
BOARD OF ADJUSTMENT

July 9th, 2013

Minutes

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

Staff Present: Zack Rainbow, Planner II
 Ben Bryner, Planning Services Manager (recording)
 Kelley Messer, Asst.City Attorney
 Donna Boarts, Secretary II (Recording)

Others Present: Jeff Hargrove
 Cornelio Aleman
 Jesenia Navejas
 Raul Martinez
 Maria Martinez
 David Gomez
 Sep Morgan

Item One: Call the Meeting to Order:

Mr. Wayne Bradshaw called the meeting to order at 8:30 A.M. and declared a quorum present.

Item Two: Approval of the Minutes

Col. Langholtz moved to approve the minutes of the June 11th, 2013 meeting. Mr. Huber seconded the motion and the motion carried by a vote of five (5) in favor (Beerman, Huber, Langholtz, Bradshaw and Hay) and none (0) opposed.

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

Item Three: Variance and Special Exception:

a. BA-2013-20

A public hearing to consider a request from Freddie Famble, agent Sep Morgan for a special exception to locate a carport in the front yard building setback in RS8 (Residential Single-Family) zoning. Legal Description being GREEN ACRES SECTION 1, BLOCK 10, LOT 13. Located at 1773 N. Willis St.

Mr. Zack Rainbow presented the staff report for this case. The applicant is requesting a Special Exception to allow for a 20' x 12'3" carport extending from the existing garage. The carport would be approximately 15' from the side property line and 26 feet from the curb on N. Willis Street. The parkway width on N. Willis Street is 20'. 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 25 feet 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 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. Four (4) comment forms were returned in favor and Zero (0) in opposition of the request.

STAFF RECOMMENDATION: Staff is recommending approval the request meets the criteria necessary to grant a Special Exception.

Mr. Bradshaw opened the public hearing, no one came forward and the public hearing was closed.

Col. Langholtz moved to approve BA-2013-20 based on the findings of staff. Mr. Huber seconded the motion and the motion carried by a vote of Five (5) in favor (Langholtz, Huber, Hay, Bradshaw and Beerman) and zero (0) opposed.

b. BA-2013-21

A public hearing to consider a request from Matt Briggs for a special exception to locate a carport in the front yard building setback in RS6 (Residential Single-Family) zoning. Legal Description being WEST FREEWAY ESTATES REPLAT, BLOCK 10, LOT 2. Located at 4810 State St.

Mr. Zack Rainbow presented the staff report for this case. The applicant is requesting a Special Exception to allow for a 21' x 12' carport extending from the existing garage. The carport would be 7' from the side property lines and 19 feet from the curb on State Street. The parkway width on State 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 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 form was returned in favor and Zero (0) in opposition of the request.

STAFF RECOMMENDATION: Staff is recommending approval as the request meets the criteria necessary to grant a Special Exception

Mr. Bradshaw opened the public hearing.

Mr. Jeff Hargrove (agent for applicant) spoke in favor of this request. Mr. Hargrove explained he was representing the family due to them being out of town.

Mr. Bradshaw asked how long the family has lived at the current residence. Mr. Hargrove explained with two vehicles and no garage, a carport would be needed.

Mr. Bradshaw closed the public hearing.

Col. Langholtz moved to approve BA-2013-21 based on the findings of staff. Mr. Hay seconded the motion and the motion carried by a vote of five (5) in favors (Langholtz, Huber, Hay, Bradshaw and Beerman) and none (0) opposed.

a. CA-2013-22

A public hearing to consider a request from Raul and Maria Martinez for a special exception to locate a carport in the front yard building setback and a 3' variance to the required 3' interior side building setback in RS6 (Residential Single-Family) zoning. Legal Description being WEST FREEWAY ESTATES REPLAT, BLOCK 9, LOT 3. Located at 4718 State St.

Mr. Zack Rainbow presented the staff report for these cases:

- 1) Special Exception:** The applicant constructed a 20' x 20' front carport without a building permit. When the applicant came in to get a permit it was discovered that the carport did not meet the required setbacks. The applicant states that the carport follows the shape of the curved driveway and provides cover for the vehicles because there is no garage on the property. The parkway on State Street is 12 feet. The carport is 5 feet from the front property line and 17 feet from the curb.

THE FOLLOWING 3 CRITERIA MUST BE FOUND IN THE AFFIRMATIVE TO APPROVE THIS REQUEST FOR A SPECIAL EXCEPTION:

1. THE PROPOSED USE IS COMPATIBLE WITH THE AREA:

There are 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.

STAFF RECOMMENDATION: Staff is recommending approval of the carport the request meets the criteria necessary to approve a Special Exception.

- 2) Variance:** The carport sits over the existing driveway and is setback 0 feet from the side property line. The applicant is requesting a 3' variance to the 3' interior side setback in order to keep the carport in its current location. The applicant states that the carport was built with drainage features so that water drains off the carport, towards the street and not onto the neighboring property.

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

SECTION AND REQUIREMENT OF ZONING ORDINANCE BEING VARIED:

Section 2.4.4.1(B)(3): Interior side setback for a carport/patio cover = 3'

1. CONDITIONS PECULIAR TO THE LAND:

Staff was unable to determine a peculiarity to the subject property.

2. HARDSHIP FROM STRICT INTERPRETATION: Staff could not find a non-financial hardship in this case.

3. EFFECTS ON PUBLIC HEALTH, SAFETY, AND WELFARE:

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

STAFF RECOMMENDATION: Staff recommends denial on the variance for the interior side setback. Staff was unable to determine the peculiarity or a non-financial hardship in this case.

Property owners within 200 feet of the request were notified. One (1) comment form was returned in favor and One (1) in opposition of the request.

Mr. Bradshaw opened the public hearing.

Mr. Raul Martinez (owner) spoke in favor of the request.

Mr. Bradshaw questioned Mr. Martinez about the three (3) vehicles in the yard, also advised Mr. Martinez that concrete will need to be poured in the area. Mr. Martinez states he is aware of this.

Mr. Bradshaw questioned Mr. Martinez if he had built the carport and was he unaware that a permit was needed. Mr. Martinez states he was not aware that a permit was needed at the time of construction.

Mr. Huber questioned Mr. Martinez if he had checked the drainage and whether the water runs towards the street off the carport.

Mr. Bradshaw explains that he does not have a problem with the carport, the concern is that it is built on the property line.

Mr. Hay inquired if the neighbors had any concerns that it was built close to the property line. Mr. Martinez explains it doesn't bother the neighbors due to the drainage running to the street explains that he made sure they were alright with it.

Mr. Beerman states it looks oversized.

Col Langholtz asked for clarity from Mr. Martinez if the corner post of the carport goes to the edge of the carport roof. Mr. Martinez states that it does.

Col Langholtz explains that it is hard to tell as the photograph does not show this.

Mr. Hay questioned why the neighbor that you're encroaching on did not send in a response. Mr. Martinez explained that he does not know why, feels the neighbors are not friendly.

Mr. Bradshaw closed the public hearing.

Col. Langholtz moved to approve BA-2013-22 the Special Exception based on the findings in the staff report. Mr. Huber seconded the motion and the motion carried by a vote of five (5) in favors (Langholtz, Huber, Hay, Bradshaw and Beerman).

Mr. Hay moved to disapprove the requested Variance based on the findings in the staff report. Col Langholtz seconded the motion and the motion carried by a vote of five (5) in favors (Langholtz, Huber, Hay, Bradshaw and Beerman).

1) BA-2013-23

A public hearing to consider a request from Jose De La Paz for a special exception to locate a carport in the front yard building setback in RS6 (Residential Single-Family) zoning. Legal Description being SEARS PARK, BLOCK 22, LOT 15. Located at 2018 Green St.

Mr. Zack Rainbow presented the staff report for this case. The applicant is requesting a Special Exception to allow for a 20' x 20' carport extending from the existing garage. The carport would be 5' from the side property lines and 17 feet from the curb on Green Street. The parkway width on Green 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 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 Zero (0) in opposition of the request.

STAFF RECOMMENDATION: Staff is recommending approval, the request meets the criteria necessary to grant a Special Exception.

Mr. Bradshaw opened the public hearing

Mr. David Gomez (neighbor and translator for Mr. DelaPaz) is speaking for Jose DelaPaz

Mr. Bradshaw questioned Mr. DelaPaz if he was going to build the carport himself. Mr. Gomez stated that he will do the construction work.

Mr. Langholtz asked what type of materials will be used for the construction. Mr. Gomez Explained that he will be using metal.

Mr. Bradshaw closed the public hearing

Col Langholtz moved to approve BA-2013-23 based on the findings of staff. Mr. Hay seconded the motion and the motion carried by a vote of five (5) in favor (Langholtz, Huber, Hay, Bradshaw and Berman) and none (0) opposed

2) BA-2013-24

A public hearing to consider a request from Martha and Cornelio Aleman for a special exception to enlarge a nonconforming use and a 25' variance to the required 25' exterior side yard building setback for an addition in GC (General Commercial) zoning. Legal Description being CAMPUS ADDN, BLOCK 16, LOT SOUTH 50' WEST 120' OF LOT 2. Located at 1457 Matador St.

Mr. Zack Rainbow presented the staff report for these cases.

The applicant is proposing to construct an addition to the south side of their existing house. The single-family home was legally constructed in 1954. The zoning on the property and the rest of the surrounding block was changed to GC in 1981. At the time, the GC zoning district allowed for the single-family use. When the new Land Development Code was passed in 2010, it eliminated residential uses from the GC zoning district. Therefore, making the single-family use of the property a legal non-conformity. Any expansion of the floor area of a structure housing a non-conforming use, now requires a special exception from the Board of Adjustment.

THE FOLLOWING 3 CRITERIA MUST BE FOUND IN THE AFFIRMATIVE TO APPROVE THIS REQUEST FOR A SPECIAL EXCEPTION:

1. THE PROPOSED USE IS COMPATIBLE WITH THE AREA:

BOARD OF ADJUSTMENT
July 9th, 2013

There are multiple single and multi-family residences in the surrounding area that are also legal non-conforming uses in the GC zoning district. Staff feels that due to the similar surrounding land uses as residential, make the property compatible with the area.

- 2. THERE WOULD BE NO SIGNIFICANT NEGATIVE EFFECT ON PUBLIC FACILITIES:**
Staff anticipates no negative effects on public facilities from an expansion of the floor area of the structure housing a non-conforming use at this location.
- 3. THE REQUEST IS IN HARMONY WITH THE INTENT OF THE REGULATIONS:**
The intent of this regulation is to authorize a modification of zoning standards applicable to particular types of development within any zoning district, which is consistent with the overall intent of the zoning regulations. This provides for uniform and consistent development in areas where similar land uses already exist. Since many of the surrounding land uses are residential, the proposal is consistent with the intent of the regulation.

STAFF RECOMMENDATION: Approval, the request meets the criteria necessary to approve a Special Exception.

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

SECTION AND REQUIREMENT OF ZONING ORDINANCE BEING VARIED:

Table 2-4: Street Setback adjacent to a sub-collector or minor street, GC zoning = 25'

1) CONDITIONS PECULIAR TO THE LAND:

Staff was unable to determine a peculiarity to the subject property. There are others areas on the property where an addition could be built and still meet the required setbacks.

2) HARDSHIP FROM STRICT INTERPRETATION:

Staff could not find a non-financial hardship in this case.

3) EFFECTS ON PUBLIC HEALTH, SAFETY, AND WELFARE:

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

STAFF RECOMMENDATION: Staff recommends denial on the Variance for the exterior side setback. Staff was unable to determine the peculiarity or a non-financial hardship in this case.

Property owners within 200 feet of the request were notified. Four (4) comment forms were returned in favor and Zero (0) in opposition of the request.

Mr. Bradshaw opened the public hearing.

Mr. Aleman (Ms. Jesenia Navejas speaking for her father) spoke in favor of this request.

Col Langholtz questioned Ms. Navejas, about their length of time in their home.

Mr. Beerman asked if there was a particular reason that you choose that side of the home for your room addition. Ms. Navejas states the back of the home where the carport is located, electric/plumbing would need to be moved.

Col Langholtz questioned who would be doing the work to the house. Ms. Navejas states that her dad will be constructing it.

Mr. Hay questioned if there would be a hardship on the family if the board would disapprove of this recommendation. Ms. Navejas states the home is a small 2 bedroom. Another bedroom is needed due to sharing a bedroom with her brother.

Mr. Bradshaw closed the public hearing.

Col. Langholtz moved to approve the Special Exception based on the findings in the staff report. Mr. Hay seconded the motion and the motion carried by a vote of five (5) in favors (Langholtz, Huber, Hay, Bradshaw and Beerman).

Mr. Hay moved to approve the Variance as requested based on the peculiarity being: No buildable area on the lot; the hardship being; Not having enough square footage in the home for the family household; No negative effect on the public health, safety, or welfare based on the type of use. Mr. Beerman seconded the motion and the motion carried by a vote of five (5) in favor (Bradshaw, Huber, Langholtz, Hay and Beerman) and none (0) opposed.

Item Four: Adjourn

Mr. Bradshaw moved to adjourn the meeting at 9:07am

Approved: _____, Chairman