

MINUTES OF THE CITY OF MESQUITE BOARD OF ADJUSTMENT, HELD MAY 22, 2008, AT 6:30 P.M., AT CITY HALL, 711 NORTH GALLOWAY AVENUE, MESQUITE, TEXAS

Present: Chairman Jennifer Vidler, Vice Chairman Cindy Burkett, Regular Members Dianne Mendoza, Mike Travis and Alternate Member Jack Akin

Absent: Regular Member Lonnie Crane

Staff: Principal Planner Tammi Nunn, Planner Garrett Langford, Planner Bee Martin, Plans Examiner Larry Ewing, Assistant City Attorney Steve Craine

I. APPROVAL OF THE MINUTES OF THE APRIL 24, 2008, MEETING

Ms. Burkett moved to approve the minutes of April 24, 2008, meeting. Mr. Akin seconded and the motion passed unanimously.

II. SPECIAL EXCEPTION

A. **Case No. 3580**

**Conduct a public hearing to consider an application submitted by Mesquite Metals for a special exception to allow a carport to encroach 22 feet into the required 30-foot front yard setback located at 2209 Bayberry Road.**

Tammi Nunn, Principal Planner, presented the staff report. Staff found that the applicant's request did not meet the criteria set out in the Mesquite Zoning Ordinance for a special exception because the property is located in a front-entry neighborhood with a two-car garage. Paved alley access is available where the applicant currently has a concrete parking pad large enough to accommodate at least two vehicles. Staff recommends denial of the request.

Michael Stout, Mesquite Metal Products, 110 Industrial Dr, Forney, TX, presented the request. The Board discussed the case among themselves and with the applicant. The applicant indicated that the garage had been converted.

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.

Ms. Vidler stated that there were no other front-yard carports in the area and that the carport could be put in the rear yard. Mr. Travis added that the subject property has a two-car garage available for covered parking.

Mr. Akin moved to deny the request as submitted based on staff's recommendation and the availability of rear access at the subject property. Ms. Mendoza seconded and the motion passed unanimously.

B. **Case No. 3582**

**Conduct a public hearing to consider an application submitted by James Adams, Divine Mercy of Our Lord Catholic Church for a special exception to allow the use of two (2) temporary classroom buildings by a church for a total period of five (5) years located at 1585 Cartwright Road.**

Bee Martin, Planner, presented the staff report. Staff found the requested portable classroom buildings are compatible with the surrounding neighborhood with consideration for the site's size, neighborhood orientation, screening, open space, site adequacy, and other characteristics. Therefore, Staff recommends approval of this request for a special exception to allow two (2) temporary classroom buildings for a church use subject to the following conditions:

- 1) The temporary structures must be located as indicated on the attached site plan submitted by the applicant.

- 2) The church must obtain a certificate of occupancy for the temporary structures and comply with all applicable zoning regulations, building design regulations, building codes and fire codes pertaining to a temporary structure for their proposed use.
- 3) 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.

For Condition #3, the Board may choose to extend the period of approval beyond three (3) years if it deems this action appropriate.

Mr. Martin stated that were three responses from the property owner notices in favor of the request.

James Adams, Divine Mercy of Our Lord Catholic Church, 1585 E. Cartwright Road, presented the request. 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.

Ms. Vidler agreed with findings stated in the staff report.

Ms. Burkett moved to approve the request as submitted with staff's recommendation 1-3. Mr. Akin seconded and the motion passed unanimously.

#### **C. Case No. 3583**

**Conduct a public hearing to consider an application submitted by Jimmy and Judy Priest for a special exception to allow an accessory structure (garage) to exceed the maximum size of 500 sq. ft. for a total size of 720 sq. ft. located at 1311 Buena Vista.**

Mr. Akins rescued himself from Case No. 3583.

Garrett Langford, Planner, presented the staff report. Staff found the large size of the lot and the placement of the proposed accessory structure will have minimum impact on adjacent properties, while allowing greater enjoyment of the property. Additionally, the proposed size of the accessory structure, 720 square feet, does not exceed 10% of the lot area or 35% of the rear yard. Therefore, staff recommends approval of the proposed accessory structure of 720 square feet with the following conditions:

1. The 720 square-foot structure shall be located on the site as indicated on site plan attached to the Board of Adjustment application dated April 16, 2008.
2. Should the lot ever be subdivided into smaller lots, the special exception shall expire.

Jim Priest, 1311 Buena Vista, presented the request. 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.

Ms. Vidler stated she agreed with findings stated in the staff report.

Mr. Travis moved to approve the request as submitted with staff's recommendation 1-2. Ms. Mendoza seconded and the motion passed unanimously.

**D. Case No. 3585**

**Conduct a public hearing to consider an application submitted by Bettye Blount for a special exception to allow an accessory structure (detached garage) to exceed the maximum size of 500 sq. ft. and the maximum height of 15 feet for a total size of 1,440 sq. ft. and a total height of 15.5 feet located at 300 New Market Road.**

Bee Martin, Planner, presented the staff report. Staff found the requested 1,440 square foot garage is compatible with the surrounding neighborhood with consideration for the size, orientation, screening, open space, urban/rural character and other aforementioned characteristics of the subject property and surrounding properties. The oversize structure is not likely to have adverse impacts on adjacent properties, nor is it out of character with the semi-rural environment in which it is proposed. Therefore, Staff recommends approval of this request for a special exception to allow an accessory structure to exceed the maximum height and total area, to a total height of 15.5 feet and a total area of 1,440 square feet with the following condition:

1. If the subject property is subdivided, the special exception shall expire.

Mr. Martin stated that were two responses in favor and two responses in opposition of the request.

Bettye Blount, 300 New Market Road, presented the case. The Board discussed the case among themselves and with the applicant. The applicant explained that the hired contractor failed to obtain the correct building permit from the City to build the foundation for the garage. The contractor obtained a permit for a parking pad and did not indicate that there will be structure. Upon learning the mistake made by their contractor, the applicant is in the process of obtaining the correct permits. The applicant intends to build a garage to store 45-ft recreational vehicle.

Larry Ewing, Commercial Plans Examiner, stated that the parking pad is up to specification to be used as a foundation for the oversize garage.

Ms. Blount stated that the garage will not have electricity and will only be used as a garage and not as residential unit.

Ms. Vidler opened the public hearing asking if anyone wished to speak in favor of or in opposition to the request. Jim Airhart, 312 New Market Road, spoke in opposition to the request because concerns with the appearance of a large metal garage. As no one else came forward to speak, Ms. Vidler closed the public hearing.

Mr. Akin stated that he had no problem with the building.

Mr. Akin moved to approve the request as submitted with staff's recommended condition. Mr. Travis seconded and the motion passed unanimously with Ms. Mendoza abstaining from the vote.

**E. Case No. 3587**

**Conduct a public hearing to consider an application submitted by Jerry Daniel for a special exception to allow a carport/patio cover to encroach 19 feet and 6 inches into the required 30-foot front yard setback located at 4624 San Marcus.**

Tammi Nunn, Principal Planner, presented the staff report. Staff found that the applicant's request did not meet the criteria set out in the Mesquite Sign Ordinance for a special exception. The proposed carport is compatible with the surrounding area but does not meet the additional criteria set out in the Mesquite Zoning Ordinance. Staff recommends denial of the request. Ms. Nunn stated that was one response to the public notice in favor of the request.

Jerry Daniels, 5050 Dexham Rd, Rowlett, TX, presented the case on behalf of the owner. The Board discussed the case among themselves and with the applicant. The applicant stated that the neighborhood has a number of front-yard carports. Additionally, the older home has a small single-car garage.

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.

Ms. Vidler stated that the property has alley access and a two-car garage in the rear of the property.

Mr. Akin moved to deny the request as submitted. Mr. Travis seconded and the motion passed unanimously.

### III. VARIANCE

#### A. **Case No. 3581**

**Conduct a public hearing to consider an application submitted by Metro Patio & Carport for a variance to allow a rear yard carport to encroach 1-foot in to the required 5-foot side yard setback located at 3313 Stream Side Court.**

Ms. Vidler stated that the applicant has withdrawn Case No. 3581.

#### B. **Case No. 3584**

**Conduct a public hearing to consider an application submitted by Jose Ordonez for a variance in the minimum lot width requirement of 150 ft. by 29 feet with total width of 121 feet located at 4220 Lawson Road.**

Garrett Langford, Planner, presented the staff report. The applicant is in the process of purchasing a 3.9905-acre tract (Tract 11.1) to eventually build a house on the property. The property is unplatted tract of land that was created when the tract was conveyed to Patricia T. Cole in 2001, who lives at 4220 Old Lawson Road, a 4-acre property (Tract 10) to the east. The subject property does not meet the minimum lot width requirements. The purchaser and the seller could plat both the subject property and adjacent property to move lot line so that the subject property could become in compliance. Staff in review believes that the request meets the meets all three of the standards set out in Section 5-203 to warrant a variance. Therefore, staff recommends approval of the request with a condition to allow the subject property to be platted within 180 days.

Mr. Langford discussed with the Board concerning the development standards and lot width requirements for a lot zoned Agriculture.

Jose Ordonez, 3112 Riverview Drive, Mesquite, TX, presented the request. The Board discussed the case among themselves and with the applicant. The applicant plans to build a house on the subject property.

Joseph Gonzales, Mesquite, TX, is the realtor for the property. When asked by the Board, Mr. Gonzales stated that they would be able to discuss with the property owner about the possibility of moving the lot line by platting both properties.

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.

Ms. Vidler stated that the applicant and the current property owner can remedy the situation without getting a variance by going through the platting process and moving the lot line.

Ms. Burkett moved to approve the request as submitted with staff's recommended condition. Mr. Travis seconded and the motion failed with a vote 3 – 2 with Ms. Burkett, Mr. Travis, Ms. Mendoza voting in favor of the motion and Ms. Vidler and Mr. Akin voting in dissent. Motion failed to carry therefore the request is automatically denied.

**C. Case No. 3585**

**Conduct a public hearing to consider an application submitted by Michael and Donna Fullen for a variance to allow an addition to the principal structure to encroach 3 feet into the required 25-foot rear-yard setback located at 927 Royal Crest Drive.**

Ms. Vidler stated the applicant has requested the item to be tabled to the next scheduled meeting.

Ms. Burkett moved to table the request to the next scheduled Board of Adjustment meeting. Mr. Travis seconded and the motion passed unanimously.

There being no further business for the Board, Chairman Vidler adjourned the meeting at 8:35 p.m.

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Chairman, Jennifer Vidler