

MINUTES OF THE CITY OF MESQUITE BOARD OF ADJUSTMENT, HELD OCTOBER 22, 2009, AT 6:37 P.M., AT CITY HALL, 711 NORTH GALLOWAY AVENUE, MESQUITE, TEXAS

Present: Chairman Jennifer Vidler, Regular Members Dianne Mendoza, Lonnie Craine, and Alternate Member Duddly Hargrove

Absent:

Staff: Senior Planner Garrett Langford, Planner Elizabeth Butler, Planner Danielle Wonkovich, Manager of Planning and Zoning and Assistant City Attorney Steve Crane

I. APPROVAL OF THE MINUTES OF THE SEPTEMBER 24, 2009, MEETING

Mr. Hargrove moved to approve the minutes of the September 24, 2009, Board meeting. Mr. Craine seconded and the motion passed unanimously.

II. SPECIAL EXCEPTION

A. **Case No. 3639**

Conduct a public hearing to consider an application submitted by Allstate Carport and Patio on behalf of Al Blalock for a special exception to allow a front yard carport to encroach 20 feet into the 30-foot front yard setback at 2430 Sybil Drive.

Garrett Langford, Senior Planner, presented the staff report. The applicant is requesting a special exception to construct a front carport over a single-car wide driveway that will encroach 20 feet into the required 30-foot front yard setback. Staff found that homes in the immediate vicinity of the subject property contain a variety of either one (1)- or two (2)-car garages with front access from the street or garages converted to living space. The subject property does not have a garage. The home was either constructed without a garage or it was converted into living space. Homes in this neighborhood and along the same street have paved rear alley access which could afford the opportunity to provide parking in the back yard behind the building line. However, the alley is in poor condition and not easily accessible. Additionally the subject property has no driveway in the rear of property connecting to the alley. Most if not all of the homes along Sybil Drive do not have rear driveway connections to the alley.

The home in question meets most of the criteria laid out in the Zoning Ordinance for a Special Exception for front carports; the home was built in 1961 before off-street parking was required behind the building line; the home either was built without a garage or the single-car garage was converted into living space; while there is a paved alley, the property along with most of the homes in the area do not have a driveway connection. Therefore, Staff recommends approval of the request.

Mr. Langford stated that he received one response from the property owner notices in favor of the request.

Al Blalock, 2430 Sybil Drive, presented the request for the front carport. The Board discussed the case among themselves and with the applicant.

Ms. Vidler opened the public hearing asking if anyone wished to speak in favor of or in opposition to the request. As no one came forward to speak, Ms. Vidler closed the public hearing.

Mr. Hargrove moved to approve the request as submitted. Mr. Craine seconded and the motion passed unanimously.

B. **Case No. 3640**

Conduct a public hearing to consider an application submitted by Metro Patio and Carport, Inc., on behalf of Brian and Dana Barber for a special exception to allow a front yard carport to encroach 18 feet into the 30-foot front yard setback at 3929 Flamingo Way.

Garrett Langford, Senior Planner, presented the staff report. The applicant is requesting a special exception to construct a front carport over a three-car wide driveway that will encroach 18 feet into the required 30-foot front yard setback. The total size of the proposed carport is 18 feet by 27 feet, equating to a total area of 486 square feet. The proposed carport will be wide enough to provide three off-street covered parking spaces. Homes in the immediate vicinity of the subject property contain a variety of either one (1)- or two (2)-car garages with front access from the street. The subject property has a two car- garage which now accessed by a 30-ft wide driveway. Homes in this neighborhood and along the same street have paved rear alley access which could afford the opportunity to provide parking in the back yard behind the building line. Although the subject property has alley access, there is no driveway in the rear of property connecting to the alley. The majority of the homes along Flamingo Way and along the neighboring streets do not have rear driveway connections to the alley.

Given the prevalence of front carports in the neighborhood with BOA approval, a proposed carport for the subject property is not expected to create adverse impacts for adjacent properties. The size of the proposed carport, however, may be out of character with the surrounding carports. It is uncommon for a front carport to provide for three off-street covered parking spaces. The house is approximately 50 feet wide, therefore a 27-foot wide carport will cover more than 50 percent of the house façade. Approving an uncommonly large carport would be out of character with the previously approved front carports in the immediate area. The home in question generally meets some of the criteria for a Special Exception for front carport under the right size. Staff recommends approving the front carport to encroach 18 feet into the front yard setback with a maximum width of 20 feet to be located directly in front of the two-car garage.

Mr. Langford stated that he received five responses from the property owner notices in favor of the request.

Jack Gaines, Metro Patio and Carports, Inc., presented the request for the front carport. The Board discussed the case among themselves and with the applicant. Mr. Gaines stated that the driveway flairs out to 30 feet wide and having a carport only twenty feet wide would put the post in a position that would prevent access to part of the driveway.

Ms. Vidler opened the public hearing asking if anyone wished to speak in favor of or in opposition to the request. As no one came forward to speak, Ms. Vidler closed the public hearing.

The Board Members expressed concerns with how the size of the proposed carport will cover the majority of the house façade.

Mr. Hargrove moved to deny the request as submitted. Mr. Craine seconded and the motion passed unanimously.

C. Case No. 3642

Conduct a public hearing to consider an application submitted by John Reid on behalf of Christ Gospel Church for a special exception to allow a temporary classroom at 1007 Barnes Bridge Road.

Garrett Langford, Senior Planner, presented the staff report. The applicant is requesting a special exception to allow the use of a temporary classroom structure for use by the Christ Gospel Church for Sunday school classes and other related functions. The 560 square-foot (20 feet by 28 feet) structure is proposed to be located west of the existing church on an undeveloped portion of the lot.

Mr. Langford stated that the site meets the criteria laid out in the Zoning Ordinance or very easily can meet the stated criteria with recommended conditions. It is recommended that a certificate of occupancy be obtained as a condition of approval of the special exception to place the temporary classroom building on the site. The applicant states that the Christ Gospel Church does plan to eventually construct an additional facility on the subject property in the near future. The recommended special exception is for a period of three (3) years with the option of the Board to extend such approval period as deemed necessary. The site's parking, circulation, electrical and utility connections, drainage and fire protection capacity to serve the temporary classroom are already in place for the most part and are adequate to serve the site.

The requested temporary classroom building is compatible with the surrounding neighborhood with consideration for the site's size, neighborhood orientation, buffering, open space, site adequacy, and other aforementioned characteristics of the specific request. Therefore, Staff recommends approval of this request for a special exception to allow a temporary classroom building for fire training purposes subject to the following conditions:

- 1) The temporary structure must be located as indicated on the attached site plan submitted by the applicant.
- 2) The gaps in living screen shall be filled in with the same planting materials.
- 3) The applicant shall obtain a certificate of occupancy for the temporary structure and comply with all applicable zoning regulations, building codes and fire codes pertaining to a temporary structure for the proposed use. The temporary structure shall not have to comply with the Community Appearance Manual.
- 4) This special exception shall expire in three (3) years as required by the City of Mesquite Zoning Ordinance, provided however, that if the City's land use regulations in place at the time of expiration still require a special exception for temporary structures, the special exception may be renewed, but only upon approval by the Board of Adjustment.

Mr. Langford stated that he received one response from the property owner notices in favor of the request.

John Reid on behalf of Christ Gospel Church, 1007 Barnes Bridge Road, presented the request for the temporary classroom. The Board discussed the case among themselves and with the applicant. Mr. Reid stated that the church will use the classroom for Sunday school and youth group activities. Additionally, Mr. Reid stated that Christ Gospel Church is proceeding with plans to build a permanent structure in the future.

Ms. Vidler opened the public hearing asking if anyone wished to speak in favor of or in opposition to the request. Stacy Plapp, 1012 Via Del Rey, spoke in opposition of the request with concerns with parking at the church and how the request will negatively impact their property value. As no one else came forward to speak, Ms. Vidler closed the public hearing.

Ms. Vidler encouraged the Church to meet with the neighbors to discuss their concerns regarding parking.

Mr. Craine moved to approve the request with staff's recommended conditions 1-4. Ms. Mendoza seconded and the motion passed unanimously.

III. SPECIAL EXCEPTION AND VARIANCE

A. Case No. 3641

Conduct a public hearing to consider an application submitted by David Reyes for a special exception to allow a front yard carport to encroach 20 feet into the 30-foot front yard setback and a variance to allow the carport to encroach 1.33 feet into the interior side yard setback at 3749 Nabholtz Lane.

Elizabeth Butler, Planner, presented the staff report. The applicant is requesting a special exception to construct a front carport that will encroach 24 feet into the required 30-foot front yard setback. The total size of the proposed carport is 16 feet by 16 feet, equating to a total area of 256 square feet. The proposed carport would be large enough to cover two (2) off-street vehicles. The drawing submitted by the applicant indicates that the proposed carport would be detached from the house.

The applicant is also requesting a variance to allow the same carport to encroach 1.33 feet into the five foot side yard set back. The existing paved driveway extends into the interior side setback so in order to build the carport outside of the existing pavement it would need to be placed in the setback.

Ms. Butler stated that the home in question meets most of the criteria laid out in the Zoning Ordinance for a Special Exception for front carports; the home was built in 1961 before off-street parking was required behind the building line; the home has a single-car garage; while there is a paved alley, the property along with most of the homes in the area does not have a driveway connection. Therefore, Staff recommends approval of the request for the Special Exception with the condition that the carport is attached to the house.

Regarding the Variance request, Ms. Butler stated that there are no special conditions or circumstances that are unique to the land. Most lots in the subject property's neighborhood were platted uniformly and the homes were constructed in the same manner. Multiple homes in the vicinity of the subject property, with front carports that do not encroach into a side yard, are able to provide off-street parking for at least two vehicles, which is standard for most homes in the City. The same accommodations for off-street parking can be achieved with the subject property. Additionally, the applicant has not shown that an unnecessary hardship will occur if the variance is not granted. There is no hardship creating the absolute need to encroach into the side yard to achieve the end result of providing the desired number of off-street parking spaces. Lastly, there are no special conditions or circumstances on the property. Therefore, whether any are self-imposed in this case is obsolete. The subject property was laid out in the 1950s, and the layout has generally remained the same since. The owner, when buying the home and since, had access to information about residential zoning requirements and development standards. Therefore, if there were special conditions, they would be self-imposed. Staff recommends denial of the variance request.

Ms. Butler stated that she received three responses from the property owner notices in favor and one response in opposition of the request.

David Reyes, 3749 Nabholtz Drive, presented the request for the front carport. The Board discussed the case among themselves and with the applicant.

Ms. Vidler opened the public hearing asking if anyone wished to speak in favor of or in opposition to the request. As no one came forward to speak, Ms. Vidler closed the public hearing.

Mr. Craine moved to approve the request for the Special Exception with the condition that carport is attached to the house and deny the request for the Variance as submitted. Mr. Hargrove seconded and the motion passed unanimously.

IV. VARIANCE

A. **Case No. 3643**

Conduct a public hearing to consider an application submitted by Arcadio Tamayo for a variance to allow a storage building to encroach 1 foot into the 5-foot interior side yard setback at 4429 Scottsdale Drive.

Elizabeth Butler, Planner, presented the staff report. The applicant is requesting a variance from the City of Mesquite Zoning Ordinance to allow the existing accessory structure to encroach one (1) foot into a required five (5)-foot side yard setback. The size of the storage shed is 14 feet by 12 feet, equating to a total area of 168 square feet. The applicant was cited for constructing an accessory structure in the rear yard without obtaining a building permit. The applicant claims that the accessory structure was built in this location because there was a pre-existing concrete slab located there.

Ms. Butler stated that there are no special conditions or circumstances that are unique to the land. There is nothing physically or otherwise peculiar related to the layout and character of the subject property and the applicant has not provided evidence of a peculiarity in the application for this request. Lots in the subject property's neighborhood were platted uniformly at similar sizes and the homes were constructed in the same manner with yards of the same size and on similar topography. There is nothing to prevent the accessory structure from being moved over to the interior of the lot to avoid being in the set back. Additionally, the applicant has not shown that an unnecessary hardship will occur if the variance is not granted that is related to the property. There is no special condition or circumstance that would prevent the accessory structure from complying with the setback requirements. Lastly, there are no special conditions or circumstances on the property. Therefore, whether any are self-imposed in this case is obsolete. Staff recommends denial of the request.

Ms. Butler stated that she received two responses from the property owner notices in favor of the request.

Arcadio Tamayo, 4429 Scottsdale Drive, presented the request for the front carport. The Board discussed the case among themselves and with the applicant. Mr. Tamayo presented a survey that showed location of the slab of the pre-existing slab for the previous storage building. The survey showed that the previous storage building was encroaching 6 inches into the side yard setback. The Board members stated that they would like to have the Staff to verify the measurements before taking action on the variance request.

Ms. Vidler opened the public hearing asking if anyone wished to speak in favor of or in opposition to the request. As no one came forward to speak, Ms. Vidler closed the public hearing.

Mr. Craine moved to table the request until the next Board Meeting to allow Staff to confirm the amount of encroachment into the side yard. Mr. Hargrove seconded and the motion passed unanimously.

There being no further business for the Board, Chairman Vidler adjourned the meeting at 8:08 p.m.

Chairman, Jennifer Vidler

All testimony including the staff report, applicant's presentation, public hearing, and discussions were considered in the Board's decision for each case.