

**ZONING BOARD OF ADJUSTMENT
MEETING MINUTES OF APRIL 20, 2009**

APPROVED

STATE OF TEXAS §

COUNTY OF TARRANT §

CITY OF BEDFORD §

The Zoning Board of Adjustment of City of Bedford, Texas, met in work session at 5:30 p.m. to discuss items on the agenda for the and regular session at 6:00 p.m. in the Council Chamber of City Hall, 2000 Forest Ridge Drive on the 20th day of April 2009 with the following members present:

David Cook	Chairperson
John Novelli	Vice-Chairperson
Jeffrey Corbet	
Roger Fisher	
Richard Smyer, Alternate	

Constituting a quorum.

Board Member Bajuk did not participate in meeting but was present in the audience.

Staff present included:

Russell Hines	Chief Building Official
Dan Boutwell	Planning Consultant
Yolanda Diaz	Zoning Board of Adjustment Secretary

(The following items were considered in accordance with the official agenda posted on the 17th day of April 2009.)

WORK SESSION 5:30 P.M.

The Zoning Board of Adjustment met at 5:30 p.m. in the conference room to review and discuss items on the Agenda.

ZBA Minutes of January 29, 2009: The meeting minutes were reviewed and noted corrections were made.

Variance Case V-062: Relief from the construction material of the carport (Sec. 5.2.A. (10) b)

Applicant: Diana Poli

Description: The applicant is proposing to add a carport to the rear yard. The rear and side yards currently have a driveway and concrete parking pad. The applicant proposes to place the carport on this existing pad. The existing concrete driveway and pad are located six feet from the side property line and 3 feet from the rear property line. This is permitted for concrete drives and sidewalks. However, the applicant proposes to place the structure 5 feet from the rear property line to insure it is out of the easement and complies with the rear setback. The applicant is requesting relief from the construction material of the carport (Sec. 5.2.A.(10)b). Our current ordinance requires the carport be constructed of comparable material to the principle structure, which is masonry. Because of financial reasons, the applicant does not desire to meet that requirement.

The Zoning Board of Adjustment reconvened in the Council Chamber at 6:00 p.m.

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REGULAR SESSION

CALL TO ORDER

Chairperson Cook called the meeting to order at 6:00 p.m., and read the Zoning Board of Adjustment Meeting Format Outline aloud.

Good Evening, my name is David Cook. I am the Chairperson of the Bedford Zoning Board of Adjustment. I now call this regularly noticed meeting to order.

A quorum is present, so the Board may proceed with its scheduled agenda.

Prior to commencing our hearing, I would like to review our meeting format for the benefit of those in the audience.

Each case will be called in its regularly scheduled order as shown on the agenda.

The City Staff will make a staff presentation to the Board.

The applicant will be given an opportunity to make a presentation in person or by a representative.

Those individuals in the audience in support of or opposition to the proposed request will be given an opportunity to make a presentation to the Board.

The Board asks that all individuals and parties presenting information on each request please direct their comments to factual information, and not to speculation or subjective comments.

The applicant will be given an opportunity for a brief rebuttal as the applicant has the burden of providing the necessity and the justification for his or her request.

The Board will close its public hearing to discuss and consider the facts presented. In order for a request to be granted, there must be a minimum of four votes in favor of the request.

Please remember that the Zoning Board of Adjustment is a quasi-judicial body. A formal record is made of each hearing and each case. The Board is permitted to act only upon factual information or evidence that is presented by the staff and by parties making presentations at the public hearing on each case. Any party or individual who disagrees with a decision of the Board of Adjustment must appeal such decision to a State District Court as the City Council of the City of Bedford has no review authority over the decisions of this Board.

APPROVAL OF MINUTES

1. Consider approval of the Zoning Board of Adjustment minutes of January 22, 2009 regular meeting.

Motion: Board Member Corbet made a motion to approve the meeting minutes of January 22, 2009 with the noted corrections made at the work session.

Vice Chairperson Novelli seconded the motion and the vote was as follows:

Motion approved 5-0-0.

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Chairperson Cook declared the motion approved.

PUBLIC HEARING

2. Public hearing and consider and act upon Variance Case V-062, request of Melanie Atkinson for Diana Poli. The property address is 2428 Aquaduct Drive, Bedford Road, Bedford, Texas. The property is known as Lot 19-B, Block 3, Oakmont Addition. The variance request is from the City of Bedford Zoning Ordinance, Section 4.1.B, (4) a. ii; and Section 5.1A, 10B. The applicant is requesting a variance to the material and design of a carport which must be comparable to that material located on the main structure; and a 5 ft. rear yard setback for an accessory building. The property is generally located north of Pipeline Road and east of Central Drive.

Chairperson Cook recognized Consultant City Planner, Dan Boutwell who reviewed Variance Case V-062. Mr. Boutwell stated the applicant proposed to add a carport to the rear yard. The rear and side yards currently have a driveway and concrete parking pad. The applicant proposes to place the carport on this existing pad. The existing concrete driveway and pad are located six feet from the side property line and 3 feet from the rear property line. This is permitted for concrete drives and sidewalks. However, the applicant proposes to place the structure 5 feet from the rear property line to insure it is out of the easement and complies with the rear setback. The applicant is requesting relief from the construction material of the carport (Sec. 5.2.A.(10)b). Our current ordinance requires the carport be constructed of comparable material to the principle structure, which is masonry. Because of financial reasons, the applicant does not desire to meet that requirement.

State law requires all criteria established by state law be considered in order to grant a variance.

Those criteria include:

The variance is not contrary to the public interest;

Due to special condition, a literal enforcement of the ordinance would result in unnecessary hardship;

Granting the variance meets the spirit of the ordinance;

Substantial justice is realized in granting the variance.

Pertinent Issues and Considerations

At the time of analysis of this request, the applicant submitted multiple drawings that confused the rear yard setback distance. It originally appeared the proposed carport would set three feet from the rear property line and in the easement. Revised drawings indicated the carport would not encroach into the easement or violate the rear or side yard setbacks. Therefore setbacks are not an issue, as previously suspected.

State law requires the Zoning Board of Adjustment to find that an undue hardship exists in order to approve a variance. It has been established by the courts that financial hardship alone is not sufficient to establish undue hardship. The variance from the construction material appears to be due to financial hardship alone. The applicant must indicate that to apply construction materials comparable to the main structure creates a physical hardship other than financial.

Staff did not see evidence from material submitted that there was a compelling reason to not meet the construction material requirement as provided in the ordinance. It appeared the criterion of determining a hardship did not exist in this case. It was staff's opinion, in this circumstance, granting relief from the

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construction material requirement (Sec. 5.2.A. (10) b of the zoning ordinance did not support the intent of the zoning ordinance and did not warrant a variance.

Chairperson Cook recognized Russell Hines, Chief Building Official who explained the intent for the carport construction material requirement (Sec. 5.2.A. (10) b, in the Zoning Ordinance.

Chairperson Cook recognized Melanie Atkinson, 4640 Keller Hicks Road, Keller, Texas who was there to represent this application. Ms. Atkinson stated she worked for ACP Covers but she represented Ms. Poli because she wanted to help her. Ms. Atkinson requested the Board to approve Ms. Poli's variance request.

Ms. Atkinson stated Ms. Poli was 68 years old, was permanently disabled, handicap and lived on a fixed income. Not having a carport was a health hazard for Ms. Poli. Ms. Poli would have a better quality of life if she was allowed to have an aluminum double carport constructed at the rear of her residential property.

Ms. Atkinson stated Ms. Poli had previously fallen and broke her shoulder. She had a permanent rod in place because she slipped on wet grass while trying to go into her car. Also, Ms. Poli broke her wrist after slipping and falling during inclement weather trying to exit her car. The carport was a necessity for Ms. Poli's safety because the car port would protect her from the elements and reduce her risk of falling while trying to get in or out of her car.

Ms. Atkinson stated the proposed carport was the most affordable for Ms. Poli budget. The Board asked if Ms. Poli had obtained estimates from other companies that installed carports, and Ms. Atkinson replied no Ms. Poli had not.

The Board noted the carport did not necessarily have to be a masonry structure, but if it was a wood structure with shingles that would also make it conform.

Chairperson Cook opened the public hearing and there being no one to speak, closed the public hearing.

The Board discussed the application.

The Board asked if Ms. Poli was willing to obtain at least three other bids for a car port. The applicant agreed.

There were no further questions asked of the applicant.

Motion: Board Member Corbet made a motion to table Variance Case V-062 to the May 18' 2009 meeting in order to allow the Ms. Poli time to obtain other bids for a carport.

Board Member Fisher seconded the motion and the vote was as follows:

Motion approved 5-0-0.

Chairperson Cook declared the motion approved.

ADJOURNMENT

Chairperson Cook adjourned the Zoning Board of Adjustment meeting at 6:29 p.m.

David Cook, Chairperson

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ATTEST:

**Yolanda Diaz, Secretary,
Zoning Board of Adjustment**