
BOARD OF ADJUSTMENT

March 13, 2012

Minutes

Members Present: Scott Hay
 Dani Ramsay
 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
 Dan Santee, Attorney
 Debra Hill, Secretary II (recording)

Others Present: Rose Nguyen 8 Buttercup Dr
 Jerry Salas 2210 Woodard
 Jesse Lee for Mike Baird Pizza Hut (S Clack)
 Robert Kern 1225 Walnut

Item One: Call the Meeting to Order:

Mr. Hay called the meeting to order at 8:30 AM and declared a quorum present.

Item Two: Approval of the Minutes

Mr. Huber moved to approve the minutes of the February 14th, 2012 meeting. Mr. Beerman seconded the motion and the motion carried by a vote of four (4) in favor (Hay, Huber, Ramsay and Beerman) and none (0) opposed.

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

Item Three: Special Exception:

a. BA-2012-06

A public hearing to consider a request from Domingo Auses, agent Antonia Sargent for special exception to locate a carport in the front yard building setback in RS-6 (Residential Single Family) zoning. Legal description being ALAMEDA ADDN SECTION 2, BLOCK K, LOT 18. Located at 5450 Encino Road.

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 a 21' x 12' carport extending from the existing garage. The carport would be 5' from the side property lines and 18 feet from the curb on Encino Road. The parkway width on Encino Road 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. One (1) 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. Hay opened the public hearing.

Mrs. Rose Nguyen (agent for applicant) spoke in favor of this request. Mrs. Nguyen stated the applicant is her father and is in need of a new carport to replace the existing one. Mr. Hay asked the materials to be used for this construction. Mrs. Nguyen stated it would be fabricated metal.

Mr. Hay closed the public hearing.

Mr. Huber moved to approve BA-2012-06. Mr. Beerman seconded the motion and the motion carried by a vote of four (4) in favor (Hay, Huber, Ramsay and Beerman) and none (0) opposed.

b. BA-2012-07

A public hearing to consider a request from Clarence and Dorothy Presswood, agent Jerry Salas for special exception to locate a carport in the front yard building setback in RS-6 (Residential Single Family) zoning. Legal description being BROOKHOLLOW SECTION 2, BLOCK 4, LOT 16. Located at 2210 Woodard 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 19' x 12' carport extending from the existing garage. The proposed carport would be 5' from the side property lines and 16'4'' feet from the curb on Woodard St. The parkway width on Woodard St. 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. 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. Hay opened the public hearing.

Mr. Jerry Salas (agent for applicant) spoke in favor of this request. Mr. Salas stated the applicant is requesting the carport for protection for his vehicles.

Mr. Hay closed the public hearing.

Mr. Beerman moved to approve BA-2012-07 with staff's recommendation that the carport must be a minimum of 17' from the curb. Mrs. Ramsay seconded the motion and the motion carried by a vote of four (4) in favor (Hay, Huber, Ramsay and Beerman) and none (0) opposed.

c. BA-2012-08

A public hearing to consider a request from SO Oil Company, agent Robert Kern for a 20 foot variance to the maximum 10 foot sign height, and an 8 foot variance to the required 10 setback for a sign setback in HC/COR (Heavy Commercial/Corridor Overlay) zoning. Legal description being STONEGATE ADDN SEC 2, BLOCK 5, LOT 1. Located at 4202 Buffalo Gap Road.

Mr. Rainbow presented the staff report for this case. The subject parcel is developed as an Exxon gas station. The Mall of Abilene is located to the south and west and United Grocery store to the east. The applicant requests the 20' variance to the (1) maximum 10' sign height and an (2) 8' variance to the 10' setback for signage in the Corridor Overlay. The applicants are wishing to use the existing pole sign in the same location that was constructed in 1997, before the property was in the Corridor Overlay. The pole sign is only 2' from the property line along Buffalo Gap and approximately 30' in height. According to the applicant, the proposed sign will be the same height as the existing sign but the sign area will be reduced by 40%. The Corridor Overlay also only allows for 1 sign per business. There is another sign on the north end of the property. The applicants state that if this variance is approved, that other sign will be removed.

In 2006 the City Council adopted the corridor overlay zone with the recommendation of the Planning and Zoning Commission and as recently as 2010 reaffirmed the requirements of the Corridor Overlay. This was due to property owners in this area requesting that the aesthetics and integrity of the area be protected. The overlay zone was applied to 600 feet east and west of the centerline of Buffalo Gap Road from Highway 83/ 84 to 500 feet south of Beltway South. The reason behind the corridor overlay was to keep Buffalo Gap Road an attractive entrance into the City. The corridor overlay requires commercial businesses to have screening of outdoor storage, landscaping, and reduced height and square footage of freestanding signs. When this corridor overlay was adopted, it was with the intent that when a sign was replaced or a site was redeveloped, it must be done to the regulations of the corridor overlay zone. If properties are not required to abide by the overlay regulations, this somewhat developed area will never materialize into what the citizen, Planning Commission and the City Council had envisioned.

The existing pole sign is located north of the northern most driveway along Buffalo Gap Rd. The driveway is located approximately 65' from the intersection. This is a non-conforming situation. The current driveway spacing requirement along arterial streets is 200'. This area has been a concern due to the large amount of accidents and congestion in the area. In addition, the location of the existing sign is very close to this driveway and shows signs of being hit by cars using this driveway. If the Board is inclined to grant the setback variance, staff asks that they do so with the condition that the north most driveway along Buffalo Gap Road is closed. This would reduce the likelihood of accidents related to this sign, would also eliminate a turning point of conflict, and hopefully help reduce potential accidents and congestion on Buffalo Gap Road.

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

1. THERE ARE CONDITIONS PECULIAR TO THE LAND:

Staff Position: (1) Staff could find no peculiarities to the subject property.

(2) The property has a 40' parkway along Buffalo Gap Road. The large Mall of Abilene property only has a 27' parkway. In comparison, this could be considered a peculiarity affecting the property.

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

Staff Position: (1) Staff could find no hardship in this case.

(2) 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 one (1) on opposition of the request.

STAFF RECOMMENDATION:

1. Denial, staff was unable to determine a peculiarity or a non-financial hardship in this case.
2. Denial, staff was unable to determine a peculiarity or a non-financial hardship in this case. If the Board is inclined to grant the variance, staff asks that they do so with the condition that the north most driveway along Buffalo Gap Road is closed.

Mr. Beerman questioned if there are other signs of this requested height in this area. Mr. Rainbow stated there are signs of this height that are currently out of compliance with the current regulations. He added the intent of Planning and Zoning is as these types of signs are being replaced; this process would bring them into compliance with the current regulations.

Mr. Huber questioned if the height of the sign is what is out of compliance. Mr. Rainbow stated that is correct, the current sign regulations allows for a 10 foot sign and currently this sign is a legal non-conforming sign that is 30 feet and would be replaced with a 27' 4" foot sign.

Mr. Santee questioned if the corridor overly extends to the north side of the freeway. Mr. Rainbow stated it does not. Mr. Santee questioned that if this sign was located on the other side of the freeway, a 30 foot sign would be allowed. Mr. Rainbow stated that is correct.

Mr. Rainbow stated that if the Board of Adjustments is inclined to grant the variance, staff asks that they do so with the condition that the north most driveway along Buffalo Gap Road is closed. He added this request is due to the numerous accidents at this entrance to the property.

Mr. Hay questioned if the applicant is aware of the request to close the driveway. Mr. Rainbow stated they were not. Mr. Hay stated he believes the applicants should be notified of this request.

Mr. Hay opened the public hearing.

Mr. Robert Kern (SO Oil Company) stated he would like to table this request until the following monthly meeting.

Mr. Hay closed the public hearing.

Mr. Beerman moved to table BA-2012-08. Mr. Huber seconded the motion and the motion carried by a vote of four (4) in favor (Hay, Huber, Ramsay and Beerman) and none (0) opposed.

Item Four: Adjourn

Mr. Bradshaw moved to adjourn the meeting.

Approved: _____, Chairman