

MINUTES OF THE CITY OF MESQUITE BOARD OF ADJUSTMENT, HELD FEBRUARY 28, 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, Lonnie Craine and Alternate Member Jack Akin

Absent: Regular Member Mike Travis

Staff: Manager of Planning and Zoning Jeff Armstrong, Principal Planner Tammi Nunn, Planner Garrett Langford, Planner Bee Martin, Plans Examiner Larry Ewing and Assistant City Attorney Steve Crane

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

This item was tabled until the March 27, 2008, meeting.

II. SPECIAL EXCEPTION

A. **Case No. 3568**

Conduct a public hearing to consider an application submitted by Lawrence Caruso for a special exception to allow an oversized residential accessory building, proposed to be 786 square feet, 286 square feet larger than the 500 square feet maximum, located at 608 Prairie Ln.

Chairman Vidler excused herself from this case and appointed Vice Chairman Burkett to proceed.

Jeff Armstrong Manager of Planning and Zoning, presented the staff report. Staff found that the applicant's request did meet the criteria set out in the Mesquite Zoning Ordinance for a special exception because there are a number of BOA approved structures in the area and it would be compatible with the area.

Larry Caruso, 608 Prairie Lane, presented the request. The Board discussed the case among themselves and with the applicant. Ms. Nunn stated that there was one opposition to the request.

Ms. Burkett 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. Burkett closed the public hearing.

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

B. **Case No. 3569**

Conduct a public hearing to consider an application submitted by Alice E. Harpold for a special exception to allow a carport to encroach 20 feet into the required 30-foot front yard setback, located at 1227 Eastern Heights.

Garrett Langford, Planner, presented the staff report. Staff found that the applicant's request did meet the criteria set out in the Mesquite Zoning Ordinance for a special exception because there are a number of similar structures in the area and it would be compatible with the area. Mr. Langford stated that there were six responses in favor of the request.

Ms. Green, on behalf of Ms. Harpold, 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. Mendoza moved to approve the request as submitted. Ms. Burkett seconded and the motion passed unanimously.

III. SPECIAL EXCEPTIONS AND VARIANCES

A. Case No. 3571

Conduct a public hearing to consider an application submitted by Rick Aber for (1) a special exception to allow an oversized commercial accessory building, proposed to be 4800 square feet, 4300 square feet larger than the 500 square feet maximum, and (2) a 25' variance from the 25' setback requirement along Nehrmeyer Street for a proposed accessory building, located at 1215 Highway 80.

Jeff Armstrong presented the staff report noting that a special exception is not necessary and that they would be requesting a setback variance only. Staff found that the applicant's request did meet the criteria set out in the Mesquite Zoning Ordinance for a variance due to the shape of the lot being unusually shaped and is through no fault of the applicant.

Rick Aber 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. Mr. Russell Molley, Contractor, spoke in favor stating the structure will be an attractive structure and will allow room for fire access. No one else came forward to speak and Ms. Vidler closed the public hearing.

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

B. Case No. 3572

Conduct a public hearing to consider an application submitted by R.W. & Rosemary Cannon for (1) a special exception to allow a carport to encroach 19 feet into the required 30-foot front yard setback, and (2) a 4' 6" variance from the 5' required interior side setback requirement for an existing carport, located at 1716 Roundrock Trail.

Bee Martin, Planner, presented the staff report. Staff found that the applicant's request did meet the criteria set out in the Mesquite Zoning Ordinance for a special exception and it would be compatible with the area but there is no evidence to indicate that it meets the criteria for a variance. Mr. Martin stated that there was one response in favor of the request.

Bob Cannon, 1716 Roundrock Trail, 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. Maricela Zuniga, 1715 Roundrock Trail, spoke in favor of the request. No one else came forward to speak and Ms. Vidler closed the public hearing.

Mr. Akin stated that he believes the request should be viewed as if the carport were not already built. Ms. Vidler stated that the applicant was attempting to correct an honest mistake on the property owner's part. The contractor deserves the blame and the property owner should get a break given the circumstances.

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

IV. VARIANCES

A. Case No. 3570

Conduct a public hearing to consider an application submitted by Rick Morse for a 2' 6" variance from the 3' 6" maximum fence height for a fence in a front yard, located at 3601 U.S. Highway 80.

Jeff Armstrong, presented the staff report. Staff found that the applicant's request did meet the criteria set out in the Mesquite Zoning Ordinance for a variance.

Aziz Motani 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.

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

B. Case No. 3573

Conduct a public hearing to consider an application submitted by B.W. Kuykendall on behalf of Fritz Industries for a 2' variance from the 8' maximum fence height, located at 2900 Executive Blvd.

This case was withdrawn by the applicant prior to the meeting.

V. ADMINISTRATIVE APPEAL

A. Case No. 3574

Conduct a public hearing to consider an appeal of a determination of legal non-conforming uses in a multi-tenant building.

Jeff Armstrong, presented the staff report and described the nature of an administrative appeal and that the Board's decision will have city-wide ramifications, unlike variances and special exceptions, which are property specific. Mr. Armstrong described the nature of the appeal. The applicant was arguing that non-conforming use status should apply to an entire building even with multiple lease spaces. Staff's interpretation is that each lease space must be evaluated independently, that non-conforming uses apply to each space that can have a separate use. The intent of a non-conforming use ordinance is to eventually gain conformity with City plans. If administered like the applicant suggests, buildings would likely never reach compliance. Mr. Armstrong made reference to additional details in a report prepared by Bee Martin that was part of the Board's meeting packet. Staff recommended denial of the appeal, upholding the staff position.

Mohammed Shaikh 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.

Mr. Akin moved to deny the appeal. Ms Burkett seconded and the motion to deny passed unanimously.

VI. OTHER BUSINESS

Consider amendments to the Board of Adjustment's By-Laws

Ms. Vidler explained her reasoning for working with staff to propose these changes. There was brief discussion on the proposed amendments.

Ms. Burkett moved to amend bylaws as submitted. Mr. Akin seconded and the motion passed unanimously.

The Board discussed other informal rules that Ms. Vidler proposed for meetings. Mr. Crane and the Board discussed the Legal staff's role in meetings. No action was needed or taken.

There being no further business for the Board, Chairman Vidler adjourned the meeting at 8:43 p.m.

Vice Chairman, Jennifer Vidler