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| Members Present: | Mr. Wayne Bradshaw- Chairman  Mr. Bob Beermann  Mr. Scott Hay  Mr. Roger Huber  Mr. Glen Mosley |
| Staff Present: | Zack Rainbow, Planner II  Ben Bryner, Planning Service Manager  Kelley Messer, Asst.City Attorney  Donna Boarts, Secretary II (Recording) |
| Others Present: | Linden Hodges  Mary Brand  Eric Vickers  Ruppert Rangel  Don Balch  Scott McLean  Brian Goldsmith |
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**Mr. Hay will stand in as Chairman until Mr. Bradshaw arrives.**

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

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

**Item Two: Approval of the Minutes**

**Mr. Beermann moved to approve the minutes for February 10th, 2015. Mr. Huber seconded the motion and the motion was carried by a vote of four (4) in favor (Beermann, Huber, Mosley, & Hay) and zero (0) in opposition.**

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

**Item Three: Special Exception:**

**a. BA-2015-04**

A public hearing to consider a request from Mary Brand for a Special Exception to locate a carport in the front yard building setback in RS-6 (Residential Single Family) zoning. Legal description being GREEN ACRES SECTION 2, BLOCK 23, LOT 21. Located at 2002 Mimosa Drive.

Mr. Zack Rainbow presented the staff report for this case. 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.

The applicant wishes to construct a 20’ x 33’ front carport extending from the garage. The carport would be at least 8’ from the side property line and 17’feet from the curb on Mimosa Dr. The parkway width on Mimosa Dr. 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 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. Four (4) comment forms were returned in favor and zero (0) in opposition.

**STAFF RECOMMENDATION:**

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

Mr. Hay opened the public hearing.

Mrs. Mary Brand (property owner) spoke in favor of this Special Exception. Mrs. Brand stated the reason for this carport is to protect their classic vehicles from the inclement weather.

Mr. Hay closed the public hearing.

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

**Mr. Hay stated we will delay the meeting until Mr. Bradshaw arrives due to the lack of favorable votes for the agenda items.**

**Mr. Bradshaw arrives and the meeting is continued.**

**b.** **BA-2015-05**

A public hearing to consider a request from Don Balch, for a 6 foot variance to the 6 foot minimum rear building setback and a 20 foot variance to the required 25 foot exterior side building setback for an accessory building in RS-12 (Residential Single Family) zoning. Legal description being ELMWOOD ADDITION, BLOCK 5, 8 & 9, LOT 4, OUT LOT B. Located at 1166 Hollis Drive.

Mr. Zack Rainbow presented the staff report for this case. The applicants propose to build a 30’x 42’, 15’ tall accessory building along the rear property line, adjacent to the alley. The minimum rear setback for the proposed building is 6 feet and the applicant is wishing to place the building 0’ from the alley. The applicants are also proposing to locate the building 5 feet from the exterior side property line. The minimum exterior side setback in RS-12 is 25 feet.

The applicants state that the reason for the variance in the proposed location is that the northern portion of the backyard isn’t large enough to build a two car garage. Additionally, the variances would allow them to locate the proposed building in a location without having to remove a 100-yr old pecan tree.

A 15’ exterior side and a 6’ rear setback for the same size building were granted at the January 20th Board of Adjustment meeting. The applicant is requesting an additional 5’ variance from the exterior side setback making the total exterior side setback 20’. The applicant states that due to advice from an arborist, an additional 5’ setback from the pecan tree would be needed in order for the tree to survive. Therefore, the reason for the new variance requests.

However, Staff feels that due the substantial size of the proposed structure and variances requested that the location tree is not a peculiarity in this case.

**LAND USES:**

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

Staff was unable to determine a non-financial hardship or a peculiarity in this case.

**2. 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 variances at this location.

Property owners within 200 feet of the request were notified. Two (2) 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 the variances in this case. If the Board of Adjustment is inclined to approve the variances, staff recommends including the condition that would require them to mitigate any drainage from the accessory building onto the alley. This can be accomplished by sloping the roof away from the alley or by installing a gutter that directs the runoff onto the subject property.

Chairman Bradshaw opened the public hearing.

Mr. Don Balch (property owner) spoke in favor of this variance. Mr. Balch was approved for a variance prior and is now asking for an additional five (5) feet for the pecan tree in the backyard to continue to flourish.

Chairman Bradshaw closed the public hearing.

**Mr. Hay moved to approve BOTH of the Variances requested based on the findings in the staff report with the exception: that the Board has determined there is a peculiarity due to the pecan tree in the proximity to the proposed building and removing it would cause a non-financial hardship on the applicant; and, that this approval is based on the applicant directing the drainage from the building onto the applicant’s property**. **Mr. Beermann seconded the motion and the motion carried by a vote of five (5) in favor (Hay, Huber, Mosley, Beermann, & Bradshaw) and none (0) opposed.**

**c.** **BA-2015-06**

A public hearing to consider a request from Eric Vickers for a 3 foot variance to the 6 foot minimum rear building setback and a 3 foot variance to the required 6 foot interior side building setback for an accessory building on property zoned RS-8 (Residential Single Family). Legal description being HILLCREST ADDITION SECTION 2, BLOCK 7, LOT 11. Located at 2618 Garfield Avenue.

Mr. Zack Rainbow presented the staff report for this case. The applicant received a building permit

to construct a 30’x 24’, 10’ (as written on the building permit submitted by the applicant) tall storage

building in the northwest corner of his property, adjacent to the alley on 12-2-2014. When the Building

Inspector went to final inspect the building, he measured the actual height of the building to be

approximately 15’. The applicant built the building approximately 3’ from the alley and 3’ from the

side property line. The minimum side setback for the building based on the constructed height is 6’

from either property line. Therefore, the reason for the variance requests.

Section 2.4.4.1(b) 3: Accessory buildings with a maximum of ten feet (10’) shall be setback a minimum of three (3’) from an interior side or rear property line. In residential districts, the minimum for accessory buildings over ten feet (10’) in height, the accessory building must be setback from the interior side and rear property line, where no alley exists, and additional one foot (1’) for every one foot (1’) in height over ten feet (10’). For rear property lines adjacent to a dedicated alley, the setback shall only be one foot (1’) back for every two feet (2’) in height over

**LAND USES:**

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

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

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

Staff was unable to determine a non-financial hardship or a peculiarity in this case.

**2. 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 variances at this location.

Property owners within 200 feet of the request were notified. Two (2) 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 the variances in this case.

Mr. Bradshaw opened the public hearing.

Mr. Eric Vickers (property owner) stated the construction company that constructed the 24’x30’ building used 10’ walls and he was under the assumption the builder would know the correct building laws and measurements. Letter from the neighbor who shares the property line states they have no dispute with this building.

Chairman Bradshaw closed the public hearing.

**Mr. Hay moved to approve BOTH of the Variancesrequested by the applicant based on the findings in the staff report with the exceptions that the Board has determined there is a peculiarity due to the shape of the lot & location of the building and a non- financial hardship would be the impact on the trees if moved back into the lot further. Mr. Beermann seconded the motion and the motion carried by a vote of five (5) in favor (Hay, Huber, Mosley, Beermann, & Bradshaw) and none (0) opposed.**

**d. BA-2015-07**

A public hearing to consider a request from Abilene High School, agent

Ruppert Rangel, Parkhill, Smith & Cooper for a 0.4 foot variance to the required minimum elevation when located in a flood plain for an accessory building on

property zoned RS-6 (Residential Single Family). Legal description being A0050 SURVEY 88 PATRICK E DURST, ACRES 34.54. Located at 2800 N 6th Street.

Mr. Zack Rainbow presented the staff report for this case. The applicant applied for and received a building permit in October 2014, for construction of a 264 sq. ft. prefab restroom facility. The prefab building is for use as restroom facilities for the baseball field at the High School. A large portion of the lot lies within the 100-year Floodplain zone AO with a base flood level of 1712.9. The City of Abilene requires that new structures in the flood plain be elevated 1 foot above the base flood level. Therefore when the permit was issued the required minimum finished floor elevation of 1712.9 feet above mean sea level (msl) was written on the permit. When the applicants completed construction of the entire restroom facility, the City of Abilene requires a Finished Floor Elevation Certificate. When the surveyor measured the finished floor elevation, it was discovered that the elevation was .4 feet shorter than the required height. Therefore, the reason for the variance request. The Board of Adjustment has the authority to grant a variance up to 2 feet below the base flood elevation. In this case the base flood elevation is 1712.9 (msl) and the finished floor elevation of the restroom facility building is 1712.5 at its lowest point.

If a variance is approved, record of this variance will be recorded with the property records at the Taylor County Courthouse so that any potential purchaser of the property will be aware of the low finished floor elevation.

**Land Uses:**

The parcel is Abilene High School. Most of the surrounding properties are developed as single-family

residences, other school facilities, and few offices to the south.

**Section and Requirement of Regulations being varied:**

Chapter 3.2.45 regarding development in flood hazard areas.

**Conditions peculiar to the land:**

A large portion of the lot lies within the 100-year Floodplain.

**Hardship from strict interpretation:**

Staff could find no hardship with this case. When the applicant applied for a building permit the minimum finished floor elevation of 1712.9 feet above mean sea level (msl) was written on the permit.

**Effects on the health, safety and welfare:**

The proposed structure would be susceptible to property damage from significant rainfall and variances such as this can ultimately affect flood insurance rates across the community.

Property owners within 200 feet of the request were notified. Four (4) comment forms were returned in favor and three (3) in opposition.

**Staff recommendation:** Denial. From a strict interpretation, this request does not meet the requirements to grant a variance

Mr. Beermann inquired about the depth associated with the “*100-Year floodplain*”.

Mr. Rainbow stated that FEMA gives us maps which determine the base flood elevation and the requirement is one (1) foot above that when building. An AE zone requires a one (1) foot elevation; An AO zone requires a two (2) foot elevation.

Mr. Hay stated that the Board has the ability to approve two (2) feet below the flood elevation and that the building is above the FEMA flood elevation.

Mr. Rainbow stated it is below what flood insurance requires based on FEMA.

Chairman Bradshaw opened the public hearing.

Mr. Rupert Rangel (agent). In November 2013 the bond package was approved by the citizens that included installing restrooms at the baseball/softball field at Abilene and Cooper High School. Prior to this the restrooms were not in close proximity to the fields or were handicap accessible. To speed up construction, pre-cast concrete restrooms were selected and desired to have them installed before the 2015 baseball/softball season.

Mr. Brian Goldsmith (contractor) stated the building was constructed off-site and do not require a concrete floor, only an earthen pad. Mr. Goldsmith explained no civil drawings were issued showing a finished floor elevation requirement. A final inspection is all that was needed. Plans showed an adjacent sidewalk called a *datum zero elevation* in relation to how the pad elevation needed to be set.

Chairman Bradshaw closed the public hearing.

Mr. Hay stated that this is above the FEMA flood elevation with no danger to the building or structure with its construction.

**Mr. Hay moved to approve the Variance as requested by the applicant based on the findings in the staff report with the exceptions of: the Board has determined there is a peculiarity due to the precast structure set above the FEMA floodplain; A non-financial hardship is that if they are required to meet the rule they would not be able to use this facility for the 2015 season. Mr. Huber seconded the motion and the motion carried by a vote of five (5) in favor (Hay, Huber, Mosley, Beermann, & Bradshaw) and none (0) opposed.**

**Item Four: Adjourn**

Mr. Bradshaw moved to adjourn the meeting at 9:17 a.m.

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