

MINUTES OF THE CITY OF MESQUITE BOARD OF ADJUSTMENT, HELD AUGUST 27, 2009, 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, Lonnie Craine, and Alternate Member Duddly Hargrove

Absent:

Staff: Manager of Planning and Zoning Jeff Armstrong, Planner Garrett Langford, Planner Liz Butler, Plans Examiner Larry Ewing, and Assistant City Attorney Steve Crane

I. APPROVAL OF THE MINUTES OF THE MAY 28, 2009, MEETING

Ms. Burkett moved to approve the minutes of the May 28, 2009, Board meeting. Mr. Craine seconded and the motion passed unanimously.

II. APPROVAL OF THE MINUTES OF THE JULY 23 2009, MEETING

Ms. Burkett moved to approve the minutes of the July 23, 2009, Board meeting. Mr. Hargrove seconded and the motion passed unanimously.

II. SPECIAL EXCEPTION

A. Case No. 3632

Conduct a public hearing to consider an application submitted by Larry Roebuck for a special exception to allow a front yard carport to encroach 18 feet into the 25-foot front yard setback at 221 E. Grubb Drive.

Garrett Langford, Planner, presented the staff report. The applicant is requesting a special exception to construct a front carport over a two-car wide driveway that will encroach 18 feet into the required 25-foot front yard setback. Staff found that the homes in the immediate vicinity of the subject (within Boardmoor subdivision) property generally contain a front-entry, two-car garage. The homes in subdivisions to the east along East Grubb Dr, which were constructed later, consist of rear-entry drive ways. The property has access to a paved alley with a large rear yard which could provide for covered parking and a driveway; however, the subject property, along with neighboring properties fronting on the north side of Grubb Drive, has a 100-foot electrical transmission easement covering most if not all of the rear yards which prevents any permanent structure such as a carport from being built in the rear yard.

Mr. Langford stated that within the Boardmoor subdivision there is no record of an approved front carport. The subdivision to the east and southeast, Boardmoor 4 and 5, are rear-entry neighborhoods, which have no front entry carports. Granting a special exception for the subject property would change the character of the neighborhood and would not be compatible with the surrounding property. Additionally, the subject property was constructed with a two-car garage to provide covered parking behind the building line. The request does not meet the criteria set out in the Zoning Ordinance regarding special exceptions for front carports. Therefore, Staff recommends denial of the request.

Mr. Langford stated that he received five responses from the property owner notices, three in favor and two in opposition to the request.

Larry Roebuck, 221 E Grubb Drive, presented the request for the front carport. The Board discussed the case among themselves and with the applicant. Mr. Roebuck stated that due to health issues he wants to enclose the garage and therefore wanted to build a carport to provide covered parking over the front driveway. The utility easement in the rear yard prevents him from constructing a carport

accessed from the alley. The home has 1,359 square-feet of floor space. The applicant further stated that he did not believe that a carport would be detrimental to the neighborhood.

Ms. Vidler opened the public hearing asking if anyone wished to speak in favor of or in opposition to the request. Jack Gaines, Metro Patio and Carports, stated that the Board in the past has approved carports on a street where none existed before. David Cook, 1301 Greenway Drive, stated that he has a carport at his residence, which is in a different neighborhood, and never has received a complaint. Romero Esteban, 213 E. Grubb Drive, believes that a carport is a good idea and that he would like to have one in the future for his property. As no one else came forward to speak, Ms. Vidler closed the public hearing.

Ms. Vidler and Mr. Hargrove both stated that the property is located in a well established area and serves as a beautiful entry to the rest of the neighborhood. Allowing a front carport at this property would detract from the neighborhood.

Mr. Hargrove moved to deny the request as submitted. Ms. Mendoza seconded and the motion passed with a vote of 4 to 0 with Ms. Burkett abstaining.

B. Case No. 3633

Conduct a public hearing to consider an application submitted by Jerry Daniel, Daniel Carport on behalf Michael Griffing for a special exception to allow a front yard carport to encroach 20 feet into the required 25-foot front yard setback at 2623 Linhaven Drive.

Garrett Langford, 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 25-foot front yard setback. The total size of the proposed carport is 20 feet by 10 feet, 8 inches, equating to a total area of 213 square feet plus a 35 square-foot walkway cover to be attached to the carport. The home contains a single-car attached garage at the end of a front driveway connected to Linhaven Drive. The property has access to a paved alley with a rear driveway connection to the alley. Additionally, the driveway in the rear has a small carport which could be used as additional covered parking behind the building line.

Mr. Langford stated that there are no front carports located in the same block range as the subject property. However, there are BOA approvals for front carports located at the west end of Linhaven, in the 2800 block. A map was shown that identifies previously approved carports located throughout the surrounding area. The subject property along with the majority of the homes in the neighborhood was constructed with a single-car garage which is the predominant characteristic of the neighborhood. Most of the properties in the neighborhood do not have driveway connections to paved alleys and combined with the evidence that there are front carports located throughout the neighborhood the request for a front yard carport is compatible with the neighborhood and with the criteria laid out in the Zoning Ordinance. Therefore, staff recommends approval of the request.

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

Michael Griffing, 2623 Linhaven Drive, presented the request for the special exception. The Board discussed the case among themselves and with the applicant. Mr. Griffing stated that there is a cover in the rear property next to the pool which is used as a patio cover. It is not used as a parking area because the fence is always locked due to the pool.

Ms. Vidler opened the public hearing asking if anyone wished to speak in favor of or in opposition to the request. Jerry Daniel, the contractor for the proposed carport, stated that the carport will match

the color of the house and that there are other carports in the area. As no one else came forward to speak, Ms. Vidler closed the public hearing.

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

C. Case No. 3634

Conduct a public hearing to consider an application submitted by Mesquite Metal Products, on behalf of Kristen Kidder, for a special exception to allow a front yard carport to encroach 20 feet into the required 30-foot front yard setback at 423 Paldao Drive.

Garrett Langford, Planner, presented the staff report. The applicant is requesting a special exception to construct a front carport proposed to encroach 20 feet into the required 30-foot front yard setback. The total size of the proposed carport is 20 feet by 24 feet, equating to a total area of 480 square feet. The home is located in the middle of Paldao Drive which runs approximately 1,000 feet from Newsom Drive to Pioneer Road. The homes in the immediate vicinity of the subject property generally consist of two-car garages; some have been converted into living spaces. The property is located in the Mesquite Highlands subdivision platted in 1959.

Although the subject property has a two-car garage and has access to a paved alley, the number of BOA approved carports within the immediate area show that front carports are becoming a part of the character of the neighborhood. Therefore, Staff recommends approval.

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

Michael Stout, Mesquite Metal, the request for the special exception presented on behalf of Kristen Kidder. The Board discussed the case among themselves and with the applicant. Mr. Stout stated the carport will match the color of the house.

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. Burkett moved to approve the request as submitted. Mr. Craine seconded and the motion passed with a vote 4 to 1, with Ms. Mendoza dissenting.

D. Case No. 3635

Conduct a public hearing to consider an application submitted by Metro Patio & Carport on behalf of Jimmie & Lowell Fenley, for a special exception to allow a front yard carport to encroach 20 feet into the required 30-foot front yard setback at 720 Kevin Circle.

Jeff Armstrong, Manager of Planning and Zoning, presented the staff report. The applicant is requesting a special exception to construct a front carport proposed to encroach 20 feet into the required 30-foot front yard setback. The total size of the proposed carport is 20 feet by 20 feet, equating to a total area of 400 square feet. Homes in the immediate vicinity of the subject property generally contain one-car garages. Additionally, homes in this neighborhood 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, currently there is no driveway in the rear of property connecting to the alley. Very few of the homes in the area have rear driveway connections to the alley. In addition, lots in the neighborhood are narrow and side yards are not adequate (in terms of separation from neighboring properties) to accommodate off-street parking behind the building line. Therefore, Staff recommends approval.

Mr. Armstrong stated he received five responses from the property owner notices, four in favor and one in opposition to the request.

Jimmie & Lowell Fenley, 720 Kevin Circle and Jack Gaines, Metro Patio & Carport, presented the request for the special exception. 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. Ms. Burkett seconded and the motion passed unanimously.

E. Case No. 3636

Conduct a public hearing to consider an application submitted by Sixto Dias for a special exception to allow a front yard carport to encroach into the required 30-foot front yard setback at 3920 Bahamas Drive.

Jeff Armstrong, Manager of Planning and Zoning, presented the staff report. The applicant is requesting a special exception to construct a front carport proposed to encroach into the front yard setback. The subject property is in the middle of the block. At some time in the past, the garage was converted to living space. There is no permit on record to show when that occurred. In 1999, the applicant obtained a permit to widen the driveway to a width suitable for two cars. However, the widened pavement extends to the side property line. Homes in the immediate vicinity of the subject property generally contain one-car garages. Homes in this neighborhood and along the same street also 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, currently there is no driveway in the rear of the property connecting to the alley.

Mr. Armstrong stated that there are a large number of front carports in the neighborhood with BOA approval. The proposed carport for the subject property is not expected to create adverse impacts on adjacent properties and will likely be compatible with the surrounding neighborhood.

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

The applicant presented the request for the special exception. The Board discussed the case among themselves and with the applicant. It was explained that the request before the Board was only to allow the carport to encroach into the front yard setback and that the carport cannot encroach into the 5-foot side yard setback without obtaining a variance. The applicant stated that they understood and will keep the carport at least 5 feet from the side yard setback. The applicant further clarified that the carport will encroach 20 feet into the front yard setback.

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 to allow a carport to encroach 20 feet into the front yard setback. Mr. Hargrove seconded and the motion passed unanimously.

E. Case No. 3637

Conduct a public hearing to consider an application submitted by Elite EMS, Inc., for a special exception to allow an Ambulance Service at 15330 LBJ Freeway.

Jeff Armstrong, Manager of Planning and Zoning, presented the staff report. The applicant is requesting a special exception to occupy a 1,000 square foot suite with an ambulance service. The subject property contains four multi-tenant structures each containing several suites. The ambulance service will occupy a suite in the middle of the building that is parallel to and closest to Interstate 635. The suite has a retail-type façade and entry on the west side (LBJ side) and an overhead door on the east side of the building. The applicant currently holds a Certificate of Occupancy for an ambulance service dispatch office. However, it specifically prohibits keeping an ambulance on site. After obtaining the C.O. the applicant indicated that they would like to have an ambulance on site. They were subsequently directed to apply for the Special Exception.

The applicant has indicated that they will only have one ambulance and that they will make no emergency runs using lights and sirens. They provide transportation to populations who are unable to transport themselves to medical facilities for appointments and medical treatment.

Mr. Armstrong stated that the location of the suite is remote from any residential area and at that location the proposed use would not likely have a detrimental effect on nearby uses, including residential uses. However, there is an issue with ingress/egress to the property. There are only two driveways to the property, both from La Prada Dr. The westernmost driveway is restricted to right turns in and out due to a raised median on La Prada. The easternmost driveway allows for right and left turn movements in and out. However, that driveway abuts the east property line, which has the masonry wall separating this property from the alley and single-family residences to the east. Therefore, if an ambulance were to leave the site via the eastern driveway with sirens on, the ambulance would pass within about 30 feet of the house on the adjacent lot. The masonry wall would provide some muffling of the sound, but it would be easily audible from the home. Nevertheless, emergency vehicles on streets are often within 35 to 40 feet of homes as they pass by and there is no wall to muffle the noise. However, as indicated by the applicant they do not intend to provide any emergency services requiring the use of sirens.

Staff recommends approval of this request for an ambulance service to occupy 15330 LBJ Freeway, Suites 206, with the following stipulations:

- 1) The number of ambulance vehicles parked on the property shall be limited to one (1).
- 2) The ambulance shall be parked inside the suite or adjacent to the suite on the east side only.

Mr. Armstrong stated he received four responses from the property owner notices, two in favor and two in opposition to the request.

Lawrence St. John, Elite EMS, Inc. presented the request for the special exception. The Board discussed the case among themselves and with the applicant. The applicant explained how the ambulance will operate from this location and how it will not involve emergency services. Additionally, they will only have one ambulance at this location and when not in use, it will be stored indoors.

Ms. Vidler opened the public hearing asking if anyone wished to speak in favor of or in opposition to the request. Karen Wise, 2024 La Prada Drive, stated concerns regarding how the ambulance will be operated particularly if it would involve the use of sirens. Jamie Short, Elite EMS, is an ambulance driver and director of operations for the company. Ms. Short explained that although the ambulance has siren equipment that they will only conduct non-emergency runs. Additionally, to run emergency service, Elite EMS would have to obtain additional licensing from the state. As no one else came forward to speak, Ms. Vidler closed the public hearing.

In response to a question about possible future expansion, Mr. Armstrong stated that if the ambulance service expanded to another suite then they would be required to request another Special Exception.

Ms. Burkett moved to approve the request with three stipulations; #1 The number of ambulance vehicles parked on the property shall be limited to one (1); #2 the ambulance shall be parked inside the garage specific to suite 206 on the east side only; #3 the special exception is limited to suite 206. Mr. Craine seconded and the motion passed unanimously.

There being no further business for the Board, Chairman Vidler adjourned the meeting at 8:40 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.