|  |  |
| --- | --- |
| Members Present: | Mr. Wayne Bradshaw- Chairman  Mr. Bob Beermann  Mr. Scott Hay  Col. Langholtz  Mr. Waldraff |
| Staff Present: | Zack Rainbow, Planner II  Ben Bryner, Planning Service Manager  Kelley Messer, Asst.City Attorney  Donna Boarts, Secretary II (Recording) |
| Others Present: | Pat O’Brien  Richard/ Susan Taylor |
|  |  |

**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**

**Col Langholtz moved to approve the minutes for April 14th, 2015. Mr. Beermann seconded the motion and the motion was carried by a vote of five (5) in favor (Langholtz, Waldraff, Beermann, Hay, & Bradshaw) and zero (0) in opposition.**

**Item Three: Special Exception:**

**a.** **BA-2015-13**

A public hearing to consider a request from M. Pat O’Brien for a Special Exception to locate a carport in the front yard building setback in RS-6 (Residential Single Family) zoning. Legal description being NORTHWOOD SECTION 3, BLOCK 7, LOT 30. Located at 1925 Marsalis 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 5’7” from the side property line and 17’ feet from the curb on Marsalis Dr. The parkway width on Marsalis 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. 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. Pat O’Brien (property owner) spoke in favor of this Special Exception.

Mr. Bradshaw inquired if the carport would extend from the existing roof line or will it be a metal flat roof?

Mr. O’Brien stated that it will be a metal flat roof. The carport is desired for the extra vehicle to protect from inclement weather.

Col. Langholtz inquired if there was going to be a contractor doing the construction?

Mr. O’Brien stated that Carrigan & Sons will be constructing it.

Mr. Bradshaw closed the public hearing.

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

**b. BA-2015-14**

A public hearing to consider a request from Richards and Susan Taylor for a 3 foot variance to the required 3 foot interior side building setback for and accessory building in PD4 (Planned Development) zoning. Legal Description being FAIRWAYS, BLOCK I, LOT 44. Located at 29 Pebble Beach.

Mr. Zack Rainbow presented the staff report for this case. The applicants constructed an 8’x 16’, 10’ tall storage building along their interior side property line without a building permit. The City was made aware of the building and a Building Inspector was sent to visit the property. Being that the building was under 200 sq. ft. and had no utilities, a building permit is not required. However, zoning setbacks still need to be met. Therefore, the Building Inspector notified Planning and the Zoning Officer was sent to make an inspection the next morning. The applicants built the building approximately 6’ from the house and 0’ from the interior side property line. The minimum side setback for the building is 3’ from the interior side property line. Therefore, the reason for the variance request.

The applicants state that the only other spaces to locate the building would impede the use of the backyard due to a 7.5’ Utility Easement along the back property line, 2 large trees and the location of a pool in the northeast corner.

**LAND USES:**

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

**CONDITIONS PECULIAR TO THE LAND:**

Staff feels that the location of 2 large, mature trees, a pool, and the 7.5’ Utility Easement along the rear property line, could be considered peculiarities 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:**

The zoning ordinance anticipates problems with buildings being located too close to property lines, which is the reason for the setback requirement. Possible negative effects include drainage issues onto the neighboring property, inability to adequately maintain the exterior side of the building without entering the neighbors’ property, and other potential negative impacts.

Property owners within 200 feet of the request were notified. Three (3) comment forms were returned in favor and two (2) in opposition.

**STAFF RECOMMENDATION:** Since the applicants did not satisfy all of the conditions necessary for a variance from a strict interpretation, staff recommends denial. However, if the Board approves the request, staff recommends that the variance applies only to the existing accessory building and that the applicants mitigate any potential drainage issues onto the neighboring property.

Chairman Bradshaw opened the public hearing.

Mr. Richard & Susan Taylor (property owner) spoke in favor of this storage building.

Chairman Bradshaw inquired if approved, a rain gutter would be needed to mitigate the water runoff from the property.

Mr. Taylor stated that he would install a rain gutter as well as vinyl siding to make it more suitable and match the house. Mr. Taylor stated that he had researched the city website to see if there were any building restrictions. Was advised by building inspector, due to no utilities and not being a permanent structure it would not require the 3 foot set-back but was advised to stop construction until Board of Adjustment meeting was scheduled. Due to the landscape and utility easement space is limited.

Chairman Bradshaw closed the public hearing.

**Mr. Hay moved to approve the Variance as requested by the applicant based on the findings in the staff report with the exception of a hardship that they would suffer due to not having access available to them at this location to present a storage option to pacify the neighbors concern with the extra vehicles, add a qualification that the applicant would install a gutter system to prevent any drainage from this structure going unto the neighbor’s property, as well as apply the siding to match the existing house to make the structure less obtrusive in the neighborhood. These restrictions would only apply to this accessory building. Mr. Beermann seconded the motion and the motion carried by a vote of four (4) in favor (Hay, Langholtz, Beermann, & Bradshaw) and one (1) opposed (Waldraff).**

**Item Four: Adjourn**

Mr. Bradshaw moved to adjourn the meeting at 9:00 a.m.

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