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| Members Present: | Mr. Wayne Bradshaw- ChairmanMr. Bob BeermannMr. Scott HayMr. HuberCol. Langholtz  |
| Staff Present: | Zack Rainbow, Planner IIBen Bryner, Planning Service ManagerKelley Messer, Asst.City AttorneyDonna Boarts, Planning Secretary (Recording) |
| Others Present: | Mr. & Mrs. WhalenRonnie BrownCarol CooperZane SitzesMichael PowerMarcie LloydLorancy & Shannon McCubbins |
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**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 June 9th, 2015. Mr. Huber seconded the motion and the motion was carried by a vote of five (5) in favor (Langholtz, Beermann, Hay, Huber and Bradshaw) and zero (0) in opposition.**

**Item Three: Special Exception:**

**a.** **BA-2015-19 (tabled from 6-9-2015)**

A public hearing to consider a request from Floyd James & Sara Jane Whalen for a Special Exception to locate a carport in the front yard building setback in RS-6 (Residential Single Family) zoning. Legal description being THORNTON HEIGHTS, BLOCK 5, LOT 8. Located at 2401 S. 39th Street.

**Mr. Huber made the motion to REMOVE Item BA-2015-19 from the table. Col Langholtz seconded the motion. The motion was carried unanimously.**

Mr. Zack Rainbow presented the staff report for this case. The applicant wishes to construct a 20’ x 22’ front carport extending from the garage. The carport would be at least 5’from the side property line and 17’ feet from the curb on S. 39th St. The parkway width on S. 39th 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.

**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 were no other front carports built extending into the front building setback located on S 40th St, S 39th St, or S 38st St.

**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 without any front carports, the proposal is not 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:**

Denial, the request does not meet the criteria necessary to approve a special exception.

Mr. Bradshaw opened the public hearing.

Mr. James Whalen brought in signatures from neighbors on adjacent streets. Out of the seventy-four (74) homes that were contacted, seventy-three (73) were in favor and one (1) in opposition. Observing carports six (6) carports in the neighborhood, twenty-one (21) carports on streets nearby.

Mr. Hay inquired about the one (1) opposing vote.

Mr. Whalen stated the neighbor did not want a carport in the neighborhood.

Col Langholtz inquired about the existing carports stating they possibly were not permitted or did not require a permit.

Mr. Rainbow stated if the carport does not extend past the front building line, which would not require approval.

Mr. Lorancy McCubbins (neighbor) spoke in favor of the carport in the neighborhood.

Mr. Michael Power (neighbor) spoke in favor of the carport in the neighborhood.

Mr. Larry Sommers (neighbor) spoke in favor of this carport in the neighborhood.

Mr. Zane Sitzes (Abilene Portable Building) stated that he is not constructing this carport, he spoke in favor of one in this neighborhood.

Mrs. Marcy Lloyd (neighbor) spoke in favor of having the carport in the neighborhood.

Mrs. McCubbins (neighbor) spoke in favor of this carport in the neighborhood.

Mr. Bradshaw closed the public hearing.

Mrs. Messer inquired about the conditions concerning the building materials that is applied due to

the architecture of the homes in the neighborhood.

Mr. Rainbow stated, the applicant was asked to acquire a signed petition from neighbors who

were in agreement or in opposition having a carport being built.

Mr. Bryner stated there are many carports that are constructed without a permits.

**Mr. Hay moved to approve the Special Exceptionbased on the findings of the staff report; *as well as the additional information provided by the applicant expressing the intent of the regulation that coincides with the neighborhood*. Mr. Huber seconded the motion and the motion carried by a vote of five (5) in favor (Hay, Huber, Langholtz, Beermann, & Bradshaw) and none (0) opposed.**

**b.** **BA-2015-21**

A public hearing to consider a request from Maudie L. and Charles R. Webb, agent Zane Sitzes for a Special Exception to locate a carport in the front yard building setback in RS-6 (Residential Single Family) zoning. Legal description being ELMWOOD WEST SECTION H, BLOCK 5, LOT 18. Located at 301 Oxford Street.

Mr. Zack Rainbow presented the staff report for this case. The applicant wishes to construct a 21’ x 20’ front carport extending from the garage. The carport would be at least 5’ from the side property line and 20’ feet from the curb on Oxford St. The parkway width on Oxford St. 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. 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.

Chairman Bradshaw opened the public hearing.

Mr. Zane Sitzes (agent, Abilene Portable Building) agent that will be constructing the carport. Mr. Sitzes stated he will be using an all steel construction with a single slope roof.

Chairman Bradshaw closed the public hearing.

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

**c.** **BA-2015-22**

A public hearing to consider a request from Ronnie Brown for a Special Exception to locate a carport in the front yard building setback in RS-8 (Residential Single Family) zoning. Legal description being WYCHWOOD PLAZA, BLOCK H, LOT 9. Located at 2809 San Miguel Drive.

 Mr. Zack Rainbow presented the staff report for this case. The applicant constructed a 20’5” x 21’2” front carport extending from the garage. The carport is 9’10” from the side property line and 16’3” feet from the curb on San Miguel Dr. The applicant was issued a “stop work” order in response to a complaint on 4-27-2015. Therefore, the reason for the Special Exception request. The parkway width on San Miguel 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 no other front carports built extending into the front building setback located within the surrounding area.

**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 without any front carports, the proposal is not consistent with the intent of the regulation.

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, the request does not meet the criteria necessary to approve a special exception.

Chairman Bradshaw opened the public hearing.

Mr. Ronnie Brown (property owner). Mr. Brown specified he was made aware of the permit needed due to a stop work order issued. Stated due to the inclement weather and some vandalism, he wanted to protect his property and vehicle.

Mr. Huber inquired about the neighborhood and if there were oppositions?

Mr. Brown stated he spoke to twenty (20) residents, received nine (9) signatures.

Mr. Huber inquired if a broader survey of the neighborhood would be acceptable?

Mr. Brown agreed with this additional survey.

Chairman Bradshaw closed the public hearing.

Mr. Beermann stated that a 9” set-back is required to be within the guidelines.

Mr. Rainbow stated that a typical set-back would be 15 ft. on a local street, with a 12 ft. pkwy, as long as the front building set-back is met, you are able to have a car-port. The car-ports closer to the residence would need a Special Exception.

Col Langholtz inquired how much of an adjustment is needed.

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Mrs. Messer stated if the Special Exception is not granted, it is likely that the edge of the garage is on the front building set-back.

Mr. Rainbow explained that 17’ ft. of the curb is allowable, if approved Mr. Brown would then need to remove 9” of the existing car-port.

Mr. Hay recommended that we ***TABLE item BA-2015-22*** requesting that the applicant acquires signatures for the neighborhood before a decision is made.

Chairman Bradshaw closed the public hearing.

**Mr. Huber moved to *TABLE BA-2015-22* no longer than 90 days, 30 days before the scheduled date.**

Mrs. Messer stated if a month has thirty-one (31) days in it, advised the motion should be given to the month.

***AMENDING THE MOTION:***

**Mr. Huber moved to *TABLE BA-2015-22* no later than the October 13th, 2015 meeting.**

**Col Langholtz seconded the motion and the motion carried by a vote of five (5) in favor (Langholtz, Beermann, Hay, Huber & Bradshaw) and none (0) opposed.**

**d.** **BA-2015-23**

A public hearing to consider a request from Carol Cooper for a 5’ variance to the required 5’ exterior side building setback for a carport in RS-6 (Residential Single Family) zoning. Legal description being E A SHEPPERD SUBDIVISION OF NORTH PARK, BLOCK A, LOT 13. Located at 2701 Beech Street.

Mr. Zack Rainbow presented the staff report for this case. The applicant wishes to construct a 37’x 20’carport over the existing exterior side driveway located along Lowden Street. The applicant is requesting a 5’ variance to the 5’ exterior side setback in order to locate the carport on the property line. The parkway width along Lowden Street is 12’. The Board of Adjustment has the authority to grant a variance to the 5’ setback on the subject property, but does not have the authority to grant an encroachment into the public right-of-way. Therefore, if approved, the carport can be no closer to the street than 12’. Additionally, the carport must be over an improved surface.

The applicant states that based on where the house is located, they need to use up to the property line to

accommodate parking. Therefore, the reason for the variance request.

 **LAND USES:**

This property and the most of the nearby properties are developed with large single-family homes.

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

Section 2.4.4.2 (b) (1): Exterior side setback for a carport/patio cover = 5’

**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.

Property owners within 200 feet of the request were notified. Zero (2) comment forms were returned in favor and zero (0) in opposition.

**STAFF RECOMMENDATION:**

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

Chairman Bradshaw opened the public hearing.

Mr. Bob French and Carol Cooper (property owners) spoke in favor of having a carport. Stated the measurements that were described were not accurate. Mr. French stated he would like it to be 8ft. from the curb, behind the tree the fence line measures 11.5 ft. from the curb. Stated the carport is will be along the existing fence line, due to the length it will not cover both of the vehicles, primarily for any inclement weather.

Mr. Rainbow stated depending on where the measurement was taken, if measured from the back of the curb it would be 12 Ft. and a *variance* would still be needed.

Chairman Bradshaw closed the public hearing.

**Mr. Hay moved to approve the *5 Ft. Variance* to the exterior side set-back requested based on the findings in the staff report with the exception: that the Board has determined there is a peculiarity due being on a corner lot and the existing layout of the house on the property; Non-financial hardship on the applicant; protecting the vehicles and themselves from any inclement weather.**  **Col Langholtz seconded the motion and the motion carried by a vote of five (5) in favor (Hay, Huber, Langholtz, Beermann, & Bradshaw) and none (0) opposed.**

**Item Four: Adjourn**

Mr. Bradshaw moved to adjourn the meeting at 9:43 a.m.

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