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**BOARD OF ADJUSTMENT**  
**February 14, 2012**  
**Minutes**

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Members Present:            Scott Hay  
                                      Wayne Bradshaw  
                                      Roger Huber  
                                      Bob Beerman

Staff Present:                Zack Rainbow, Planner II  
                                      Ben Bryner, Planning Services Manager  
                                      Brad Stone, Planner II  
                                      Ed McRoy, Assistant Director of Planning  
                                      Kelley Messer, Attorney  
                                      Debra Hill, Secretary II (recording)

Others Present:              Tim Dickenson for Arthur Reese    1466 Minter Ln  
                                      Brian Hovey for Dale Edwards      750 Benelli  
                                      Rosa Martinez                            1418 Shelton St

**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 January 10<sup>th</sup>, 2012 meeting. Mr. Huber seconded the motion and the motion carried by a vote of four (4) in favor (Hay, Huber, Bradshaw, and Beerman) and none (0) opposed.**

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

**Item Three:    Special Exception:**

**a.        BA-2012-02**

A public hearing to consider a request from Arthur Reese, agent Tim Dickenson for special exception to locate a carport in the front yard building setback in RS-8 (Residential Single Family) zoning. Legal description being RICHLAND ACRES, BLOCK J, LOT 9. Located at 1466 Minter Lane.

Mr. Zack Rainbow presented the staff report for this case. This property and most of the surrounding properties are developed with single family homes. The applicant is requesting a Special Exception to allow for an 18' x 20' carport extending from the existing garage. The carport would be 4'6'' from the side property lines and 21'8'' feet from the curb on Minter Lane. The parkway width on Minter Lane 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. Seven (7) comment forms were returned in favor and none (0) on opposition of the request.

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

Mr. Bradshaw opened the public hearing.

Mr. Tim Dickenson (agent for Arthur Reese) spoke in favor of this request. Mr. Dickenson stated the applicants are requesting this special exception to help protect vehicles. Mr. Huber questioned the material proposed for the carport. Mr. Dickenson stated it would be wood and shingles and would be attached to the existing structure.

Mr. Bradshaw closed the public hearing.

**Mr. Huber moved to approve BA-2012-02. Mr. Hay seconded the motion and the motion carried by a vote of four (4) in favor (Hay, Huber, Bradshaw, and Beerman) and none (0) opposed.**

**b. BA-2012-03**

A public hearing to consider a request from Rosa Martha Martinez, agent Carmela Villarreal for special exception to locate a carport in the front yard building setback in RS-6 (Residential Single Family) zoning. Legal description being CRESCENT HEIGHTS, BLOCK H, LOT 14. Located at 1418 Shelton Street

Mr. Rainbow presented the staff report for this case. This property and most of the surrounding properties are developed with single family homes. The applicant is requesting a Special Exception to allow for an approximately 10' x 22' carport extending from the existing garage. The carport would be 3' minimum from the side property lines and 25' feet from the curb on Shelton St. The parkway width on Shelton St. is 15'. 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 20' from the curb. The applicant had a previous carport at this location that has since been taken down and replaced without approval from the Board of Adjustment. Therefore, the reason for the request.

**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. Two (2) comment forms were returned in favor and none (0) on opposition of the request.

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

Mr. Bradshaw opened the public hearing.

Mrs. Carmela Villarreal (agent for Rosa Martha Martinez) spoke in favor of this request. Mrs. Villarreal stated the old carport was in need of repair after the bad storm season of last year. She added the applicants were aware they needed to get a permit for building a new carport.

Mr. Bradshaw closed the public hearing.

**Mr. Huber moved to approve BA-2012-03. Mr. Beerman seconded the motion and the motion carried by a vote of four (4) in favor (Hay, Huber, Bradshaw, and Beerman) and none (0) opposed.**

**c. BA-2012-04**

A public hearing to consider a request from Dale Edwards for 1'4" variance to the 10' required interior side building setback in RS-12 (Residential Single Family) zoning. Legal description being TANGLEWOOD SECTION 1, BLOCK C, LOT 5. Located at 1430 Tanglewood Road.

Mr. Rainbow presented the staff report for this case. The subject parcel and the adjacent parcels are developed with large single-family homes. The applicants are requesting a 1'8" variance to the required 10' minimum interior side building setback in order to build an addition. The current house is 13 feet from the interior south side property line. The new addition would extend out from the rear of the house and would be setback from the interior side property line 8'8" at its closest point. The applicant states that the architect designed the addition to take advantage of the view of the backyard and avoid cutting down any trees. There is approximately 130' from the existing house to the rear property line leaving adequate room for adding to the house without the need for a variance.

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

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

Staff could find no peculiarities to the property.

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

Staff could determine no hardship.

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

Staff foresees no negative effects on public health, safety, or welfare from a variance at this location.

Property owners within 200 feet of the request were notified. One (1) comment forms were returned in favor and none (0) on opposition of the request.

Planning staff recommends denial as staff could find no hardship or peculiarity to the lot in this case.

Mr. Huber questioned the size, if any, of trees to be removed. Mr. Rainbow explained the applicant stated the architectural design of the proposed add on would allow them not to have to remove any trees.

Mr. Bradshaw opened the public hearing.

Mr. Brian Hovey (agent for the applicant) spoke in favor of this request. Mr. Hovey described the proposed addition to the property. Mr. Hay questioned the height of the fence. Mr. Hovey stated it was approximately seven feet tall and made from masonry block. Mr. Hay questioned the neighbors had been notified of the addition. Mr. Hovey stated that Mr. Edwards (applicant) had sent letters to neighbors and have not discussed the response with him. Mr. Beerman expressed concerns with the lack of response with the neighbors that this addition would affect. Mr. Hovey shared with the board the floor plan of the proposed addition. He stated the addition would only overlap the setback by 1'4" and would enable the applicant to enjoy the trees located in their backyard.

Mr. Bryner addressed the board that in the new Land Development Code, it was brought to his attention the following:

**Special Exceptions Outlined.**

(4) To alter front, side or rear setbacks, provided that the special except does not exceed ten percent (10%) of the minimum requirement.

Mr. Bryner stated this would allow the revision of the floor plan to a reduction of 4" instead of the 1'4" previously stated. He added this could possibly allow the applicant to revise his application to a special exception instead of a variance. Mr. Bryner asked legal if this variance could be changed to a special exception or would it have to be resubmitted due to the notification requirements.

Mr. Hay questioned Mr. Hovey if delaying this request for another month be a hardship to the applicant. Mr. Hovey stated that delaying the request would be in Mr. Edwards best interest. Mr. Hay stated this would also give the neighbor to the north the opportunity to give Mr. Edwards a response to the proposed addition. Mr. Hovey asked if this was delayed would Mr. Edwards be notified. Mr. Bryner stated that if this request was tabled until the next monthly meeting then new notifications would be sent. Mr. Hay suggested tabling this request until the next monthly meeting to allow the applicant to reapply this request as a special exception. He added that this would be to the applicant's best interest and would also allow the possibility of having a full board present to view this case.

Mr. Bradshaw closed the public hearing.

**Mr. Hay moved to table BA-2012-04 until regular meeting in March. Mr. Beerman seconded the motion and the motion carried by a vote of four (4) in favor (Hay, Huber, Bradshaw, and Beerman) and none (0) opposed.**

Mr. Ed McRoy informed the board of the discussion for the next meeting concerning the Wind Energy Conversion Systems (WECS).

**Item Four: Adjourn**

Mr. Bradshaw moved to adjourn the meeting.

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