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**BOARD OF ADJUSTMENT**  
**November 12th, 2013**  
**Minutes**

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Members Present: Wayne Bradshaw- Chairman  
Mr. Hay  
Col. Langholtz  
Mr. Bob Beerman  
Mr. Huber

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

Others Present:

Paul Schnitman  
Zane Sitzes  
Tom Martin  
Jason Darby  
Marshall Wright  
Aurora Bumgarner  
Andre Vasquez  
Robert Williams  
Zach Sitogs  
Manuel Castro  
Richard Rogers  
Eddie Richards  
George Jenks  
James Boyd  
Mark Fenter  
Brad Stephens  
Tal Fillingim

**Item One: Call the Meeting to Order:**

Mr. 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 September 10<sup>th</sup>, 2013. Mr. Huber seconded the motion and the motion carried by a vote of five (5) in favor (Huber, Langholtz, Bradshaw and Hay) and none (0) opposed.**

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

**Item Three: Special Exception:**

**a. BA-2013-31**

A public hearing to consider a request from Robert L. Williams for a special exception to locate a carport in the front yard building setback in RS6 (Residential Single-Family) zoning. Legal Description being WYNDROCK ADDITION SECTION 5, BLOCK 3, LOT 6. Located at 4457 Bob-O-Link Dr.

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 approximately 6' from the side property line and 24' from the curb on Bob-O-Link Drive. The parkway width on Bob-O-Link Drive 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.

**LAND USES:**

This property and most of the surrounding properties are developed with single family homes. The property to the south is a Walmart.

**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. Five (5) comment forms were returned in favor and none (0) in opposition.

**STAFF RECOMMENDATION:**

Approval, the request meets the criteria necessary to grant a Special Exception.

Mr. Bradshaw opened the public hearing.

Mr. Lee Williams (Owner) spoke in favor of this request.

Mr. Bradshaw questioned Mr. Williams about the need for more space?

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Mr. Williams explained due to his expanding family, more space is needed.

Col. Langholtz inquired about the building material.

Mr. Williams clarified the carport will be a wood structure with metal posts that will follow the roofline.

Mr. Bradshaw closed the public hearing.

**Col. Langholtz moved to approve the Special Exception based on the findings of the staff report. Mr. Huber seconded the motion and the motion carried by a vote of four (4) in favor (Langholtz, Huber, Hay, Bradshaw). None (0) opposed.**

**b. BA-2013-32**

A public hearing to consider a request from Fred Ochs, agent Zane Sitzes for a special exception to locate a carport in the front yard building setback in RS6 (Residential Single-Family) zoning. Legal Description being CASTLEWOOD ESTATES SECTION 1, BLOCK A, LOT 17. Located at 5718 Castle Rd.

Mr. Zack Rainbow presented the staff report for this case. The applicant is requesting a Special Exception to allow for a 21' x 20' carport extending from the existing garage. The carport would be approximately 11' from the side property line and 17 feet from the curb on Castle Road. The parkway width on Castle 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.

**LAND USES:**

This property and most of the surrounding properties are developed with single family homes.

**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. Three (3) comment forms were returned in favor and none (0) in opposition

**STAFF RECOMMENDATION:**

Approval, the request meets the criteria necessary to grant a Special Exception.

Mr. Bradshaw opened the public hearing.

Mr. Zane Sitzes (Agent) spoke in favor of this request. Mr. Sitzes stated that the carport will be a metal structure with 4x4 steel posts, 2x8 c-channel and a metal roof.

**Col. Langholtz moved to approve the Special Exception based on the findings of the staff report. Mr. Hay seconded the motion and the motion carried by a vote of four (4) in favor (Langholtz, Huber, Hay, and Bradshaw). None (0) opposed.**

**c. BA-2013-33**

A public hearing to consider a request from Marshall Wright, agent Zane Sitzes for a special exception to locate a carport in the front yard building setback in RS6 (Residential Single-Family) zoning. Legal Description being BUFFALO GAP ROAD ESTATES SECTION 1, BLOCK 5, LOT 9. Located at 2717 Robertson Dr.

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 approximately 14' from the side property line and 10' from the curb on Robertson Drive. The parkway width on Robertson Drive is 5'. 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 10' from the curb.

**LAND USES:**

This property and the surrounding properties are developed with single family homes.

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

**1. THE PROPOSED USE IS COMPATIBLE WITH THE AREA:**

There is another front carport located at 2510 Robertson Dr. received a variance from the Board of Adjustment to build a carport within the front building setback on 10/12/1999. There is also 1 other carport within the surrounding are that appears 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

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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 one (1) in opposition.

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

Mr. Bradshaw inquired if there had been a Board Of Adjustment next door?

Mr. Rainbow stated that in 1999, the resident had applied for a carport, it was approved by the *Board of Adjustment*, but was never built. In 1999 carports were considered a *variance* or if a hardship was found. Now, is a *Special Exception* not having to find a hardship or a peculiarity. The neighborhood does have non-permitted carports in the area.

Mr. Bradshaw opened the public hearing.

Mr. Zane Sitzes (Agent) spoke in favor of this request. Mr. Sitzes stated that the carport will be a metal structure with steel posts with a metal roof.

Mr. Bradshaw inquired how long the residents have lived at their current residence.

Mr. Marshall Wright (Owner) stated they have lived at the residence since 1968.

Mr. Bradshaw inquired if he did the garage enclosure? Mr. Wright stated that his in-laws did the enclosure, and at that time also did the 25x25 room addition on the south side. Leaving only approximately 9 ft. on the side.

Mr. Bradshaw closed the public hearing.

**Col. Hay moved to approve the Special Exception based on the findings of the staff report.**

**Mr. Huber seconded the motion and the motion carried by a vote of four (4) in favor (Langholtz, Huber, Hay, and Bradshaw). None (0) opposed.**

**d. BA-2013-35**

A public hearing to consider a request from Paul and Donna Schnitman for a 10' variance from the 30' rear building setback in RS12 (Residential Single-Family) zoning. Legal Description being RIVER OAKS SECTION 1, BLOCK D, LOT 10 & SOUTH 3' OF LOT 11 REPLAT. Located at 1617 River Oaks Rd.

Mr. Zack Rainbow presented the staff report for this case. The applicant proposes to construct an approximately 472 sq. ft. garage addition extending from the rear of the house. The minimum rear building setback for an addition in RS-12 zoning is 30'. The proposed addition would be approximately 20' from the rear property line. The applicant states that they need to create more storage space in the existing garage and the existing garage is not large enough to fit their vehicles. The applicant stated that because of a large tree on one side and not sufficient turning space on the other, the location of the proposed addition is the only direction they could expand the garage. Additionally, there is existing water well in the northeast corner of the lot.

**SECTION AND REQUIREMENT OF ZONING ORDINANCE BEING VARIED:**

Table 2-2: Rear setback for RS-12 zoning: 30' minimum

**LAND USES:**

The subject parcel and the surrounding properties are developed with large single-family residences.

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

**1) CONDITIONS PECULIAR TO THE LAND:**

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

**2) HARDSHIP FROM STRICT INTERPRETATION:**

Staff could find 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 variances at this location.

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

**STAFF RECOMMENDATION: Since the applicant did not satisfy all of the conditions necessary for a variance, Staff recommends denial. However, if the Board approves the request, staff recommends that the variance applies only to the proposed addition.**

Mr. Bradshaw opened the public hearing.

Mr. Paul Schnitman spoke in favor of the request. Mr. Schnitman is wanting to locate the heating and air conditioning unit in the garage, where it would provide better access. Stated that he would go straight back on the property the width of the existing garage, states that it will be non- visible from the street due to the large tree in the front yard.

Mr. Bradshaw closed the public hearing.

**Mr. Hay moved to approve the Variance as requested based on the peculiarity being: Due to the existing trees on the property and shape of the lot, does not allow for the expansion to occur; the hardship being; The applicants age and needing space on a single level for mobility; No negative effect on the public health, safety, or welfare based on the type of use. Col Langholtz seconded the motion and the motion carried by a vote of four (4) in favor (Bradshaw, Huber, Langholtz, Hay) and none (0) opposed.**

**e. BA-2013-36**

A public hearing to consider a request from Brad Stephens, agent Tom Martin for an 13 foot variance to the 25 foot minimum rear yard building setback in PD#4 (Planned Development) zoning. Legal Description being FAIRWAYS, BLOCK R, LOT 1. Located at 27 Fairway Oaks Blvd.

Mr. Zack Rainbow presented the staff report for this case. The applicant is proposing to replat the lots located at 25 and 27 Fairway Oaks Boulevard, both of which are directly adjacent to the golf course. The applicant's primary residence is at 25 Fairway Oaks and wishes to replat the 2 properties and a 4,809 sq. ft. portion of the golf course lot in order to enlarge the back yards. Based on the proposed new lot lines provided by the applicant, the lot located at 25 Fairway Oaks will take a large portion of the existing rear yard of the lot located at 27 Fairway Oaks. The applicant stated the reason for this is to expand his backyard and provide a larger view of the golf course from his primary residence. The proposed new rear lot line for the lot at 27 Fairway Oaks would only be 12' from the house. The minimum rear building setback in the PD#4 zoning district is 25'. Therefore, the applicant is seeking a 13' variance.

As the lots are today, they legally conform to all of the zoning regulations. There are also other ways to replat and adjust the lot lines in order to satisfy the applicants desire to have a larger rear yard and view of the golf course while still complying with the setback regulations.

**SECTION AND REQUIREMENT OF ZONING ORDINANCE BEING VARIED:**

PD#4: Rear setback: 25' minimum.

**LAND USES:**

The subject parcel and many of the surrounding properties are developed with large single-family residences. The property to the south and east are the Fairway Oaks golf course.

**1) CONDITIONS PECULIAR TO THE LAND:**

Staff could find no peculiarities to the property. Any peculiarity would be self-created, through the re-platting process.

**2) HARDSHIP FROM STRICT INTERPRETATION:**

Staff could find could not find a non-financial hardship in this case. As the lot sits today there is no need for a variance. However, a previous owner did receive an 8' variance to the minimum 25' building setback to build the house 17' from the rear property line in 1992. The applicant owns the adjacent lot to the north at 25 Fairway Oaks Blvd. as well. He is proposing to replat these 2 existing lots and a 4,809 sq. ft. portion of the golf course into 2 new lots. Based on the applicant's layout of the proposed new lot lines, the house located at 27 Fairway Oaks Blvd. will only be setback 12' from the proposed rear lot line.

In determining a hardship the Land Development Code states in Section 1.4.4.2 (d)(4) that, "The hardship or inequity suffered by petitioner is not caused wholly or insubstantial part by the petitioner." In this case, the applicant is requesting the variance in order to create the new lot lines and thus creating the non-conforming setback issue.

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

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

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

**STAFF RECOMMENDATION: Staff recommends denial. The request does not meet the criteria necessary to grant a variance.**

Col Langholtz questioned if the portion added, would need to be re-platted?

Mr. Rainbow stated that the portion that added by the Fairway Golf Course was illegally subdivided and sold to the owner. If the owner would like to incorporate the piece of property, it would require a re-plat. Owner is seeking the *variance* instead.

Mr. Bradshaw opened the public hearing.

Mr. Tom Martin (Agent) spoke in favor of this request. Due to the peculiar shape of the lot, the owner's desire is to gain a better view of the golf course. Mr. Brad Stephens (homeowner of both homes) resides on the golf course, but has very little view of the course due to the lot position. Trying to create more of a functioning space for lot #27, at the same time create a good space for lot #25.

Mr. Brad Stephens (homeowner) spoke in favor of this request. Would like to be able to view the course and not have obscurity. Due to the position of the house the contractor did not install functional windows on that side of the house.

Mr. Bradshaw closed the public hearing.

Mr. Hay inquired to Mr. Rainbow about the side setback?

Mr. Rainbow stated it was 7 ½ feet.

Mr. Ben Bryner explained that when looking at the lot layout, due to the narrowness of the rear lot line. felt that it was unsupported.

**Mr. Hay moved to approve the Variance as requested based on the conditions peculiar to the land being: The correction of the plating issue, that is needing to be resolved; peculiarity based on lot shape and orientation of the property; hardship being without the proposed changes lot #27 has inadequate yard space. No negative effect on the public health, safety, or welfare based on the type of use. Col Langholtz seconded the motion and the motion carried by a vote of four (4) in favor (Bradshaw, Huber, Langholtz, Hay) and none (0) opposed.**

#### f. BA-2013-37

A public hearing to consider a request from Robert Mark Fenter for a 2 foot variance to the 3 foot minimum interior yard building setback for a carport/patio cover in RS-6 (Residential Single-Family) zoning. Legal Description being ROYAL CREST SEC 5, BLOCK E, LOT 4. Located at 4626 Royal Crest Dr.



Mr. Zack Rainbow presented the staff report for this case. The applicant is requesting a 2' variance to the required 3' minimum setback for carport/patio covers in order to construct a 50' x 10'6", 7" tall carport towards to rear and side of the existing house. The applicant states that the reason for the variance is that he wants to cover the existing driveway and provide cover for his boat. The applicant states that the proposed location is the only location on his property to build the desired carport due to the location of his existing driveway. The driveway runs along the north property line from the street to the alley in the rear. The applicant states that the front of the carport will be 56' from Royal Crest Dr. and 42' from the alley. Additionally, that applicant states that the proposed carport will have a gutter along the north side in order to mitigate any drainage onto the neighboring property.

**SECTION AND REQUIREMENT OF ZONING ORDINANCE BEING VARIED:**

Section 2.4.4.2 (b) (2) **Rear and Interior Side Setbacks:** A minimum of three feet (3) unless adjacent to an alley, then one foot (1).

**LAND USES:**

The property and all of the surrounding properties are developed with single-family residences.

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

**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 variances at this location.

Property owners within 200 feet of the request were notified. Six (6) comment forms were returned in favor and zero (0) in opposition.

**STAFF RECOMMENDATION:**

Denial. Staff was unable to determine a non-financial hardship or a peculiarity for a variance in this case. If the Board of Adjustment is inclined to approve the variance, staff recommends including the condition that would require them to mitigate any drainage from the carport onto the neighboring property with the gutter system as the applicant has stated.

Col Langholtz inquired if there were any similar concerns like this in the neighborhood?

Mr. Rainbow stated that there are some, but not sure if they were permitted by the City.

Mr. Huber inquired about the length of the cover, and if a gutter will be provided. to mitigate the drainage unto the neighbor's property.

Mr. Rainbow stated the proposed cover will be 50' in length, and owner will provide a gutter.

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Mr. Bradshaw opened the public hearing.

Mr. Mark Fenter (Owner) spoke in favor of this request. Mr. Fenter stated that he would like to build a boat cover on the side of the house and explained that a permit for 50ft. length was the intention, stated that 30-35ft. would be sufficient in length. Depending on how much height is needed, the boat cannot be seen from the roadway. Clarified, that a gutter will be included for drainage.

Col Langholtz inquired what kind of building materials will be used.

Mr. Fenter states that he will use 4" square tubing and will not be attached to the house.

Mr. Bradshaw closed the public hearing.

**Mr. Hay moved to approve the Variance as requested based solely on the structure proposed. Installed a gutter as described on the north side of the property, the structure not to exceed 35ft. rather than the requested 50ft.; Peculiarity to the property, with both front and rear entrances at this location, different than the other homes in the neighborhood; Hardship; inability to protect personal property; No negative effect on the public health, safety, or welfare based on the type of use. Mr. Huber seconded the motion and the motion carried by a vote of four (4) in favor (Bradshaw, Huber, Langholtz, Hay) and none (0) opposed.**

**g. BA-2013-38**

A public hearing to consider a request from Jason and Leila Darby for an 20 foot variance to the 30 foot minimum rear yard building setback in RS-12 (Residential Single-Family) zoning. Legal Description being TANGLEWOOD SECTION 2, BLOCK K, LOT 6. Located at 1445 Tanglewood Rd.

Mr. Zack Rainbow presented the staff report for this case. The applicants are in the process of remodeling, and adding on approximately 2100 sq. ft. to the existing house. The applicants propose to construct an approximately 500 sq. ft. garage addition extending from the rear of the new addition. The minimum rear building setback for an addition in RS-12 zoning is 30'. The proposed addition would be approximately 10' from the rear property line. The applicant stated that because of large trees on one side, the location of the existing driveway, and wanting sufficient turning space on the other, the location of the proposed addition is the only direction they could add on the proposed garage addition. The house was originally built in 1959. During the current construction, the existing portion of the rear of the house that extends towards the alley was torn down. The applicant states that this portion had already extended into the 30' rear setback.

**LAND USES:**

The subject parcel and the surrounding properties are developed with large single-family residences.

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

**CONDITIONS PECULIAR TO THE LAND:**

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

**HARDSHIP FROM STRICT INTERPRETATION:**

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

**EFFECTS ON PUBLIC HEALTH, SAFETY, AND WELFARE:**

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

Property owners within 200 feet of the request were notified. Five (5) comment forms were returned in favor and one (1) in opposition.

**STAFF RECOMMENDATION:**

**Since the applicant did not satisfy all of the conditions necessary for a variance, staff recommends denial. However, if the Board approves the request, staff recommends that the variance applies only to the proposed addition.**

Mr. Hay inquired that the owner is looking to build what was similar to what was there before.

Mr. Bradshaw opened the public hearing.

Mr. Jason Darby (owner) spoke in favor of the request. Mr. Darby explained that the home is in need of remodeling. Home previously had a carport, and several storage buildings. Would like to build a garage. Stating, that the left side along the west boundary there are several large pecan trees. Along the side of the alleyway, there are large pine trees. Due to the layout of the property the driveway faces northwest. Therefore, would like the garage set back on the property, to alleviate cutting down any of the landscape.

Mr. Bradshaw closed the public hearing.

Mr. Bradshaw inquired would you have torn down what was there if you thought you might not be able to rebuild.

Mr. Darby stated that the structure that was there was not structurally sound, and needed to be reconstructed.

Col Langholtz inquired the sq ft sq. ft when this is all completed.

Mr. Darby clarified living space approximately 5100 sq. ft.

**Mr. Hay moved to approve the Variance as requested based solely on the proposed addition. Peculiarity to the property due to the irregularity shaped lot, the home being constructed parallel to the east property line causing problems with the driveway on the west side of the property line; Hardship; removal of significant trees in the neighborhood would cause issues with homeowner and neighbors; No negative effect on the public health, safety, or welfare based on the type of use. Col. Langholtz seconded the motion and the motion carried by a vote of four (4) in favor (Bradshaw, Huber, Langholtz, Hay) and none (0) opposed.**

**h. BA-2013-39**

A public hearing to consider a request from KEM Texas, agent Ben Metoyer, for a 350' variance from the 400' separation requirement from residentially-zoned property for off-site signage (billboard) located on an interstate or primary highway and an approximately 200' variance from the required 1500' minimum separation from other off-site advertising signs on the same side of the street in GC (General Commercial) zoning. Legal Description being JOHN J TOOMBS OF NORTH PARK, BLOCK 29, LOT WEST 203 OF LOT 12 & WEST 183.8 OF NORTH 181 OF LOT 13. Located at the northeast corner of Hardy Street and W. Overland Trail.

Mr. Zack Rainbow presented the staff report for this case. This property was originally rezoned to GC in 1983. It is located adjacent to the right-of-way of I-20, which is the only east-west Interstate running through Abilene. Much of the land along the I-20 corridor in proximity to the proposed location is developed with various commercial uses and multiple off-site signs.

There is an active building permit for an off-site sign that was issued for a property located approximately 1325' from the proposed off-site sign, located at 3642 W. Lake Road. The applicant is wishing to construct a 59'tall, 672 sq. ft. off-site billboard sign on the proposed location. The maximum height for a billboard at this location is 42' and the maximum area is 672 sq. ft. The proposed billboard would be approximately 50' from residentially zoned property and approximately 1325' from another off-site sign along the same side of I-20. Therefore, the reason for the variance request. If approved, the sign cannot exceed the maximum height of 42'6".

The intent of the regulation for separation from residential zoning is to protect neighborhoods from the visual encroachment of off-site signage. The size, height and illumination of the proposed sign would make it clearly visible from the nearby residential subdivisions.

Furthermore, the Comprehensive Plan calls for a reduction of sign clutter throughout Abilene. The approval of a new sign at this location, along one of our major corridors, would only perpetuate the problem.

**SECTION AND REQUIREMENT OF ZONING ORDINANCE BEING VARIED:**

Section 23-161 F.2.A: 'Signs shall be separated from other off-site advertising signs on the same side of the street by a minimum distance of 1,500 feet on interstate and primary highways, as designated by the Texas Department of Transportation.'

Section 23-161 F.2.D: "No off-site advertising signs shall be permitted less than 400 feet from a lot in a Residential Single Family (RS), Mobile Home (MH), or RM-3 (MD) district when adjacent to roadways designated as Interstate or Primary."

**LAND USES:**

The subject parcel is vacant. The properties to the north and east are developed with single/multi-family Residences. I-20 is to the south and Hardy St and railroad ROW are to the west.

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

**CONDITIONS PECULIAR TO THE LAND:**

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

**HARDSHIP FROM STRICT INTERPRETATION:**

Staff could determine no hardship associated with the request.

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

**STAFF RECOMMENDATION: Denial. The request does not meet the criteria required to approve a variance.**

Mr. Bradshaw inquired about the zoning.

Mr. Rainbow stated that the staff offered an alternative of re-zoning these surrounding properties to GC(General Commercial) as an option, which would eliminate the need for a variance. Stated that is was originally zoned MD(Medium Density Residential) and zoned GC(General Commercial) back in 1983.

Mr. Bradshaw opened the public hearing.

Mr. James Boyd (owner) spoke in favor of this request. Mr. Boyd stated that he feels a light from the billboard would be an asset due to the illegal activity.

Mr. Bradshaw questioned if he resides in one of the homes on this property?

Mr. Boyd indicated that he resides in the middle house, and leases out the other residents to friends .

Mr. Bradshaw closed the public hearing.

Col Langholtz inquired who was putting up the sign?

Mr. Boyd stated that the company was called KEM Texas.

Mr. Rainbow stated that the maximum distance from each sign would be 1325 ft.

Mr. Bradshaw inquired why KEM (billboard designer) was not available for the meeting.

Mr. Ben Bryner indicated that he had spoken to the company awhile back. The company is based out of the San Antonio, TX area.

Mr. Bradshaw mentioned that he did not perceive that there was any peculiarity to the land. A non-financial hardship or negative effects on the public. States the proper fix would be to re-zone property.

**Mr. Hay moved to deny the *Variance* based on the findings of the staff report.**

**Col Langholtz seconded the motion and the motion carried by a vote of four (4) in favor (Langholtz, Huber, Hay, and Bradshaw). None (0) opposed.**

**i. BA-2013-40**

A public hearing to consider a request from the City of Abilene, agent Tal Fillingim for a 6 foot variance to the 15 foot minimum street side building setback in RS-6 (Residential Single-Family) zoning. Legal Description being SEARS PARK, BLOCK 3,4 & 5. Located at 2250 Ambler Avenue.

Mr. Zack Rainbow presented the staff report for this case. The applicant requests the variance to the rear, street side setback in order expand and modernize the 320 square foot press box, concession restroom facilities by approximately 604 square feet. The new, upgraded restrooms will be built to ADA standards. If approved, only a small corner of the new structure would extend 6' into the 15' setback along Little League Rd.

**LAND USES:**

The subject parcel is Sears Park with most of the surrounding properties are developed with single and multi-family uses, and a few commercial businesses.

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

**1. THERE ARE CONDITIONS PECULIAR TO THE LAND/ STRICT APPLICATION OF THE REGULATION WOULD RESULT IN A NON-FINANCIAL HARDSHIP:**

Staff Position: The standard minimum setback along sides adjacent to minor or sub-collector streets in RS-6 zoning is 15'. The existing baseball field is located at the north side of Sears Park along Little League Rd. The baseball field is oriented southwest towards a creek the crosses through the middle of the park and adjacent to the back fence of the baseball field. As with most baseball fields, there is a press/announcers box located directly behind home plate. The City is in the process of remodeling/expanding the existing press box, concession, and restroom building in order to modernize and improve the facilities. The corner of the proposed new addition encroaches 6' into the 15' minimum building setback. Due to the location of the existing concession/press box facility in relation to the baseball field and a large tree directly behind the existing building, there is no other direction to add an addition.

**2. 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. The new facility would enhance a public interest by providing new, ADA compliant, public restrooms.

Property owners within 200 feet of the request were notified. One (1) comment forms were returned in favor and zero (0) in opposition.

**STAFF RECOMMENDATION:** Given the minimal amount of the request, the location of the existing baseball field and the creek, staff is not opposed.

Mr. Bradshaw opened the public hearing.

Mr. Tal Fillingim (agent) spoke in favor of this request. Mr. Fillingim stated the plan is to improve and expand the existing concession stand, press box and restrooms. Explained that the peculiarities of the project, as well as the hardship due to the location of the existing buildings in relation to the baseball field, and large tree directly behind the existing building, there is no other direction to add an addition.

Mr. Bradshaw closed the public hearing.

**Col. Langholtz moved to approve the *Variance* based on the findings of the staff report. Mr. Huber seconded the motion and the motion carried by a vote of four (4) in favor (Langholtz, Huber, Hay, and Bradshaw). None (0) opposed.**

**Item Four: Adjourn**

Mr. Bradshaw moved to adjourn the meeting at 10:15 a.m.

Approved: _____, Chairman
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