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| Members Present: | Wayne Bradshaw – Chairman  Bob Beermann  Scot Hay  Roger Huber |
| Staff Present: | Zack Rainbow, Planner II  Ben Bryner, Planning Services Manager  Kelley Messer, Asst. City Attorney  Donna Boarts, Administrative Planning Secretary (Recording)  Gordon Browning, Interim Director of Planning and Development |
| Others Present: | Mike Murray |
|  | Jerome Vahalik  Tommy Faircloth |

**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. Huber moved to approve minutes for July 14, 2015. Mr. Hay seconded the motion and the motion was carried by a vote of four (4) in favor (Huber, Hay, Beermann, & Bradshaw) and zero (0) in opposition.

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

**Item Three: Agenda Items:**

**a.** **BA-2015-24**

A public hearing to consider a request from Tommy Faircloth, agent James Hauner Jr. 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 Y, LOT 10, REPLAT BLOCK H. Located at 1713 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. Seven (7) 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. Faircloth (property owner) spoke in favor of this Special Exception.

Mr. Huber inquired the type of material will be used?

Mr. Faircloth stated he was not certain of the type of material that will be used. This contractor has

built other carports in the neighborhood using metal.

Chairman Bradshaw closed the public hearing.

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

**b.** **BA-2015-25**

A public hearing to consider a request from Harriet Sargent, agent Willie Carrigan for a Special Exception to locate a carport in the front yard building setback in RS-6 (Residential Single Family) zoning. Legal description being LYTLE SHORES SOUTH SECTION 4, BLOCK B, LOT 13. Located at 1334 Baylor Drive.

Mr. Zack Rainbow presented the staff report for this case. The applicant wishes to construct a 13’ x 13’ front carport extending from the garage. The carport would be at least 6’ from the side property line and 17’ feet from the curb on Baylor Dr. The parkway width on Baylor 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 most of the surrounding properties are developed with single family homes. The property to the north is used for agricultural purposes.

**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. Jerome Vahalik (neighbor) spoke in favor of his neighbor’s Special Exception request. Mr. Vahalik

stated that Mrs. Sargent (property owner) would have an acceptable carport built.

Chairman Bradshaw closed the public hearing.

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

**c.** **BA-2015-26**

A public hearing to consider a request from Paul Bilberry for a 3 foot variance from the minimum 100 foot lot depth, a 5 foot variance from the minimum 80 foot lot width, and a 4725 square foot variance from the minimum 12,000 square foot lot size required in RS-12 (Residential Single Family) zoning. Legal description being RIVERSIDE DRIVE ADDITION, BLOCK 8, LOT WEST 97’ OF LOT 26 AND THE WEST 97’ OF THE NORTH 30’ OF LOT 25. Located at 501 Riverside Boulevard.

Mr. Zack Rainbow presented the staff report for this case. The subject parcel was part of 1 lot platted in the 1920’s. The lot was split up and re-subdivided incorrectly into 2 lots sometime after the original plat and before 1946 and homes were built beginning in 1946. According to our records, we do not believe there was a subdivision ordinance in affect, at the time, preventing this type of split. However, in order to make the subject property a duly recorded lot of record, it has to be platted. It was discovered through discussions with the appraiser and property owner, that the lot did not have enough depth, width, or area to be platted without variances from the Board of Adjustment.

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

Table 2-2 Site Layout and Building Requirements:

(1) Minimum lot depth in the RS12 Zoning District: 100 feet

(2) Minimum lot width in the RS12 Zoning District: 80 feet

(3) Minimum lot area (s.f.) in the RS12 Zoning District: 12,000 s.f.

**LAND USES:**

The subject parcel has a home on it that was built in 1949, and most nearby parcels are developed with single-family homes.

**CONDITIONS PECULIAR TO THE LAND:**

The subject parcel was part of 1 lot platted in the 1920’s. The lot was split up and re-subdivided incorrectly into 2 lots sometime after the original plat and before 1946 and homes were built beginning in 1946. The applicant is wishing to sell the house on one of the substandard lots at 501 Riverside Drive and the lending company is requesting that the applicant re-plat the property. New plats are required to meet the standards in place at the time the plat application is submitted and without the variances, if the home were to be destroyed or demolished, the lot is would be unbuildable.

**HARDSHIP FROM STRICT INTERPRETATION:**

The subject parcel had a house built on in 1949 and the adjacent portion of the lot had a home built on it in 1946. The lots to the south and west all have existing homes preventing the property owner from purchasing additional property in order to meet the minimum lot width of 80’, depth of 100’, and minimum lot size. Staff feels that these conditions would be a hardship on this property.

**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. One (1) comment form was returned in favor and one (1) in opposition.

Chairman Bradshaw opened the public hearing.

Mr. Mike Murray (Attorney) representing the property owner Mr. Bilberry. Mr. Murray provided the panel with information on this request. As demonstrated by the information in the packet, the properties were separated between 1949 and 1983. Mr. Bilberry acquired the front house in 1986. A survey in the paperwork shows what was purchased and a copy of an appraisal that was obtained. The appraiser stated at that time that the property met zoning requirements. Concluding with paperwork showing an appraisal completed in 2012. The current property is in escrow and an appraiser caught the discrepancy and requested for a variance and re-platting of the property.

Chairman Bradshaw closed the public hearing.

Chairman Bradshaw inquired if the vote needed to be made on the three (3) items.

Mrs. Messer stated as long as it is clear a vote can be made for all three items. If proposing to deny any of the three items, a separate vote would be advised.

Chairman Bradshaw opened the public hearing.

Mr. Mike Murray stated that Mr. Bilberry attempted to speak with his neighbors to discuss the notifications that were mailed out.

Chairman Bradshaw closed the public hearing.

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

**Item Four: Adjourn**

Mr. Bradshaw moved to adjourn the meeting at 8:55 a.m.

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