. If approved the new building would be built at approximately 0' from the southern interior lot line and 15' from the rear lot line. If the proposed building is approved at the 0' interior side setback, the wall along the 0' setback must be constructed with a 2 hour fire wall.

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

Staff Position: Staff could find no hardship in this case.

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.

Property owners within 200 feet of the request were notified. Two (2) comment forms were returned in favor and none (0) on opposition of the request.

Planning staff recommends denial of this request, staff was unable to determine a peculiarity or a non-financial hardship in this case.

Mr. Waldraff addressed the buildings across from this property. He asked if those buildings were located on their property lines. Mr. Rainbow answered that the new LDC (Land Development Code) has an exception that applicants can use an averaging setback for surrounding buildings on the block so the averaging setbacks were to be used it would still only give the applicant twelve and a half feet on the interior and still need the variance in the rear.

Mr. Bradshaw asked if the applicant would still be required the fire walls. Mr. Rainbow answered that yes the fire walls would still be required.

Mr. Hay questioned other areas to locate the building in this request. Mr. Rainbow stated there are other areas on this property that would meet the setback requirements. He added the applicant wishes to locate the new building adjacent to the existing loading ramp. Mr. Hay asked clarification on the setbacks in this zoning area. Mr. Rainbow stated this area is zoned Heavy Industrial District meaning separation between businesses should be at least twenty-five feet. He added the previous LDC setbacks for HI were zero feet and less in the rear. Mr. Rainbow discussed the re-evaluating process of this action to the new LDC.

Col. Langholtz questioned the timeframe for changing the current LDC setbacks. Mr. Rainbow answered it could be within the year.

Mr. Bradshaw opened the public hearing.

Mr. Bobby Mize (agent) spoke in favor of this request. Mr. Mize described the size and layout of the building in this request. He added the building will be 115 x 54 when completed so this would leave a twenty four foot variance to the back fence. Mr. Mize stated that two years ago when this building was first discussed the setbacks for this area were zero. He added because of the recent economy they have just now been able to proceed with the building. Mr. Mize addressed the mention of the different location to build this building; he stated the north side of this property is designated for metal stud storage. Mr. Mize described the process of unloading fifty foot studs and the amount of space needed to do so. He added the purpose of the building is to clean up the property and remove the portable trailers that are in use for storage at this time. Mr. Mize stated their business has expanded to carry more merchandise and the new building will be climate controlled to hold the new merchandise.

Col. Langholtz asked clarification of the kind of materials located at this business and what materials would be stored in the new building. Mr. Mize stated their business carries metal studs, sheetrock, ceiling tiles, and insulation. He added that the new proposed building needs to be climate controlled to store the new merchandise which is foam insulation in fifty-five gallon drums.

Mr. Waldraff questioned if the adjacent property owner to the south was aware of this request. Mr. Mize stated that the owner, Mr. Willis, voted in favor of this request. He added that the proposed building would not be on the property line that in fact it would be approximately a foot or more off the property line.

Mr. Beerman asked the position of the loading dock in reference to the proposed building. Mr. Mize stated the new building would be right next to the loading dock. Mr. Beerman asked the purpose of this business. Mr. Mize stated the business supplies drywall and acoustical supplies for commercial and residential buildings.

Mr. Hay questioned if the variance in this request would be suitable for the new building. Mr. Mize stated he was unsure of the actual variance request. He added that their request was for a variance to be one foot from the side and at least fifteen feet from the rear of the property.

Mr. Bradshaw closed the public hearing.

Mr. Hay moved to approve BA-2011-12 based on the findings in the staff report and the peculiarity and hardship described in the Board discussion. Col. Langholtz seconded the motion and the motion carried by a vote of five (5) in favor (Hay, Bradshaw, Langholtz, Waldraff and Beerman) to none (0) opposed.

Item Four: Adjourn

Mr. Bradshaw moved to adjourn the meeting.

Approved: _____, Chairman