

MINUTES OF THE CITY OF MESQUITE BOARD OF ADJUSTMENT, HELD FEBRUARY 25, 2010, AT 6:30 P.M., AT CITY HALL, 711 NORTH GALLOWAY AVENUE, MESQUITE, TEXAS

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

Absent:

Staff: Manager of Planning and Zoning Jeff Armstrong, Senior Planner Garrett Langford, Planner Elizabeth Butler, Planner Danielle Wonkovich, Plans Examiner Larry Ewing, Assistant City Attorney Steve Crane and Director of Community Development Richard Gertson

I. APPROVAL OF THE MINUTES OF THE JANUARY 28, 2010, MEETING

Ms. Mendoza moved to approve the minutes of the January 28, 2010, Board meeting. Mr. Fitzgerald seconded and the motion passed unanimously.

II. SPECIAL EXCEPTION

A. **Case No. 3647**

**Conduct a public hearing to consider an application submitted by Denise McClure a special exception to allow a front yard carport to encroach 20 feet into the 25-foot front yard setback at 1121 Pampa Drive.**

Elizabeth Butler, Planner, presented the staff report. The applicant is requesting a special exception to allow a front carport to encroach 20 feet into the required 25-foot front yard setback. The size of the carport is 10 feet by 20 feet, for a total area of 200 square feet. Staff found that the attached one-car garage has been converted to living space and that the property has no paved alley access. The home was built in 1962 before off-street parking was required behind the building line. Additionally, there are a number of carports located throughout the neighborhood. Therefore, Staff recommends approval based on the request meeting the compatibility characteristics set forth in the Zoning Ordinance.

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

Denise McClure, 1121 Pampa 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.

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

B. **Case No. 3648**

**Conduct a public hearing to consider an application submitted by Thong Sengpheth a special exception to allow a front yard carport to encroach 20 feet into the 30-foot front yard setback at 3037 Dogwood Drive.**

Danielle Wonkovich, Planner, presented the staff report. The request is for a special exception to allow a front carport to encroach 20 feet into the required 30-foot front yard setback. The size of the carport is 30 feet by 20 feet, for a total area of 600 square feet. The attached one-car garage has been converted to living space. The property has paved alley access. The home was built in 1958 before off-street parking was required behind the building line. Additionally, there are a number of carports located throughout the neighborhood. Staff recommends approval with the following conditions to ensure the carport is compatible with the house and the neighborhood:

1. The carport dimensions are 20 feet by 20 feet.
2. The carport is built over the existing driveway.

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

James Harris, contractor, presented the request for the front carport on behalf of Thong Sengpheth. The Board discussed the case among themselves and with the applicant to clarify where the carport will be located on the property.

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 with Staff's recommended stipulations 1-2. Mr. Fitzgerald seconded and the motion passed unanimously.

**C. Case No. 3649**

**Conduct a public hearing to consider an application submitted by Metro Patio and Carport on behalf of Herman Taylor for a special exception to allow a front yard carport to encroach 15 feet into the 25-foot front yard setback at 701 Lakeside Drive.**

Garrett Langford, Senior Planner, presented the staff report. The applicant is requesting a special exception to allow a front carport to encroach 15 feet into the required 25-foot front yard setback. The size of the carport is 20 feet by 20 feet, for a total area of 400 square feet. The attached one-car garage has been converted to living space. The property has no access to an alley. The home was built in 1960 before off-street parking was required behind the building line. Additionally, there are a number of carports located throughout the neighborhood. Staff recommends approval of the request.

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

Jennifer Thomas, Metro Patio and Carport, presented the request for the front carport on behalf of Herman Taylor. 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 as submitted. Mr. Hargrove seconded and the motion passed unanimously.

**D. Case No. 3650**

**Conduct a public hearing to consider an application submitted by Raju Pillai on behalf of Kerala Hindu Society of North Texas for a special exception to allow temporary classrooms at 4601 Gus Thomasson Road.**

Elizabeth Butler, Planner, presented the staff report. The applicant is requesting a special exception to allow two existing portable buildings to remain on the property. The existing portable buildings, used as temporary classrooms, were first approved by the Board on January 23, 2003 and re-approved on January 24, 2007. The portable buildings met the criteria for a temporary classroom as outlined in the Mesquite Zoning Ordinance; however the intent of the ordinance is to allow these portable buildings on a temporary basis. Granting approval of the portable buildings for another three years without any plan from the applicant to move a permanent structure on site does not meet the intent of the ordinance. Therefore, Staff recommends denial of the request.

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

Raju Pillai, Kerala Hindu Society, presented the request for temporary classrooms. The Board discussed the case among themselves and with the applicant. The applicant indicated that they bought the property from the previous church in 2007 and was unaware of the temporary status of the portable buildings. Mr. Pillai further stated that at this point the small congregation has not done any planning for building expansion.

Ms. Vidler opened the public hearing asking if anyone wished to speak in favor of or in opposition to the request. Two members of Kerala Hindu Society of North Texas spoke in favor of the request. As no one else came forward to speak, Ms. Vidler closed the public hearing.

Some of the Board members indicated that before they act on the request, they would like for the applicant to meet with City Staff to discuss what would be involved in converting the portable buildings to permanent structures.

Mr. Fitzgerald moved to table the request until the March 25, 2010, meeting to allow the applicant to confer with Staff on how to make the buildings permanent. Mr. Craine seconded and the motion passed unanimously.

### III. VARIANCE

#### A. **Case 3651**

**Conduct a public hearing to consider an application submitted by Catherine Bitten on behalf of Genghis Grill for a variance to allow a patio cover to encroach 20 feet into the 25-foot front yard setback at 1765 N. Town East Boulevard.**

Garrett Langford, Senior Planner, presented the staff report. The applicant is requesting a variance to allow a patio cover to encroach 20 feet into the required 25-foot front yard setback. The size of the proposed patio cover is 10 feet by 67 feet, for a total area of 670 square feet. The patio cover will shelter a recently constructed concrete patio for outdoor seating for the Genghis Grill restaurant located in the adjacent suite. As a result of two different land dedications since construction of the building the 25-foot building line moved inward. The existing building is now encroaching 10 feet to the 25-foot building line along Town East and 23 feet along IH-635. As a result of the land dedication, the request for the variance is 20 feet instead of just 10 feet, which is the depth of the patio cover. The proposed patio cover would have still encroached into 25-foot building line without the land dedication. The applicant does not require a variance to have a patio or outdoor seating area located within the building setback. However, a patio cover detached or attached cannot be located in the setback without a variance.

Mr. Langford stated that it was in Staff's opinion that the land dedications for the reconstruction of the N. Town East Blvd and IH-635 intersection do not rise to the level of a special circumstance. For the sole reason that in absence of the land acquisitions, the applicant would still require a variance to locate the covered patio in the building setback. Additionally, Staff did not find any special circumstances unique to this property preventing the applicant's proposed patio cover. The hardship facing the applicant is that the multi-tenant building was not developed to accommodate a restaurant with a covered outdoor seating area. The matter in which the site was developed is self-imposed. The request for the variance does not meet the criteria as set out in the Mesquite Zoning Ordinance. Therefore, Staff recommends denial of the request.

Mr. Langford stated that he received no responses from the property owner notices in favor or in opposition of the request.

Cathy Bitten, Genghis Grill, 1765 N. Town East Blvd., presented the request for the variance. The Board discussed the case among themselves and with the applicant. Ms. Bitten stated that patio covers are a part of every Genghis Grill restaurant. Genghis Grill has already provided additional landscaping and wrought iron gate around the outdoor seating area. Providing a covered seating area would improve the area visually and provide an amenity to the area and its patrons.

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 and Staff discussed the case regarding the public interest and how the request meets the criteria for a variance. Staff noted that the City is considering a new development code where patio covers such as the one being presented by the applicant would be allowed in the setback in certain circumstances.

Based on all of the testimony provided by the applicant and Staff, the Board determined that the request will have a positive impact on the area and patrons without being contrary to the public interest. Mr. Hargrove moved to approve the request with these stipulations (1) no lighting from the patio cover shall be directed to the traffic along the adjacent right-of-way (2) the outdoor area is only used as a dining area and (3) the patio cover shall not be further enclosed on the sides. Mr. Fitzgerald seconded and the motion passed unanimously.

### IV. SIGN VARIANCE

#### A. **Case 232**

**Conduct a public hearing to consider an application submitted by Reynolds Signs for a sign variance to allow a monument sign to exceed the maximum allowed height by 6.7 feet for a total height of 26.7 feet**

**and a variance to allow the sign to exceed the maximum allowed size by 149.24 square feet for a total size of 249.24 square feet at 1515 N. Town East Boulevard.**

Jeff Armstrong, Manager of Planning and Zoning, presented the staff report. Mr. Armstrong explained a stipulation of the sign variance approved by the City Council in April 1986, which allowed a 54 ft tall sign at N Town East Blvd and Emporium Circle advertising the Market East Shopping Center. The stipulation of the Council's approval was that there shall be no other freestanding signs on site. The applicant would like to install a second monument sign by the easternmost entrance to the shopping center off of Town East Blvd. However, the stipulation of the Council's approval prohibits such a sign. Under the current Sign Ordinance, a monument sign may be erected every 300 feet of lineal street frontage or portion thereof. Therefore, if there Council variance had not included the one sign stipulation the applicant could place a monument sign on the property if it met the requirements of the ordinance. Staff reviewed the options available to the applicant under the current sign ordinance and conditions of the 1986 sign variance approval. Staff concluded that the applicant could replat the lot into two lots which would put the proposed sign on a separate site.

When City Council adopted the sign ordinance in 2008, establishing the height and size requirements for monument signs, it also identified specific circumstances for which the height and size may increase and by how much. The 2008 ordinance was intended to provide for larger properties with multiple tenants such as the one under consideration. If the property is subdivided, the applicant may construct a monument sign with an increased height of up to 20 feet and an increased area of up to 100 square feet as permitted by the sign ordinance.

Staff found no changes in the topography of the subject property or along N. Town East Blvd that would obstruct or create a special condition obscuring a sign permitted under the sign ordinance. The request does not meet the criteria established by the Sign Ordinance for a variance and is contrary to the public interest. Therefore, Staff recommends denial of both variance requests.

Mr. Armstrong stated that he received two responses from the property owner notices in opposition of the request.

Brad Pilkington, Reynolds Signs, presented the request for sign variance. The Board discussed the case among themselves and with the applicant. The applicant stated that the subject property has over 300,000 square feet lease space with 50 tenants. Additionally, a number of the tenants are located 300 feet from N. Town East Blvd reducing their visibility from the N. Town East Blvd. The sign area and height allowed by the ordinance would only allow for five identification sign spaces with a copy height of 14 inches. If the sign variance is approved, it would allow for a sign with eight identification sign spaces. A larger sign at the east end of the shopping would provide a more recognizable directional sign for the westbound drives on N. Town East Blvd and may reduce the traffic at the traffic light at N. Town East and Emporium Circle by directing patrons to the eastern entrance.

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 consensus of the Board was that there were no special conditions on the property that warranted the variance request and there were also concerns on how allowing a larger sign would impact the neighboring businesses and traffic visibility out of the eastern driveway.

Ms. Mendoza moved to deny the request as submitted. Mr. Fitzgerald seconded and the motion passed unanimously.

There being no further business for the Board, Chairman Vidler adjourned the meeting at 9:10 p.m.

---

Chairman, Jennifer Vidler