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| Members Present: | Mr. Wayne Bradshaw- Chairman  Mr. Scott Hay  Mr. Huber  Mr. Mosley  Ms. Ramsay |
| Staff Present: | Zack Rainbow, Planner II  Ben Bryner, Planning Service Manager  Kelley Messer, Asst.City Attorney  Donna Boarts, Planning Administrative Secretary (Recording) |
| Others Present: | Ronnie Brown  Johnny Jennings  Jimmy & Gretchen Herman  Robert Thompson |
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**Item One: Call the Meeting to Order:**

Mr. 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 the minutes for September 8, 2015. Mr. Hay seconded the motion and the motion was carried by a vote of five (5) in favor (Huber, Mosley, Ramsay, Hay, & Bradshaw) and zero (0) in opposition.**

**Item Three: Special Exception:**

**a.** **BA-2015-22 (Tabled from 7-14-2015)**

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. Huber made the motion to REMOVE Item BA-2015-22 from the table. Mr. Bradshaw seconded the motion. The motion was carried unanimously.**

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.

Mr. Bradshaw opened the public hearing.

Mr. Ronnie Brown (property owner) explained why signatures were not attained as requested by the Board within the neighborhood.

Mr. Hay stated that even if approved it would need to be reduced 9” in length. The Board is not able to grant anything within 17 ft. of the curb.

Mr. Bradshaw closed the public hearing.

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

**b.** **BA-2015-27**

A public hearing to consider a request from Raul Rios, agent James Hauner Jr., 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 4, BLOCK 19, LOT 9. Located at 2350 Westwood Drive.

Mr. Zack Rainbow presented the staff report for this case. The applicant wishes to construct a 27’ x 20’ front carport extending from the garage. The carport would be at least 7’ from the side property line and 17’ feet from the curb on Westwood Dr. The parkway width on Westwood 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 one (1) in opposition.

**STAFF RECOMMENDATION:**

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

Chairman Bradshaw opened the public hearing. No one came forward and the public hearing was closed.

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

**c.** **BA-2015-28**

A public hearing to consider a request from Sandra and Robert Thompson 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 6, BLOCK 2, LOT 125, REPLAT. Located at 1841 Richland Drive.

Mr. Zack Rainbow presented the staff report for this case. The applicant wishes to construct a 24’ x 24’ front carport extending from the garage. The carport would be at least 5’7” from the side property line and 23’ feet from the curb on Richland Dr. The parkway width on Richland 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 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. Two (2) 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. Robert Thompson (property owner) brought in plans of the proposed carport. Mr. Thompson states the free standing carport will follow the identical roofline as the home.

Chairman Bradshaw closed the public hearing.

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

**d.** **BA-2015-29 (REMOVED FROM THE AGENDA~ VARIANCE NOT NEEDED)**

A public hearing to consider a request from Terry and Becky Sergeant, agent Gary House for a 10’ - 6” variance from the minimum 25’ required rear setback in RS-8 (Residential Single Family) zoning. Legal description being NORTHWOOD SECTION 6, BLOCK 2, LOT 125, REPLAT. Located at 710 Diamond Lake Drive.

**e. BA-2015-30**

A public hearing to consider a request from Jimmy and Gretchen Herman for a 5’ variance from the minimum 10’ required interior side setback in RS-12 (Residential Single Family) zoning. Legal description being ELMWOOD WEST SECTION 5, BLOCK Q, LOT 170, REPLAT OF 17. Located at 1362 S. Leggett Drive.

Mr. Zack Rainbow presented the staff report for this case. The original house was built in 1972 at 5’6” from the northern, interior side property line. An additional two separate variances for additions were approved at this address for similar requests, one in 1980 and the other in 1987. The one granted in 1987 was for a 30’x19’ master bedroom addition. The applicants wish to add a 30’x19’ ADA accessible master bath onto the existing master bedroom. The minimum interior side building setback for a primary structure in RS-12 zoning is 10’. The proposed addition would be approximately 5’ from the side property line and no closer than the existing house currently sits.

The applicants state that there would be no other site on the property for a master bath addition other than the proposed location and they will be incorporating the additional master bath with the proposed addition in order to make it ADA accessible. They also state that there are no other ADA accessible bathrooms in the existing house.

**LAND USES:**

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

**CONDITIONS PECULIAR TO THE LAND:**

There have been two separate variances approved at this address for similar requests, one in 1980 and the other in 1987. This request would be in line with the others that were previously approved by the Board of Adjustment.

**HARDSHIP FROM STRICT INTERPRETATION:**

Staff feels that the request is in line with similar requests previously approved by the Board of Adjustment on 2 separate occasions. The applicant is also seeking the variance to allow for an expansion to the master bathroom to make it ADA accessible. Staff feels that these could be considered hardships in this case.

**EFFECTS ON PUBLIC HEALTH, SAFETY, AND 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. One (1) comment form was returned in favor and zero (0) in opposition.

**STAFF RECOMMENDATION: Staff recommends approval. Staff feels that precedence set**

**by the approval of the prior two, similar variance requests and the need to make the bathroom**

**ADA accessible are both justifications to grant a variance to the subject property.**

Chairman Bradshaw opened the public hearing.

Mr. Jimmy Herman (property owner) spoke that due to his disabilities he is looking to make his master bathroom handicap accessible.

Chairman Bradshaw closed the public hearing.

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

**f. BA-2015-31**

A public hearing to consider a request from Welton Robinson for a 10’ variance from the minimum 10’ required interior side setback in NR (Neighborhood Retail) zoning. Legal description being HEDGES ADDITION SECTION 4, BLOCK 3, LOT 10 & 11. Located at 3000 Southwest Drive.

Mr. Zack Rainbow presented the staff report for this case. The applicant is requesting the 10’ variance to the required 10’ interior side building setback in order to enclose an approximately 21’x23’ existing fenced playground. The proposed addition would extend south from the existing building towards Southwest Drive. The proposed addition would not extend any closer to the side property than the existing building already sits.

The existing building was built in 1992 with Site Plan approval. The Zoning Ordinance at the time did not require any interior side building setback. In 2010 the City Council adopted the Land Development Code (with the recommendation of the Planning and Zoning Commission) which included the 10’ interior side building setback within the NR, O, & NO zoning districts. With both the Zoning Ordinance and the Land Development Code, when a building is expanded or a site is redeveloped, it must be done in compliance with the regulations in place at that time.

Staff feels that there are other areas where an addition of this size could be constructed and still meet the required building setbacks.

**LAND USES:**

This property is developed as a retail store and the many of the surrounding properties are developed as retail and office uses. The properties to the north are developed with houses.

**CONDITIONS PECULIAR TO THE LAND:**

The existing building was built in 1992, 0’ from the interior side property line. The proposed addition would not extend any closer to the side property line than the existing building.

**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 (0) comment forms were returned in favor and zero (0) in opposition.

**STAFF RECOMMENDATION:**

Staff recommends denial on the variance for the rear setback. Although staff was able to determine a peculiarity, staff was unable to determine a non-financial hardship in this case.

Chairman Bradshaw opened the public hearing.

Mr. Welton Robinson (property owner) stated that the original addition was built 23 years ago and was used as a play area. He stated that he needs more storage space and wants to use the area as part of the store. Indicated that at the time this was built the zoning was LC (Limited Commercial). In 2010 the district was changed to NR (Neighborhood Retail).

Mr. Johnny Jennings (building designer) stated that he was an original designer on this building and spoke in favor of this variance.

Chairman Bradshaw closed the public hearing.

**Mr. Hay moved to approve the Variancebased on the findings in the staff report with the addition of a hardship being that anything different than what is requested would be inconsistent with the existing building architecture and floor plan. Mr. Huber seconded the motion and the motion carried by a vote of five (5) in favor (Hay, Huber, Mosley, Ramsay, & Bradshaw) and none (0) opposed.**

**Item Four: Adjourn**

Mr. Bradshaw moved to adjourn the meeting at 9:06 a.m.

**Mrs. Kelly Messer inquired why Item Z-2015-29 was removed from the agenda. Chairman Bradshaw opened the public hearing.**

Mr. Bryner stated that for item Z-2015-29 a regulation in the LDC (Land Development Code) authorizes the Planning Director to reduce a set-back up to 50% when adjacent to an unbuildable area, i.e. due to an overhead power line easement.

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