|  |  |
| --- | --- |
| Members Present: | Wayne Bradshaw- ChairmanBob BeermannScott HayCol. LangholtzMr. Mosley  |
| Staff Present: | Zack Rainbow, Planner IIBen Bryner, Planning Services ManagerKelley Messer, Asst. City AttorneyDonna Boarts, Secretary II (Recording) |
| Others Present: | Terry KerboRobert & Melissa AlbaradoMelissa MadesonRichard Cortinaz |
|  |   |

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

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

**Item Two: Approval of the Minutes**

Mr. Langholtz moved to approve the minutes for the March 10th, 2015 meeting. Mr. Mosley seconded the motion and the motion was carried by a vote of five (5) in favor (Langholtz, Mosley, Beermann, Hay, & Bradshaw) and zero in opposition.

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

**Item Three: Special Exception:**

**a. BA-2015-08**

A public hearing to consider a request from Melissa Madeson, agent Lee’s Concrete for a Special Exception to locate a carport in the front yard building setback in PH (Patio Home) zoning. Legal description being CAMPUS ADDITION, BLOCK 19, LOT 102, REPLAT. Located at 1657 Sewell Street.

Mr. Zack Rainbow presented the staff report for this case. The applicant wishes to construct a 16’ x 10’ front carport extending from the front of the house over the existing driveway. The carport would be at least 3’ from the side property line and 20’feet from the curb on Sewell Street. The parkway width on Sewell Street. 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.

**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. Three (3) 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. Bradshaw opened the public hearing.

Mr. Malazano (business owner) spoke in favor of this special exception.

Mr. Bradshaw inquired the type of material used for the carport.

Mr. Malazano stated the material will be metal.

Mr. Beerman questioned if it will have the same roof line as the existing home.

Mr. Malazano stated that it will come out from the roof but be a flat roof.

Chairman Bradshaw closed the public hearing.

**Col Langholtz moved to approve the Special Exceptionbased on the findings in the staff report. Mr. Mosley seconded the motion and the motion carried by a vote of five (5) in favor (Langholtz, Mosley, Beermann, Hay, & Bradshaw) and none (0) opposed.**

**b.** **BA-2015-09**

A public hearing to consider a request from Vicente Mora for a Special Exception to locate a carport in the front yard building setback in RS-6 (Residential Single Family) zoning. Legal description being HOLIDAY HILLS SECTION 1 CONTINUATION, BLOCK G, LOT 33. Located at 5401 N. 9th Street.

Mr. Zack Rainbow presented the staff report for this case. The applicant wishes to construct a 20’ x 25’ front carport extending from the garage. The carport would be at least 9’ from the side property line and 17’feet from the curb on N. 9th Street. The parkway width on N. 9th 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.

**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. Zero (0) 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. Bradshaw opened the public hearing.

Mr. Mora (property owner) spoke in favor of this Special Exception.

Col Langholtz inquired if he was building the carport himself.

Mr. Mora stated that he will have help from the company he is employed with constructing the metal carport.

Chairman Bradshaw closed the public hearing.

**Col Langholtz moved to approve the Special Exceptionbased on the findings in the staff report. Mr. Beermann seconded the motion and the motion carried by a vote of five (5) in favor (Langholtz, Mosley, Beermann, Hay, & Bradshaw) and none (0) opposed.**

**c.** **BA-2015-10**

A public hearing to consider a request from Robert Albarado for a 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 L, LOT 10. Located at 1474 Yorktown Drive.

Mr. Zack Rainbow presented the staff report for this case. The applicant wishes to construct a 20’ x 20’ front carport extending from the garage. The carport would be at least 3’ from the side property line and 17’feet from the curb on Yorktown Dr. The parkway width on Yorktown 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. Five (5) 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 inquired about the single car width of the driveway, whether the occupant is considering building a double carport, and if the surface is going to be improved?

Mr. Rainbow stated that in the building permit process they would have to have an improved surface underneath the carport, either asphalt or concrete.

Chairman Bradshaw opened the public hearing.

Mr. Albarado (property owner) spoke in favor of this special exception. Stated that Willie Carrigan & Sons will be constructing the carport.

Chairman Bradshaw closed the public hearing.

**Col Langholtz moved to approve the Special Exceptionbased on the findings in the staff report. Mr. Mosley seconded the motion and the motion carried by a vote of five (5) in favor**

**(Langholtz, Mosley, Beermann, Hay, & Bradshaw) and none (0) opposed.**

**d. BA-2015-11**

A public hearing to consider a request from Richard Cortinez, agent Joshua Haynes for a Special Exception to resume a nonconforming use previously abandoned (Liquor store-on premise consumption) in HI (Heavy Industrial)**.** Legal description being OT ABILENE, BLOCK 136, LOT 7. Located at 541 China Street.

Mr. Zack Rainbow presented the staff report for this case. The applicant proposes to resume the non-conforming use of a previously abandoned bar (Liquor store-on premise consumption). Staff feels that the resumption of the non-conforming use would be appropriate for this location due to the surrounding zoning and land uses.

**LAND USES:**

The subject property had been a bar (Liquor Store- On Premise Consumption) up until February of 2014. The surrounding properties are developed with industrial type businesses.

**COMPATIBILITY WITH SURROUNDING LAND USES:**

Currently the property is zoned HI and had been developed as a bar (Liquor Store- On Premise Consumption) since at least 1975. The surrounding properties are developed with industrial type businesses.The previous Zoning Ordinance allowed the use of a bar (Liquor Store- on premise consumption) by right in the HI zoning district. The Land Development Code, approved in 2010, does not allow such a use in the HI zoning district. However, previously existing uses are allowed to remain as a ‘grandfathered’ use.

Staff feels that the resumption of the non-conforming use would be and has been compatible with the surrounding land uses for the past 40 years.

**EFFECTS ON PUBLIC FACILITIES:**

Staff anticipates no negative effects on public facilities from the resumption of the non-conforming use of a (Liquor Store- on premise consumption) at this location.

**RELATIONSHIP TO THE INTENT OF THE REGULATION:**

The intent of the regulation is to allow the Board of Adjustment to determine if the requested Special Exception complies with the following:

a. Will be wholly compatible with the use and permitted development of adjacent property, either as filed or subject to such requirements as the Board finds to be necessary to protect and maintain the stability of adjacent properties.

b. Will place no undue burden on public facilities. Public facilities to be considered shall include, but are not limited to streets and alleys, water and sewer utilities, schools and parks.

Property owners within 200 feet of the request were notified. Zero (0) comment forms were returned in favor and three (3) in opposition.

**STAFF RECOMMENDATION:**

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

Mr. Mosley inquired why the neighbor with the adjacent properties was opposed.

Mr. Rainbow stated that the property owner did not want the bar next to him.

Col Langholtz inquired if the non-conforming use stays with the facility or the owner.

Mr. Rainbow stated that it stays with the facility. The owner, or a future owner, would then be allowed to continue as it had been.

Mr. Ben Bryner stated that there is transition in the area. The use has been there for many years in a larger industrial area. A change of zoning would not necessarily be the best process and thus the applicant applied to go through the special exception process.

Chairman Bradshaw opened the public hearing.

Mr. Richard Cortinez (property owner) stated he has owned this property for 18-20 years. Mr. Cortinez clarified that the business did close down for a year due to remodeling from storm damage. He completed the inside remodel and had a roofing company fix the roof. He stated that he is in arrears with the property taxes.

Chairman Bradshaw closed the public hearing.

**Mr. Mosley moved to approve the Special Exceptionbased on the findings in the staff report. Col Langholtz seconded the motion and the motion carried by a vote of four (4) in favor (Mosley, Hay, Langholtz & Bradshaw) and one (1) opposed (Beermann).**

**e. BA-2015-12**

A public hearing to consider a request from Terry Kerbo for a Special Exception to locate a carport in the front yard setback and a 2 foot variance to the required 3 foot interior side building setback in RS-6 (Residential Single-Family) zoning. Legal Description being MAC BOWYER REPLAT OF BOWYER ADDITION, BLOCK 10, LOT 6. Located at 2433 Jeanette Street.

Mr. Zack Rainbow presented the staff report for this case. **(1) Special Exception:** The applicant is requesting a Special Exception to allow for a 20’ x 20’ carport extending from the enclosed garage. The carport would be 17’ from the curb on Jeanette St. The parkway width on Jeanette 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.

**(2) Variance:** The proposed carport would sit over the driveway and be setback 1’ feet from the side property line. The applicant is requesting a 2’ variance to the 3’ interior side setback in order to maintain the desired width over the driveway.

**LAND USES:**

This property and many of the nearby properties are developed with single-family homes. The property to the west is Hendrick Home and the properties to the south are developed with industrial uses.

**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.

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

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

**CONDITIONS PECULIAR TO THE LAND:**

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

**HARDSHIP FROM STRICT INTERPRETATION:**

Staff 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 a variance at this location.

**STAFF RECOMMENDATION:**

**(1)** Approval of the carport, the request meets the criteria necessary to approve a Special Exception.

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

Chairman Bradshaw opened the public hearing.

Mr. Terry Kerbo (property owner) spoke in favor of this zoning request. Mr. Kerbo stated he has resided at this property for 16 years.

Chairman Bradshaw inquired if the enclosed room was a garage at one point.

Mr. Kerbo stated he was the one that had enclosed it. Due to having larger vehicles and not having access to a garage, a carport is needed to protect the vehicles from inclement weather.

Col. Langholtz inquired who type of materials will be used.

Mr. Kerbo stated he will be constructing the carport and it will be manufactured out of metal.

Mr. Beermann inquired why the extra 2 ft. variance is needed.

Mr. Kerbo stated he is asking for the additional 2 ft. due to an inset near the door. If the carport was moved to the south it would encroach on the front entrance. The added width is needed for more than one vehicle.

Chairman Bradshaw closed the public hearing.

**Col Langholtz moved to approve the Special Exceptionbased on the findings in the staff report. Mr. Beermann seconded the motion and the motion carried by a vote of five (5) in favor (Langholtz, Mosley, Beermann, Hay, & Bradshaw) and none (0) opposed.**

**Mr. Hay moved to approve the 2 ft. varianceas requested based on the findings in the staff report with the exception of the peculiarity of the property being the way the house is situated and the location of the front entrance that if the carport was moved over it would impede the access to the front entrance of the house; non-financial hardship being that if the size of the carport was reduced it would not be able to be used for his vehicles. Mr. Beermann seconded the motion and the motion carried by a vote of five (5) in favor (Hay, Langholtz, Mosley, Beermann, & Bradshaw) and one none (0) opposed.**

**Item Four: Adjourn**

Mr. Bradshaw moved to adjourn the meeting at 9:05 a.m.

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